

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2015 IL App (3d) 140698-U

Order filed February 6, 2015

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2015

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
CHRISTINE DOCHTERMAN,)	Mercer County, Illinois.
)	
Petitioner-Appellee,)	
)	Appeal Nos. 3-14-0698 & 3-14-0947
and)	Circuit No. 14-D-5
)	
RICHARD M. DOCHTERMAN,)	The Honorable
)	Carol M. Penuic and
Respondent-Appellant.)	Gregory G. Chickris,
)	Judges, presiding.

JUSTICE CARTER delivered the judgment of the court.
Presiding Justice McDade and Justice Wright concurred in the judgment.

ORDER

¶ 1 *Held:* In a dissolution of marriage case, the appellate court held that the circuit court did not err when it: (1) awarded sole custody of the parties' three children to the petitioner; (2) divided the parties' assets and liabilities; and (3) ordered the respondent to pay half of the petitioner's attorney fees.

¶ 2 The circuit court entered a bifurcated judgment of dissolution of the marriage between the petitioner, Christine Dochterman, and the respondent, Richard Dochterman. After a hearing on all pending matters, the court awarded sole custody of the parties' three children to Christine,

divided the parties' assets and liabilities, and ordered Richard to pay half of Christine's attorney fees. On appeal, Richard argues that: (1) the court erred when it awarded sole custody to Christine; (2) the court's property distribution was erroneous; and (3) the court erred when it ordered Richard to contribute to Christine's attorney fees. We affirm.

¶ 3

FACTS

¶ 4

On August 24, 1994, Christine and Richard married. They had three children together; in June 2014, Caroline was 13 years old, Hannah was 10 years old, and Wyatt was 10 years old.

¶ 5

On February 10, 2014, Christine filed a petition for dissolution of her marriage to Richard. The circuit court entered a bifurcated judgment of dissolution on March 27, 2014. The minute entries indicate that Judge Gregory G. Chickris entered the dissolution order.

¶ 6

On May 1, 2014, Judge Carol M. Pentuic held a hearing on several pending motions filed by Christine, including a motion for exclusive possession of the marital home, a motion for temporary custody and child support, and a motion to compel discovery. Judge Pentuic issued rulings from the bench on these matters. Shortly thereafter, Christine filed a motion for substitution of judge, and the minute entries reflect that Judge Chickris held the next hearing, which was on all pending matters.

¶ 7

The parties prepared financial affidavits and pretrial memoranda for the hearing on all pending matters. Pursuant to these documents, Christine reported that her monthly net income was \$2,093.13, and Richard reported that his monthly net income was \$4,538.33. Further, the marital home, which they had purchased for around \$135,000, had only about \$5,000 in equity.

¶ 8

On June 19, 2014, the circuit court held the hearing on all pending matters. Richard was called as an adverse witness. He testified that he worked as a fire lieutenant for the city of Moline, and his schedule was 24 hours on, 48 hours off. He described his communication with

Christine as poor. Occasionally, they agreed on how to raise the children, but typically they did not agree. They disagreed on the quantity, frequency, and expense of the children's extracurricular activities. Caroline was involved in track, cheerleading, dance, and competition dance. Hannah was involved in competition dance and church activities. Wyatt was involved in baseball and cub scouts. Richard claimed that he handled the logistics of the children's extracurricular activities, and that Christine "somewhat" helped the children with their homework and their school activities. She took them to school in the morning, despite the availability of a school bus, and they took the bus home from school. He stated that Christine showed the children that chronic tardiness was acceptable, while he would get the children ready on time. He also stated that Christine encouraged the children to be disrespectful, as she did not correct their tone or their words toward others. Richard stated that he took the children to doctor's appointments almost exclusively, and that Christine would occasionally take them. He disagreed that Christine was the children's primary caretaker. While he had not worked out the logistics of child care if he were awarded custody, he suggested that both sets of grandparents lived locally and would help with child care.

¶ 9 Christine testified that she had not completed college, and prior to the marriage, she worked full-time for John Deere Health. During the marriage, she worked full-time except for a three-year stretch around 2006-09. She decided to quit her job because the family was going through a difficult time, so she wanted to take care of the infant children and "try to keep things together." At the time Christine quit her job, Richard was struggling with alcoholism and had not quite entered rehab yet, so "there wasn't a lot of participation or coherent involvement."¹

¹ Richard testified at the hearing that he had been sober for 6½ years.

Currently, she was employed full-time at UnityPoint Health Trinity, where she started in May 2014, and where she was making around \$35,000 per year.

