

IN THE COURT OF APPEALS OF TENNESSEE  
AT JACKSON  
Assigned on Briefs August 1, 2022

**NACONDA KATHLEEN WEBB v. WILLIAM DANNY WEBB**

**Appeal from the Chancery Court for Dyer County**  
**No. 19-CV-344      Tony Childress, Chancellor**

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**No. W2021-01227-COA-R3-CV**

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A husband and wife divorced after a short marriage. The trial court awarded a disproportionate share of the marital property to the husband. The wife challenges the court’s division and its denial of her request for attorney’s fees. Discerning no reversible error, we affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed**

W. NEAL MCBRAYER, J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and THOMAS R. FRIERSON II, J., joined.

G. Michael Casey, Jackson, Tennessee, for the appellant, Naonda Kathleen Webb.

Jason R. Creasy, Dyersburg, Tennessee, for the appellee, William Danny Webb.

**OPINION**

**I.**

Naonda Kathleen Webb (“Wife”) filed for a divorce from her husband of four years, William Danny Webb (“Husband”). The couple had no minor children. Wife sought an equitable division of the marital property and an award of attorney’s fees.<sup>1</sup>

At the time of trial, Husband was 71 and Wife, 55. Both had health concerns. Husband was a retired contractor. He drew \$1,500 a month in social security benefits. He

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<sup>1</sup> In an amended complaint, Wife sought compensation for damage to her personal property during the pendency of the divorce. The court awarded Wife a \$4,000 judgment against Husband. Neither party has appealed the court’s resolution of Wife’s tort claim.

also received a small monthly income from his rental properties. Wife worked as a welder, earning \$17.75 an hour.

Wife maintained that Husband controlled the couple's finances. During the marriage, she earned \$10 an hour working at an assisted living facility. Her paychecks were deposited into Husband's rental account. Husband agreed that he paid the couple's bills out of that account.

The couple's most valuable asset was the marital residence on Beaver Creek Cove. A recent appraisal valued the property at \$210,000. The outstanding balance on the mortgage was \$69,000.

Husband and Wife jointly financed the purchase of the Beaver Creek Cove property. According to Wife, they borrowed \$60,000 for the purchase and an additional \$10,000 for renovations to the existing home. But the title to the Beaver Creek Cove property was in Husband's name.

By all accounts, the house was "in pretty rough shape" when purchased. It was filthy and had extensive termite damage. Renovations took two years to complete and apparently cost well more than the original estimate.

Wife told the court that she actively participated in the repair work. She spent untold hours removing trash, tearing out carpet, and cleaning. She also stripped and stained the kitchen cabinets and contributed design ideas. Husband supervised the work and paid for the labor and materials.

Husband's brother also played a role. His crew repaired the home's foundation and the kitchen floor. Based on his experience as a contractor, Husband's brother valued the work at \$40,000. Husband gave his brother \$12,000 as a partial payment.

In addition to marital funds, the parties also used some of their separate property to pay for the renovations. Wife contributed \$30,000 from the sale of her former residence. Husband contributed the proceeds from the sale of two of his rental properties. He told the court that he poured at least \$179,000 of his separate funds into the marital residence. Wife agreed that Husband contributed his separate funds. Yet she found his dollar figure "hard to believe."

Husband and Wife finally moved into the Beaver Creek Cove home in August 2018. At about the same time, Wife opened a restaurant. Husband bought \$8,000 worth of equipment to update the restaurant's kitchen. And he claimed that Wife withdrew \$31,000 from his bank accounts to keep the fledgling business afloat. Wife disputed his story. Even so, she agreed that Husband invested in the restaurant. And it never made a profit. The restaurant closed after one year.

Shortly thereafter, the parties separated. Wife testified that Husband continually screamed at her. She was afraid of him. To avoid a confrontation, she left most of her belongings behind. Husband denied her allegations of bad behavior. Even so, he stipulated that she had grounds for divorce.

The court classified the Beaver Creek Cove home as marital property. Based on the recent appraisal, it determined that the value of the marital equity was “roughly \$140,000.” After considering the relevant statutory factors and the equities between the parties, the court awarded the marital residence to Husband along with the associated mortgage debt. It ordered Husband to pay Wife \$18,000 as her share of the equity and to remove Wife’s name from the mortgage.

