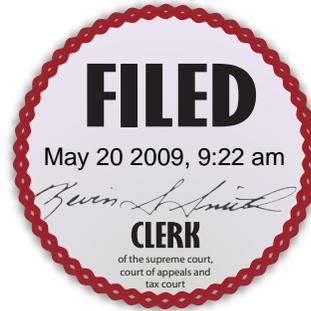


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

ATTORNEY FOR APPELLEE:

THOMAS A. DOUGLASS
Indianapolis, Indiana

DAVID B. HUGHES
Carmel, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

THOMAS A. DOUGLASS,)

Appellant-Petitioner,)

vs.)

No. 49A02-0809-CV-784

CRISTI L. DOUGLASS,)

Appellee-Respondent.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robyn L. Moberly, Special Judge
Cause No. 49D12-0606-DR-24314

May 20, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Thomas A. Douglass (“Husband”) appeals from the trial court’s distribution of the marital estate upon its dissolution of his marriage to Cristi L. Douglass (“Wife”). Husband raises numerous issues for our review, which we consolidate and restate as the following single issue: whether the trial court’s distribution of the marital estate was clearly erroneous. On cross-appeal, Wife raises the following two issues:

1. Whether the trial court abused its discretion in denying her request for attorney’s fees.
2. Whether the trial court’s valuation of the parties’ piano was clearly erroneous.

We consolidate Wife’s second issue on cross-appeal into our discussion of Husband’s issue on appeal.

We affirm.

FACTS AND PROCEDURAL HISTORY¹

After a final hearing, the trial court entered findings of fact and conclusions thereon pursuant to Indiana Trial Rule 52(A). Specifically, the court stated as follows:

This matter came before the Court for final hearing on December 11, 2007[,] and January 17, 2008[,] on the Petition For Dissolution Of Marriage filed by Thomas A. Douglass (hereinafter referred to as “Husband”) on June 9, 2006. The parties appeared in person and by counsel. Cristi L. Douglass (hereinafter referred to as “Wife”) requested that the Court enter specific findings of fact and state its conclusions of law thereon pursuant to Indiana Trial Rule 52(A). The Court, having heard the evidence and being duly advised, now enters the following findings of fact, conclusions of law, judgment, and decree.

¹ The parties have filed numerous motions asking this court, among other things, to strike various portions of an opponents’ brief or motion. We note that it is improper to support an appellate argument with evidence unsupported by or outside of the record. We have separated the wheat from the chaff in the parties’ briefs with this court, and, by separate order of even date with this decision, we have denied the parties’ numerous motions.

Findings Of Fact

1. The parties had been continuous residents of Marion County, Indiana for more than six (6) months prior to the date of the filing of the Petition For Dissolution Of Marriage.

2. The parties were married on November 18, 1995, but there has been an irretrievable breakdown in the parties' marriage. The parties separated on June 9, 2006, with the filing of Husband's Petition For Dissolution Of Marriage.

3. Three (3) children were born of the marriage, namely, [C.D.D.], born November 7, 1996, [S.N.D.], born May 1, 1998, and [P.T.D.], born March 23, 2003. In addition, Wife's daughter from a prior marriage, [L.M.D.], born December 2, 1989[,] and now eighteen (18) years of age, was adopted by Husband during the marriage of the parties.

4. In its prior Order of July 19, 2007, the Court entered orders regarding all of the issues directly relating to child custody and child medical care, parenting time, and child support. Accordingly, there are no issues directly before the Court in this matter at this time relating to such issues.

5. During the marriage, Husband and Wife contributed equally to the acquisition of the marital estate, with the exception of gifts from both parties' families as set forth below. Wife managed the bulk of the childcare, parenting, and household responsibilities, and Husband was the wage earner. Wife was not gainfully employed during most of the marriage by the agreement of the parties.

6. Since the parties separated, Wife has had little success keeping gainful employment. Wife was last formally employed during the past year with Family Video Store where she made \$7.00 per hour. The employment terminated before she was given full-time status. Wife is temporarily performing secretarial work for her father at the rate of \$10.00 an hour.

