

portion provides: "Both parties recognize the importance and significance of post high school education for their children. The parties agree to contribute as they are able to their children's post high school education. If they are unable to agree, either party may petition the Court for a level to be set."

¶ 5 On October 14, 2008, Teresa filed a petition for Jessica's educational expenses, in which she requested, *inter alia*, college support in the minimum amount of 50%. A hearing on the petition and other unresolved matters was conducted on July 28, 2010, where the following testimony and evidence relative to the issue on appeal was adduced. James testified that he is Jessica's father and is employed by Knight Hawk Coal as a surface mine supervisor. Pursuant to W-2 statements, James had an average annual income of \$140,177.67 from 2007 to 2009. James agreed that Jessica had attended the nursing program at St. Louis University (SLU) since fall 2008 and that prior to that time he was aware that Jessica intended to go to college. James testified that he spent approximately \$100,000 on his racing hobby from 2003 to 2008. He further testified that he cashed in vacation time and sick leave in March 2008, just prior to Jessica's enrollment at SLU, and received a check in the amount of \$15,351.22, with which he purchased a Harley Davidson motorcycle. However, James conceded that he had not contributed financially to Jessica's college expenses nor had he set aside any money for that purpose.

¶ 6 James admitted that he can afford to pay for Jessica's education at SLU, but he opined that it was too expensive. He testified that Southern Illinois University Edwardsville (SIUE) also has a nursing program and that he would be willing to pay for her education there. James conceded that he signed the MSA during the parties' divorce proceedings in 1996, that he was represented by counsel throughout the entire process, that he entered the MSA freely and voluntarily, that he understood his rights and obligations under the MSA, and that he had agreed that the terms of the MSA were fair and equitable. He acknowledged that in the MSA

he agreed to contribute to Jessica's college expenses as he was able, and he reaffirmed his prior testimony that he is indeed able to contribute toward her college expenses.

¶ 7 Jessica Stearns testified that she graduated from high school in May 2008 with a 3.6 grade point average and that she is currently enrolled as a junior in the nursing program at SLU with a B average. Jessica testified that she had also applied to (and was accepted at) SIUE and John A. Logan College (JALC), both of which have nursing programs. However, Jessica explained that JALC only offers an associate's degree and she desired a bachelor's degree, which commands a higher salary. Jessica noted that she had informed her father that she was applying to SLU, SIUE, and JALC.

¶ 8 In distinguishing the three schools, Jessica emphasized that SLU has direct entry into its nursing program upon application as a freshman, unlike SIUE and JALC, both of which require two years of college before application to the nursing program is allowed. Moreover, Jessica noted that SIUE and JALC only accept a limited number of applicants into their nursing programs. Accordingly, had Jessica not enrolled at SLU, the possibility existed that she could have spent two years in college, applied to the nursing programs at JALC and SIUE, and still not have been accepted into either program. In contrast, when Jessica applied to SLU, she knew that she would be admitted directly to the nursing program and that she would be able to take nursing classes and gain clinical experience beginning during her freshman year. Jessica added that the nursing program at SLU is one of the top 5 in the Midwest and one of the top 20 in the nation, that unlike SIUE, SLU offers a pediatric and maternity clinical cycle, that SLU has a 100% job placement for its nursing students upon graduation, that SLU Hospital and Barnes-Jewish Hospital give first priority to SLU nursing graduates when hiring, and that those graduates who work for SLU Hospital receive a \$38,000 sign-on bonus to work there for four years.

¶ 9 Jessica testified that, as of the date of the hearing, she had contributed approximately

\$22,000 (roughly 25% of the expenses) toward her education with scholarships received, student loans, and funds earned through employment at various jobs since she was in high school. She testified that the previous semester she had studied in Spain and had contributed \$5,000 toward her housing costs during that time. Jessica articulated on cross-examination that she had taken Spanish for three years in high school and had learned to speak more Spanish while studying abroad. She explained that nurses who speak Spanish make more money than those who do not.

¶ 10 Teresa testified that when she and James executed the MSA it was her understanding that when their children went to college they would split the expenses evenly. She pointed out that there were no caveats in the MSA excluding any particular school. Rather, it was based on the parties' ability to pay. The parties stipulated, pursuant to tax returns, that Teresa had an average annual income of \$367,576.67 for the years 2007 through 2009. Teresa testified that she was in agreement with Jessica's decision to attend SLU for the reasons expressed in Jessica's earlier testimony. Teresa confirmed that, other than the amount Jessica had contributed, she had covered the remainder of the expenses herself.

¶ 11 On December 20, 2010, the circuit court entered an order that, *inter alia*, granted Teresa's petition for Jessica's educational expenses and ordered James to share equally the cost of tuition, fees, books, and housing, including half of those expenses that Teresa had already paid. Additional details will be provided as necessary throughout the remainder of this order.

¶ 12 ANALYSIS

¶ 13 The issue on appeal is whether the circuit court erred by ordering James to pay half of Jessica's educational expenses. The review of cases involving awards of educational expenses is governed by an abuse of discretion standard. *Street v. Street*, 325 Ill. App. 3d 108, 115 (2001). "[A]n abuse of discretion occurs only when no reasonable person could

agree with the trial court." *In re Marriage of Albiani*, 159 Ill. App. 3d 519, 526 (1987).