The court also divided the rest of the marital property, consisting of a few items of personal property. And it ordered each party to be responsible for his or her own attorney’s fees.

## II.

Wife argues that the court’s division of the marital estate was inequitable. She also complains that the court denied her request for attorney’s fees.

Our review of the trial court’s factual findings is *de novo* upon the record, accompanied by a presumption of the correctness of the findings, unless the preponderance of the evidence is otherwise. TENN. R. APP. P. 13(d). We give great deference to the trial court’s credibility assessments. *Watson v. Watson*, 309 S.W.3d 483, 490 (Tenn. Ct. App. 2009). We do not disturb “factual findings based on witness credibility unless clear and convincing evidence supports a different finding.” *Coleman Mgmt., Inc. v. Meyer*, 304 S.W.3d 340, 348 (Tenn. Ct. App. 2009). We review questions of law *de novo*, with no presumption of correctness. *Armbrister v. Armbrister*, 414 S.W.3d 685, 692 (Tenn. 2013).

### A.

The trial court has broad discretion to fashion an equitable division of marital property. *See* Tenn. Code Ann. § 36-4-121(a)(1) (2021);<sup>2</sup> *Flannary v. Flannary*, 121 S.W.3d 647, 650 (Tenn. 2003). The factors in Tennessee Code Annotated § 36-4-121(c) should guide the division. *Flannary*, 121 S.W.3d at 650; *Batson v. Batson*, 769 S.W.2d 849, 859 (Tenn. Ct. App. 1988). Trial courts must weigh the relevant factors in light of the proof presented at trial. *Larsen-Ball v. Ball*, 301 S.W.3d 228, 234 (Tenn. 2010); *Batson*, 769 S.W.2d at 859. We will defer to the trial court’s decision “unless the distribution lacks

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<sup>2</sup> The Legislature amended this statute in 2022. *See* 2022-1 Tenn. Code Ann. Adv. Legis. Serv. 546 (LexisNexis). We cite to the version of the statute in effect when Wife filed the divorce complaint.

proper evidentiary support or results in some error of law or misapplication of statutory requirements and procedures.” *Larsen-Ball*, 301 S.W.3d at 234 (citation omitted).

The \$141,000 of equity in the marital residence was the principal marital asset.<sup>3</sup> Wife received \$18,000 as her share – approximately 13%. She maintains that she was entitled to at least half.

In dividing the marital equity, the court focused on several salient facts. This was a short marriage – six years by the time of trial. Husband brought considerably more assets into the marriage than Wife. His separate property was worth around \$270,000 as opposed to Wife’s \$80,000. He also made a significantly larger contribution to the value of the couple’s principal asset than Wife. According to the court, he contributed “roughly \$170,000” to the repair work on the marital residence and Wife, “roughly \$30,000.” Husband’s brother contributed \$40,000 in labor and materials, for which he was only paid \$12,000. Husband also invested “roughly 30,000 of his separate funds” in Wife’s ill-fated business venture. Given these facts and the parties’ relative ages and health, the court determined that Wife was only entitled to a small percentage of the marital equity.

In a short-term marriage, such as this one, “each spouse’s contributions to the accumulation of assets during the marriage is an important factor.” *Batson*, 769 S.W.2d at 859; *see* Tenn. Code Ann. § 36-4-121(c)(5)(A). As the court found, Husband contributed far more to the marital residence’s value than Wife. Wife complains that the evidence preponderates against some of the court’s factual findings. We disagree.

Wife insists that she contributed \$44,000 of her separate funds, not \$30,000 as the court found.<sup>4</sup> But when questioned on this subject at trial, Wife responded, “Well, I invested 30,000 of it. The rest of it, I guess c[a]me from his account.” Proof at trial revealed that the remaining \$14,000 Wife received from the sale of her former residence was used to pay for stone work at another location.

Wife also complains that the court credited Husband’s testimony about his financial contributions in the absence of supporting documentation. Husband testified that he poured at least \$179,000 of his separate funds into the marital residence. He also claimed that Wife used around \$31,000 from his bank accounts to cover her business expenses. Wife

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<sup>3</sup> The parties’ vehicles and some household furnishings were the only other items of marital property. After accounting for the debt associated with these items, they had negligible value.