7. Husband works for Webize, LLC (hereinafter "Webize") in Indianapolis. Webize is a subsidiary of Creative Street Media Group, of Indianapolis. At the time of the final hearing, Husband earned \$125,000.00 annually from Webize and, in addition and without any deduction from his paycheck, Webize furnishes Husband with an insured vehicle and pays all the premiums for the health and medical insurance for Husband and his dependents.

8. Husband receives royalty payments from BMI on a quarterly basis for the copyright on music Husband composed that is played on a cable television series, Animal Planet. The royalty payments come in the form of checks from BMI and they total between \$4,000.00 to \$5,000.00 a year. This marital asset should be divided equally between the parties after the date of this Decree as provided hereinafter. All future royalty Checks received by Husband shall be divided equally with the Wife within 7 days of receipt of each check. Additionally, the parties owned certain bank accounts at the time of separation. Wife shall be entitled to the Chase checking account with a value of \$40.00, the Fidelity Roth IRA with a value of 3,499.74 and the Northwestern Mutual life insurance cash value of \$2002.83. Husband shall be entitled to the First Indiana checking account with a balance of \$1,968.63.

9. The parties owned real property at the date of separation consisting of the marital residence of the parties at 706 Sherwood Drive, Indianapolis. The real estate has always been held in Husband's name alone. He continues to own that property and he and the children now reside there. Wife's parents loaned the parties the sum of \$15,000.00 so that the parties could pay their down payment and closing costs and thereby acquire the marital residence. Wife's name has never been on the title to the marital residence.

10. The marital residence was purchased by the parties on September 20, 2001[,] for \$248,500.00. Husband did not ever have Wife's name added to his name on the title to the marital residence.

11. When the marital residence was purchased in 2001, a real estate appraisal obtained by Husband's mortgage lender from a certified Indiana real estate appraiser reported that the fair market value of the marital residence was \$250,000.00.

12. In January 2003, Husband re-financed his original mortgage on the marital residence. At that time, the marital residence was appraised by a certified Indiana real estate appraiser at the fair market value of \$270,000.00.

13. After the date of the January 2003 re-appraisal, but prior to the parties' final separation on June 9, 2006, improvements were made to the marital residence, including blacktopping the driveway, installing a new bath/shower enclosure, sink, and vanity in the upstairs master bathroom, and adding a \$5,000.00 privacy fence in the rear yard.

14. The marital residence has deficiencies, including an out-of-repair screened porch, a basement laundry room that occasionally floods with a few inches of water because of overflowing gutters and a root in the sewer system, old electrical wiring and plumbing, old windows and guttering, and a roof (installed in 1992) that may need to be replaced.

15. The Court finds that the fair market value of the marital residence currently is \$265,000.00, a figure that also is fairly representative of its value at the time of the parties' final separation.

16. At the time of the parties' final separation, the Husband owed \$231,318.65 to Homeside Lending for the mortgage covering the marital residence.

17. At the time of the parties' final separation, the parties owned a 2006 Dodge Durango SUV titled in Husband's name alone, which was driven by Wife prior to November 2006 when Husband took possession of it. The Dodge Durango had been acquired by trading in the families' Dodge Caravan. On November 13, 2006, based on a written stipulation of the parties, the Court ordered husband to sell the Dodge Durango. However, Husband has not done so.

18. During the pendency of this case, Husband paid \$2,898.82 to fix damage done to the Durango by the parties' daughter, Lindsey. The vehicle has a present value of \$24,000.00, encumbered by the said date of separation lien amount of \$21,726.97. Husband let the insurance lapse on the vehicle when Wife failed to give him the invoice for the premium. This cost should be borne by both of the parties equally. The parties also own a Kawasaki motorcycle titled in the Husband's name alone. The motorcycle has a value of \$3,210 and shall be the sole and separate property of the Husband.

19. Wife owes Husband \$923.37 for her share of the utility bills accrued during the time that she had sole possession of the marital real estate. Husband paid these bills when he re-took possession of the house.