¶ 14 Pursuant to section 513(a)(2) of the Illinois Marriage and Dissolution of Marriage Act (Act), the court may award money for educational expenses from either party for children who have attained majority "as equity may require." 750 ILCS 5/513(a)(2) (West 2008). In determining whether to award educational expenses, the following factors are considered: "(1) [t]he financial resources of both parents[;] (2) [t]he standard of living the child would have enjoyed had the marriage not been dissolved[;] (3) [t]he financial resources of the child[;] [and] (4) [t]he child's academic performance." 750 ILCS 5/513(b)(1), (b)(2), (b)(3), (b)(4) (West 2008).

¶ 15 *I. The Financial Resources of Both Parents*

¶ 16 Evidence shows that Teresa earned an average annual salary of \$367,576.67 for the years 2007, 2008, and 2009. Teresa does not dispute her ability to pay for Jessica's education at SLU. Indeed, after Jessica's contributions to her own education, Teresa paid the entire balance from the time Jessica enrolled at SLU in the fall of 2008 until the hearing. In contrast, James contributed nothing toward Jessica's education during that time, in spite of evidence and testimony which show that he not only had the ability to pay, but he also had extra money which he spent on other things. Pursuant to exhibits in the record, James earned an average annual salary of \$140,177.67 for the years 2007, 2008, and 2009. Moreover, James testified that he spent \$100,000 between 2003 and 2008 on his racing hobby and received a check in excess of \$15,000 just prior to Jessica's enrollment at SLU and spent the money on a motorcycle. However, James testified that he did not contribute anything toward Jessica's education.

¶ 17 James argues that he should not have to pay for Jessica's tuition at SLU because it is more expensive than SIUE. In addition, James contends that because he earns less than Teresa, he should have to contribute less than she does. Despite these arguments, however,

the fact remains that James signed the MSA in which the parties agreed "to contribute as they are able to their children's post high school education." To that regard, James testified, and later confirmed, that he has the financial ability to pay for Jessica to attend SLU. There is nothing in the record which speaks otherwise. We also note that the financial resources of the parties is but one of many factors the circuit court considered before entering its order.

¶ 18 *II. The Standard of Living the Child Would Have Enjoyed Had the Marriage Not Been Dissolved*

¶ 19 In addition to the financial resources of the parties, the circuit court considered the standard of living Jessica would have enjoyed had her parents not divorced. Pursuant to testimony and exhibits, had the parties not divorced, they would have a combined income of more than \$500,000 per year, which is more than sufficient to pay for Jessica's education at SLU. Although James testified that he is not in agreement with Jessica attending SLU, Jessica testified that she informed her father when she was applying to SLU. There is no evidence that James had any objection to or that he suggested SIUE over SLU at that time.

¶ 20 *III. The Child's Financial Resources*

¶ 21 An additional factor considered by the circuit court is Jessica's financial resources. Jessica testified that, as of the date of the hearing, she had contributed approximately \$22,000 toward her education, which was roughly 25% of her total educational expenses. This contribution consisted of funds Jessica earned through employment at various jobs since she was in high school, as well as scholarships she received and student loans she obtained. Although Jessica contributed to her own education, her parents' monetary resources far exceed hers.

¶ 22 *IV. The Child's Academic Performance*

¶ 23 The final factor considered by the circuit court, pursuant to section 513(b)(4) of the Act, is Jessica's academic performance. 750 ILCS 5/513(b)(4) (West 2008). Jessica testified

that she is in her junior year at SLU and has a B average. In addition, she has secured scholarships toward her education at SLU. There is no indication that Jessica's academic performance has been anything but favorable, nor is there any evidence to suggest that the award of educational expenses was unmerited on this basis.

¶ 24

V. Other Factors

¶ 25 In addition to the statutory factors enumerated above, "other relevant factors have been found to include the cost of the schooling, the programs offered at the school, the child's scholastic aptitude, how the school meets the child's goals, and the benefits the child will receive from attending the school." *In re Marriage of Drysch*, 314 Ill. App. 3d 640, 646 (2000). Moreover, "[i]n determining whether to order contribution to the educational expenses for a particular school, a court may consider whether the child has access to a less-expensive public institution." *People ex rel. Sussen v. Keller*, 382 Ill. App. 3d 872, 879 (2008). "This does not mean a child and custodial parent may never choose a private or expensive school when other less-expensive choices are available." *Id.* at 881. "However, when a child wants to attend an expensive school, the petitioner must present evidence that (1) special programs or attributes of the school make the additional costs reasonable under the circumstances or (2) the more expensive school was necessary or more appropriate for the child." *Id.*

¶ 26 Here, as discussed above, Jessica has a solid scholastic aptitude, maintaining a B average at SLU and earning scholarships. While the tuition at SLU exceeds that of SIUE, there are many benefits to and more opportunities presented by SLU over SIUE. SLU's nursing program is in the top 20 in the nation and in the top 5 in the Midwest. Moreover, SLU has direct entry into its nursing program, unlike SIUE, where the possibility exists to attend two years of college with no guarantee of being admitted into the nursing program. In addition, SLU immediately provides clinical courses to incoming freshmen and is

affiliated with SLU Hospital and Barnes-Jewish Hospital, which offer maternity and pediatric clinical cycles. Neither of these clinical opportunities are offered by SIUE. Furthermore, SLU has a 100% job placement for its nursing graduates. No such evidence was presented with regard to SIUE. The evidence shows that the benefits of Jessica attending SLU make the additional tuition costs reasonable under the circumstances. See *Keller*, 382 Ill. App. 3d at 881.

¶ 27

CONCLUSION

¶ 28 In light of the evidence, we cannot say that Judge Solverson abused her discretion in ordering James to pay one half of Jessica's educational expenses at SLU. Accordingly, we affirm the December 20, 2010, order.

¶ 29 Affirmed.