<sup>4</sup> Wife also contends that the evidence preponderates against the court’s finding that Husband’s brother “performed roughly \$200,000 worth of uncompensated work on the home.” Wife correctly notes that none of the proof at trial supports this finding. But we determine that the \$200,000 figure was a typographical error. In the next sentence, the court found that Husband’s brother “performed \$40,000 of repairs in total and \$12,000 of that has been paid.” It is clear that the court meant to say \$20,000, a number fully supported by the proof at trial.

disagreed with his figures. But she produced no evidence to the contrary. We find no basis in this record to overturn the court's implicit credibility finding. *See Richards v. Liberty Mut. Ins. Co.*, 70 S.W.3d 729, 733-34 (Tenn. 2002) (“[F]indings with respect to credibility and the weight of the evidence . . . may be inferred from the manner in which the trial court resolves conflicts in the testimony and decides the case.”).

In Wife's view, the court also failed to credit her non-monetary contributions to the marital residence's value. She claims she devoted countless hours to cleaning and repairing the marital residence. Still, we cannot fault the court for discounting Wife's efforts. In a short-term marriage, “the significance and value of a spouse's non-monetary contributions is diminished.” *Batson*, 769 S.W.2d at 859.

We will not disturb the court's division on this record. An equitable division “is not necessarily an equal one.” *Id.* This marriage was short. *See* Tenn. Code Ann. § 36-4-121(c)(1). So it was appropriate to “divide the property in a way that, as nearly as possible, places the parties in the same position they would have been in had the marriage never taken place.” *Batson*, 769 S.W.2d at 859. Husband's net worth before this marriage was almost three times that of Wife. He contributed significantly more of his separate property to the value of the marital residence than Wife. And he poured a good-sized amount into Wife's losing business venture. These facts support awarding Husband a larger share of the estate. *See* Tenn. Code Ann. § 36-4-121(c)(5)-(7). Other factors, such as the parties' ages, health, and post-divorce economic circumstances, also support the court's division. *See id.* § 36-4-121(c)(2), (8). Husband's income at the time of divorce was similar to Wife's. Even with her health concerns, Wife had a higher earning capacity than Husband.

## B.

Wife also contends that the court erred in declining to award her attorney's fees. “It is well-settled that an award of attorney's fees in a divorce case constitutes alimony in solido.” *Gonsewski v. Gonsewski*, 350 S.W.3d 99, 113 (Tenn. 2011); *see* Tenn. Code Ann. § 36-5-121(h)(1) (2021).<sup>5</sup> So we review the trial court's decision under the deferential abuse of discretion standard. *Gonsewski*, 350 S.W.3d at 113. As with all alimony awards, the court's decision must be guided by consideration of the relevant statutory factors. *Id.*; *see* Tenn. Code Ann. § 36-5-121(i). The two most important considerations are need and ability to pay. *Gonsewski*, 350 S.W.3d at 110; *Riggs v. Riggs*, 250 S.W.3d 453, 457 (Tenn. Ct. App. 2007).

“A spouse with adequate property and income is not entitled to an award of alimony to pay attorney's fees and expenses.” *Gonsewski*, 350 S.W.3d at 113. Despite Wife's

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<sup>5</sup> The Legislature amended the definition of alimony in solido in 2022. *See* 2022-1 Tenn. Code Ann. Adv. Legis. Serv. 546 (LexisNexis). We cite to the version of the statute in effect when Wife filed the divorce complaint.

protests, we cannot say that the court abused its discretion here. Wife's legal fees totaled \$5,000. Wife returned to her previous job as a welder a few months after she left Husband. While she claimed that her current income was less than before the marriage, she indicated at trial that both her hours and her hourly rate were increasing. And she was awarded sufficient cash to pay her fees without depleting all her resources. *See id.*

### III.

The court did not err in dividing the marital estate. The court considered the relevant statutory factors. And the distribution had adequate evidentiary support. We discern no abuse of discretion in the court's denial of Wife's request for attorney's fees. So we affirm.

s/ W. Neal McBrayer  
W. NEAL McBRAYER, JUDGE