20. The parties previously apportioned and either took or kept possession of certain of their household items and other tangible personal property. At present, Wife has possession of \$630.00 worth of such property. Husband has possession of \$8,510.00 worth of personal property.

21. Wife shall also receive certain items of household goods that remain in husband's possession: the master bedroom bed stand/frame, dresser, wardrobe/armoire (such three items being nearly 30 years old and

having come from her parents), china, and the personal items and memorabilia, that are listed on Exhibit "A," a copy of which is attached to this Decree (excludes the 3 beds from Wife's list). Most of these items have little or no monetary value.

22. Wife's parents gave the parties a piano which presently is in the marital residence. It appears that it is being used by [C.D.D.] and [S.N.D.] in connection with piano lessons they are taking. The piano, as to which there is little evidence of value before the Court, shall be the property of Husband. Based upon the limited information available to the Court, the Court finds the piano to have a value of \$200.00. Husband shall also be entitled to the firearms that had a value of \$2000.00, or the proceeds from the sale thereof to his relative. Wife shall be entitled to the Dodge Shadow, or the proceeds from the sale thereof, with a value of \$400.00. Husband previously paid Wife a preliminary distribution in the sum of \$1,500.00 to be credited against her share of the marital estate.

23. Husband has requested a credit against any property settlement awarded to Wife in the Decree for \$5,198.00 of spousal maintenance that he paid to Wife pursuant to the Order of this Court dated November 13, 2006. During the pendency of this matter, Wife has been unable to support herself despite attempts to do so. She has had undependable transportation. She has had significant adjustment issues, and has a history of mental health issues dating from her teenage years. Both parties have suffered greatly from Wife's conduct and seeming inability to function normally. The Court finds that the maintenance paid to Wife was reasonable and necessary for her survival during this dissolution proceeding. However: Wife is capable of supporting herself now and it is this Court's opinion that Wife is no longer in need of maintenance. Husband is not entitled to a credit for any of the maintenance that he has paid.

24. The parties accumulated certain debts during their marriage as to which both agree, in addition to the existing mortgage on the marital residence. The amount of such agreed debts as of the final separation of the parties are, Providian Visa, \$12,031.77 and Washington Mutual Visa, \$1,908.26. In addition, the parties still owe his mother \$4,000.00 that she advanced to them for the privacy fence installed at the marital residence. Since Husband's earning ability is so far greater than Wife's, he should be responsible for paying these marital debts and they are considered in the division of assets.

25. Wife, and Wife's parents, claim that Husband and Wife are jointly indebted to Wife's parents in the amount of \$35,000.00 for their having provided the money used by the parties (a) to purchase a family

Dodge Caravan vehicle and (b) to pay the down payment and closing costs for the acquisition of the marital residence. Husband claims that both such advancements to the parties from Wife's parents were gifts, and Wife asserts that they were loans. The Court finds that these were loans and the parties are indebted to Wife's parents in the sum of \$35,000.00. Wife should be responsible for all of this debt and shall hold the Husband harmless thereon.

26. Wife did not appear for one (1) scheduled hour-long appointment with Dr. Gonso, the custody evaluator, at a charge of \$250.00. Husband should receive a credit against the property settlement awarded to Wife of two-thirds of such charge of \$250.00, or the sum of \$167.50, Husband having been responsible for paying two-thirds of Dr. Gonso's charges in the matter.

27. Husband kept the sum of \$122 for school book refunds obtained by Husband from North Central High school. Husband shall repay this refund money to Wife since she (or her parents) paid the book rental.

28. Husband owes to Wife 20% of the royalty payment of \$1,451.17 distributed to Husband by BMI on September 22, 2006, which 20% amount would be \$290.23, pursuant to this Court's order of September 18, 2006.

29. At the time of the final separation of the parties, Husband owned a 10% equity interest in his employer, Webize, LLC, which the Court finds is worth \$5,000.00.

30. At the time of the parties' final separation, Husband had 529 College Savings Plan accounts in his name for the benefit of the parties' three oldest children. At that time, these Plan accounts totaled \$8,416.00 in aggregate value. Such accounts should be jointly titled in the name of Husband and Wife for the benefit of the children. The decisions as to the use and expenditures of the same should be made jointly by the parties, or submitted by them to mediation, before applying to the Court for any relief. In any event, the funds shall be used solely for the post-secondary education of the children of the marriage. In the event none of the children shall attend post-secondary education, the funds shall be divided equally between the parties when the youngest surviving child reaches 21 years of age.

31. During the marriage of the parties, in addition to the loans mentioned above in paragraph 25 and items of tangible personal property provided by Wife's parents to the parties, Wife's parents furnished the parties with approximately \$21,500.00 in gift funds.

32. Husband's mother was also generous with the parties during their marriage. As with Wife's parents, Husband's mother gave the parties an interest free loan for the installation of the fence at the marital residence. The loan has a current balance of \$4,000.00. Also, Husband's mother assisted the parties financially with previous residences in which they had resided. She acquired a residence on Kessler Boulevard in her own name and paid the mortgage on the same while the parties resided there. Additionally, Husband's mother purchased a second residence where the parties resided, on Albury Drive in Indianapolis, with a portion of her net proceeds from the sale of the Kessler Boulevard residence, the balance of which net proceeds she kept. When the parties moved from the Albury residence to the subject marital residence, Husband's mother continued paying her mortgage on the Albury property until it was sold and she paid expenses to fix the Albury house up for sale. Mother received all of the net proceeds of the sale of the Albury house after payment of her mortgage thereon. She contributed approximately \$30,000.00, most of which were paid after the parties vacated the residence on Albury. The home on Albury was held in Mother's name alone. Mother received the equity from the sale of that property. The Husband shall be entitled to the marital residence.

33. Wife's attorney's fees paid in this matter to her former attorneys, Alan W. Bouwkamp and Genevieve Keegan Bedano, is [sic] the total of \$19,831.72. The work done by such attorneys for Wife, and the charges therefore, were necessary and reasonable.

34. Husband's mother has paid approximately \$75,000.00 to Husband's attorneys for their services in this proceeding.

35. After considering the relative amounts of attorney fees, the relative incomes and the property division herein, the Court finds that each party shall be responsible for their own attorney fees.

36. There is personal property that is missing from the marital residence for which Husband has filed a claim with his insurance company. The missing personal property should be held by the parties as tenants in common, and any value of the property recovered should be divided equally between the parties. Any insurance check received to date or in the future to compensate for the lost property shall be divided equally between the parties within seven (7) days of receipt.

37. With regard to the division of property, Wife is entitled to \$34,589.72 from the Husband to effectuate the 55% of the marital estate to which she is entitled. However, Wife has already received an advance

distribution of marital assets from Husband in the sum of \$1500.00 plus Wife owes Husband the sum of \$2,128.05 after adjusting for missed appointments with Dr. Gonso, repairs to the Durango, utility bills owed by the Wife, school book refund owed by the Husband, and one royalty payment that the Husband had agreed to pay the Wife. (If there were receipts by Husband of additional royalty payments not addressed by the parties during the pendency of this matter, there was no evidence of such.) The calculation of the adjustment is attached to this Decree. Therefore, the net Husband owes to the Wife is \$30,961.67, after crediting the pre-distribution to the Wife, and the amount owed to him by the Wife. Wife is granted a judgment against the Husband in the sum of \$30,961.67. Husband shall pay the Wife the sum of \$1,000.00 per month commencing the first day of April[] 2008 and continuing the first of each month thereafter until paid in full. The judgment shall bear interest at the rate of 8% per annum.

38. To the extent that any of the above findings of facts shall be deemed conclusions of law, the same shall be deemed conclusions of law.

CONCLUSIONS OF LAW

1. To the extent that any of the following conclusions of law are findings of fact, the same shall be deemed to be findings of fact.
2. Because there has been an irretrievable breakdown in the parties' marriage, the Court concluded on January 17, 2008[,] that the parties' marriage should be dissolved, and the same was dissolved on such date in January.
3. The division of marital property is governed by Indiana Code [S]ection 31-15-7-5 and, generally, there is a presumption that an equal distribution of marital property is just and reasonable.
4. However, there are factors that can serve to rebut the presumption of equally dividing the marital estate. In particular, Indiana Code section 31-15-7-5 provides:

The court shall presume that an equal division of the marital property between the parties is just and reasonable. However, this presumption may be rebutted by a party who presents relevant evidence, including evidence concerning the following factors, that an equal division would not be just and reasonable:

- (1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.
 - (2) The extent to which the property was acquired by each spouse:
 - (A) before the marriage; or
 - (B) through inheritance or gift.
 - (3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.
 - (4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.
 - (5) The earnings or earning ability of the parties as related to:
 - (A) a final division of property; and
 - (B) a final determination of the property rights of the parties.
5. Based upon the statutory factors, and after giving due consideration to the evidence presented (particularly the disparity between the parties' income and income earning abilities and potential), the Court concludes that Wife should be entitled to receive a larger portion of the marital assets, specifically 55% should be set over to the Wife and 45% should be set over to the Husband. The Court finds and concludes that, after considering all of the relevant factors set out in I.C. 31-15-7-5, specifically the economic circumstances of the parties, the advisability of setting the marital residence over to the custodial parent, Wife's conduct during the marriage that caused waste and damage to the marital residence and Husband's vastly greater earning ability than the Wife's, a division of 55% to the Wife and 45% to the Husband is fair and reasonable.
 6. Accordingly, Husband and Wife should divide the marital property as set out above in the Court's findings, and as shown in "Court's Marital Estate Summary," attached and incorporated into this Decree.
 7. The parties are ordered to sign any and all documents and do all things reasonably necessary or appropriate to accomplish said division. The personal property being distributed to Wife from

Husband's possession should be picked up by Wife within thirty (30) days from the date of this Decree.

Appellant's App. at 102-12.

On April 9, 2008, Husband filed a motion to correct error with the trial court, raising numerous issues. The court held a hearing on Husband's motion on July 8. On August 6, the court granted Husband's motion in part. Specifically, the court amended paragraph 8 regarding the royalties from Husband's copyright. See Appellant's App. at 165. In all other respects, the court denied Husband's motion. This appeal ensued.

DISCUSSION AND DECISION

Standard of Review

Our standard of review here is well established. As our Supreme Court has stated:

The trial court's order includes findings of fact and conclusions of law pursuant to Trial Rule 52. The findings or judgment are not to be set aside unless clearly erroneous, and due regard is to be given to the trial court's ability to assess the credibility of the witnesses. We disturb the judgment only where there is no evidence supporting the findings or the findings fail to support the judgment. We do not reweigh the evidence; rather we consider the evidence most favorable to the judgment with all reasonable inferences drawn in favor of the judgment. A judgment is clearly erroneous under Trial Rule 52 if it relies on an incorrect legal standard.

Yoon v. Yoon, 711 N.E.2d 1265, 1268 (Ind. 1999) (citations omitted). "The standard for reviewing the trial court's valuation of property is the same as the standard for reviewing the court's division of property." Hacker v. Hacker, 659 N.E.2d 1104, 1108 (Ind. Ct. App. 1995). The court does not err in the valuation of property when its assessment is within the range of values supported by the evidence or the reasonable inferences therefrom. See Sanjari v. Sanjari, 755 N.E.2d 1186, 1191-92 (Ind. Ct. App. 2001).

Appeal

Husband raises numerous issues on appeal. We identify and address each argument in turn.

First, Husband asserts that the court erred in paragraph 5 of its conclusions. In that paragraph, the trial court recognized that Wife's "conduct during the marriage . . . caused waste and damage to the marital residence." Appellant's App. at 111. But, according to Husband, the court failed to "factor[] into the value of the marital estate any degree of financial responsibility for [Wife's] dissipation, nor has the court given that waste and damage a value." Appellant's Brief at 19. Husband's argument misconstrues the trial court's statement in paragraph 5 of its conclusions. Contrary to Husband's interpretation, the trial court expressly considered Wife's conduct and assessed that conduct against her when it awarded her 55% of the marital estate. See Appellant's App. at 111. Husband's request on this issue is merely a request for this court to reweigh the evidence of Wife's wasteful conduct, which we will not do. Yoon, 711 N.E.2d at 1268. We also note that, in any event, Husband did not support his argument with citations to the record that would indicate evidence favorable to his position. See Ind. Appellate Rule 46(A)(8)(a); Appellant's Brief at 19-21.

Second, Husband states that "the Court's Finding at Paragraph 36 . . . was in clear contravention of the evidence presented that the insurance claim had been denied as a result of [Wife's] failure to cooperate in the investigation." Appellant's Brief at 20. Husband's second argument is not supported by citations to the record that would indicate how the trial court might have erred in reaching its findings. App. R. 46(A)(8)(a). Accordingly, we do not review that argument. See Barrett v. State, 837

N.E.2d 1022, 1030 (Ind. Ct. App. 2005) (“We will not become a party’s advocate Failure to put forth a cogent argument acts as a waiver of the issue on appeal.”) (citations omitted), trans. denied.

Third, Husband argues that the court erroneously valued, distributed, or failed to take into account Wife’s purportedly dissipative actions regarding a slew of personal possessions. See Appellant’s Brief at 21-23. Husband’s third argument is waived. He cites no legal authority for his proposition that the trial court erred by valuing the parties’ personal property as of August 2007 rather than on the date Husband filed for dissolution. See Quillen v. Quillen, 671 N.E.2d 98, 102 (Ind. 1996) (“the trial court has discretion when valuing the marital assets to set any date between the date of filing the dissolution petition and the date of the hearing.”). Husband cites no evidence in the record that clearly supports his numerous claims regarding Wife’s purported dissipative conduct. And much of Husband’s position is merely an impermissible request for this court to reweigh the evidence.

Fourth, Husband asserts that the trial court abused its discretion by not admitting into evidence the file of Liberty Mutual Insurance Company, and that that decision “prevented [Husband] from accurately documenting the extent . . . of [Wife’s] dissipation.” Id. at 25. Husband’s fourth argument is without citation to the record and therefore waived. Nonetheless, Wife references the relevant portions of the record in which Husband sought to admit the Liberty Mutual file. That portion of the transcript makes it clear that Husband sought to have the file admitted solely to prove that Liberty

Mutual conducted an investigation and not because Husband was seeking to have the trial court “adjust the claim.” Transcript at 97-98. Thus, this argument is also without merit.

Fifth, Husband asserts that the trial court erred when it valued the Dodge Durango at \$24,000. Instead, Husband continues, the trial court should have adopted his testimony that the Durango was worth \$17,890. But the evidence in the record shows the value of the vehicle to be anywhere between \$32,235.33 and \$17,890. The trial court’s assessment of \$24,000 was within the range of that evidence, and we will not reassess the court’s conclusion. See Sanjari, 755 N.E.2d at 1191-92.

Next, Husband argues that “certain monies provided to the parties by [Wife’s] parents” did not comply with the Statute of Frauds and therefore could not be loans. Appellant’s Brief at 28. Husband misunderstands Indiana’s Statute of Frauds. That statute prohibits a person from bringing certain actions on an unwritten contract. See I.C. § 32-21-1-1. But the distribution of unwritten loans as marital property is not equivalent to bringing a cause of action on those unwritten loans. Accordingly, we do not consider Husband’s contention that the trial court acted contrary to law.

Seventh, Husband notes that he testified that money received by Wife’s parents was a gift and the trial court should have listened to him over evidence by Wife that that money was loaned. Because that argument amounts to a request that we reweigh the evidence, we do not consider it. See Yoon, 711 N.E.2d at 1268.

Eighth, Husband contends that \$15,000 he and Wife received from Wife’s parents was a gift and not a loan. Husband’s argument on this issue is based on his Exhibit 1,

which was submitted to the trial court over Wife's objection. That Exhibit is a letter written by Wife's father and states as follows:

TO WHOM IT MAY CONCERN:

I, David B. Hughes, hereby certify that I have given a gift of \$15,000.00 on September 17, 2001[,] to my daughter . . . and to her husband . . . to be applied toward the closing costs and down payment of the property they are financing with your company.

I certify that this is a bona fide gift and that there is no obligation, expressed or implied, to repay this sum in cash or other services of any kind now or in the future.

Exh. Vol. 1 at 6. But during his testimony, Wife's father stated, when asked whether he disputed the letter: "I have not disputed that I executed this letter; I have disputed that this letter was ever provided to the lender."² Transcript at 27. That is, Wife's father testified that he loaned the \$15,000 to Husband and Wife to enable them to secure financing with a mortgage lender. However, in the event that the financing company would not accept loaned money as a down payment, Wife's father wrote the letter to permit Husband and Wife to convert the loan into a gift. It is undisputed that the letter was never actually presented to or relied upon by the lender.

Husband's argument on this issue is based on his assumption that the letter written by Wife's father is a contract and therefore should be interpreted under the rules of contract interpretation. But the letter is not a contract, and the question before the trial court here was not whether one of the parties had breached a contractual relationship. Rather, the question before the court was whether the \$15,000 was a gift or a loan. The letter was admitted at Husband's request as evidence that the money was a gift. But the

² Wife's father also testified that he had filed a separate cause of action against Husband for recovery of that (and other) money that Wife's father alleged to have loaned, and not given, to Husband.

testimony of Wife's father was evidence that the money was a loan. The trial court was free to consider the competing evidence, weigh it, and make a call. We will not reweigh that evidence.

Ninth, Husband asserts that the court erred when it treated some of the monies received by Wife's parents as loans while treating some of the monies received by his mother as gifts. See Appellant's Brief at 34-35. Husband's argument is without citation to authority, citation to the record, or cogent argument, and, in any event, his argument is merely a request for this court to reweigh the evidence. We therefore do not consider it. See App. R. 46(A)(8)(a); Yoon, 711 N.E.2d at 1268.

Tenth, Husband maintains that the trial court erroneously failed to offset from its valuation of his share of the estate certain household items the court assigned to Wife. Specifically, Husband notes that the trial court adopted his overall valuation of his share of the household items—a value identified by Husband in his Exhibit 2 as \$8,510—but Husband's valuation included assigning to him the property identified in the court's Findings Paragraph 21. In that paragraph, the court found various household items to be of "little or no monetary value" and assigned them to Wife. Appellant's App. at 106. And in its unitemized Marital Estate Summary, the court awarded a total value of "Household Goods & Furnishings" to Husband in the amount of \$8,510. Id. at 113. Likewise, on cross-appeal Wife asserts that the court should have awarded to Husband \$1,500 for the value of the piano in accordance with Husband's unrefuted evidence.

While we might be inclined to agree with Wife and Husband that, at a glance, it appears the trial court may have conducted an accounting error in assessing the overall

value of Husband's share of the household items, we must conclude that neither party has carried their burden of demonstrating error on appeal. The trial court was not obliged to accept Husband's assertion of the value of individual household items, even if Wife did not expressly refute Husband's evidence. To the contrary, it is well established that "[a] trial court, like a jury, is entitled to take into consideration in weighing the evidence its own experience and the ordinary experiences in the lives of men and women." Clark v. Hunter, 861 N.E.2d 1202, 1207 (Ind. Ct. App. 2007) (alteration original; quotation and citation omitted). And Husband raised all of these issues in his motion to correct error. Nonetheless, having had the express opportunity to reexamine its distribution of the personal property both individually and in the aggregate, the trial court did not see it fit to adjust Husband's share.

The court had in the record before it descriptions and some photographs of the disputed property, and the court expressly rejected Husband's valuation of that property. Having discredited the only offered evidence of valuation, the court then determined that the piano had a value of \$200 and the remaining items had "little or no monetary value." Appellant's App. at 106. In light of our standard of review, we are in no position to question the court's determination of the valuation evidence for those common household items either individually or in total. Thus, the court's valuation of those household items and Husband's share of that property was not clearly against the evidence before the court or the reasonable inferences therefrom. See Yoon, 711 N.E.2d at 1268; Sanjari, 755 N.E.2d at 1191-92. We therefore do not disturb the court's allocation or valuation of those household items.

Eleventh, Husband argues that the trial court acted contrary to law when, in Findings Paragraph 30, it ordered the 529 College Savings Plan to be jointly titled in the name of both Husband and Wife. According to Husband, the trial court's order is contrary to both 26 U.S.C. § 529 and I.R.S. Publication 970. But neither that law nor that document requires a 529 plan to be titled in one name only. Husband also references a document in the Appellant's Appendix that states, "each [529] Account may have only one Account Owner." Appellant's App. at 177. But Husband does not demonstrate where in the record he informed the trial court of that document, his relationship to the business that promulgated that document, or whether that document was prepared merely for that business' convenience or pursuant to legal authority. We therefore do not consider this argument.

Finally, in the "Conclusion" section of his brief on appeal, Husband states that the trial court "failed to credit [him] with \$1,500[,] which was an early distribution of [the] marital estate made to [Wife] in the fall of 2006." Appellant's Brief at 40. Husband is incorrect. In Finding Paragraph 37, the trial court accounted for the \$1,500. Thus, Husband's final issue is also without merit.

Cross-Appeal

On cross-appeal, Wife contends that the trial court abused its discretion when it refused to award to her attorney's fees. The trial court may order a party to pay a reasonable amount for attorney's fees. Ratliff v. Ratliff, 804 N.E.2d 237, 248 (Ind. Ct. App. 2004). A trial court's decision to grant or deny attorney's fees is left to the sound discretion of the trial court, and a decision to deny attorney's fees will be reversed only

for an abuse of discretion. Id. at 248-49. The trial court abuses its discretion if its decision is clearly against the logic and effect of the facts and circumstances before it. Id. at 249.

When determining whether an award of attorney's fees is appropriate, the court may consider such factors as the resources of the parties, the relative earning ability of the parties, and other factors that bear on the reasonableness of the award. Id. Any misconduct on the part of one party that causes the other party to directly incur additional fees may be taken into consideration. Id. When one party is in a superior position to pay fees over the other party, an award of attorney's fees is proper. Id. The court need not give reasons for its determination. Id.

Here, the trial court found as follows regarding the parties' attorneys' fees:

33. Wife's attorney's fees paid in this matter to her former attorneys, Alan W. Bouwkamp and Genevieve Keegan Bedano, is [sic] the total of \$19,831.72. The work done by such attorneys for Wife, and the charges therefore, were necessary and reasonable.

34. Husband's mother has paid approximately \$75,000.00 to Husband's attorneys for their services in this proceeding.

35. After considering the relative amounts of attorney fees, the relative incomes and the property division herein, the Court finds that each party shall be responsible for their own attorney fees.

Appellant's App. at 109.

Again, Wife argues that the trial court abused its discretion in denying her request for attorney's fees. Wife notes that she had been unable to support herself at times during the dissolution proceedings, that she has had mental health issues, that she received maintenance from Husband during the proceedings, that her legal costs were necessary

and reasonable, and that Husband had a much more substantial income. But the trial court already considered all of that evidence. And the trial court also noted that, despite past circumstances, “Wife is capable of supporting herself now.” Id. at 107. We will not reweigh the evidence as Wife requests. See Ratliff, 804 N.E.2d at 248-49. The court’s judgment is not an abuse of discretion.

Conclusion

In sum, we affirm the judgment of the trial court in all respects.

Affirmed.

FRIEDLANDER, J., and VAIDIK, J., concur.