¶ 10 Christine described Caroline as a happy, confident, sweet, and intelligent girl. She was typically an A/B student in school and worked hard for her grades. Christine described Hannah as a sweet, big hearted, compassionate, and loving girl who was "kind of in her own little world" because she had her own concept of time. Hannah was typically an A/B student. Christine described Wyatt as a proud, intelligent, tenderhearted, and caring. He was typically an A/B student who worked hard for his grades. Christine also stated that the children had not been tardy for school at all that year.

¶ 11 Christine also testified that she believed she had been the primary caretaker. She said she primarily bathed, clothed, and fed the children, as well as worked with them on their schoolwork, "shaped and molded their personalities," took them to activities, and organized their activities, including play dates. Before the divorce, she would start dinner when she got home from work around 5:30 p.m. if Richard had not already done so, and the family would eat dinner together around three times per week, which was important to her considering the demands of their extracurricular activities. She also stated that she gardened with the children, went to sporting events and day or weekend trips out of town with them, and took them to dance competitions, dance practices, ball practices, and plays. The children were also involved in Sunday school activities, and they helped at a community meal program every Wednesday night. Christine stated that Richard believed the children were involved in too many activities and that the activities were prohibitively expensive.

¶ 12 Christine stated that the family had a horse, two dogs, and a cat, and that the pets were a source of disagreement between her and Richard, who had reservations about the expense,

upkeep, and cleaning associated with the pets. Christine stated that when the dogs and cat had accidents in the house, Richard cleaned it up only about 10% of the time and would generally leave the mess for Christine to clean up. The accidents typically occurred when she was gone at work during the day, and she had attempted to arrange for the animals to get outside by leaving the garage door open about one foot from the ground. However, when she would get home from work, she would find that the garage door had been closed.

¶ 13 Christine stated that she was seeking sole custody because Richard had indicated to her that there would be pushback any time a decision needed to be made. She stated that their communication since the divorce was "poor." She alleged that Richard had been difficult and vague since the divorce. She claimed that he was "extremely rigid and inflexible," aggressive, and physical. She said that he has grabbed the children by the neck and arms at times. With regard to her disciplining of the children, she stated that it was contextual by child, but typically she would call attention to the behavior and tell the children that such behavior was inappropriate. Christine also stated that she would recommend "extremely liberal visitation" between Richard and the children. She had told Richard and his parents that she was open to letting them have the children on her days if they wanted to see the children. She noted that Richard's current work schedule precluded the possibility of Richard having the children every other weekend.

¶ 14 Christine stated that she had outstanding attorney fees of around \$5,000 and that she did not have the ability to pay them yet. She also acknowledged that Judge Pentuic told the parties that they needed to "grow up" at the May 1, 2014, hearing, and she stated that neither she nor Richard had heeded that recommendation.

¶ 15 Christine also presented five witnesses who testified variously that they believed Christine had been the primary caretaker of the children, that she was an excellent mother, that she was very involved with the children's extracurricular activities, and that the children were well-behaved and respectful.

¶ 16 Richard presented the testimony of his mother and father before he was called to the stand. His mother testified that she and her husband helped take care of the children with varying frequency, and that their time with the children had decreased since the dissolution petition had been filed. Over the past year, Richard's interactions with the children had been good. They were all close to Richard. She described Richard as the disciplinarian who tried teaching the children good values. She said that Christine, who focused on doing fun things with the children, had called Richard "mean" in front of the children, and the children had in turn repeated that word to him. She believed that Christine had "unduly made [the children] be involved in this divorce stuff. She's tried to poison their minds against [Richard]." She did not think the children had regular chores, and she described the marital home as cluttered but not filthy. In her observation, Richard was in charge of picking up around the house.

¶ 17 Richard's father testified that he got along well with his grandchildren, who were all close to Richard. Christine and Richard have used Richard's parents as sitters during holidays and school breaks. They watched the children fairly frequently during summer breaks. Richard's father commented that he did not think the children had learned responsibility, including chores. He believed that Richard was the better choice for custody, as Richard had "[a] more common sense approach to life so he can teach the children more solid values on how to get through life." He also stated that Christine "continuously" disparaged Richard in the presence of the children—she said he was mean—and that this behavior started about five or six years ago. Richard's

father also commented that the parties' house was cluttered and not clean; he saw dried dog feces on the floor once. He also stated that Christine only wanted to do fun things with the children, which left the parenting, "at least any discipline," to Richard.

¶ 18 Richard testified that Christine had not compromised over the course of the marriage. She did not discuss quitting her job with him. Her company had changed management and her supervisors had issues with her tardiness and her use of her sick days. During the time that Christine did not work, he worked two or three jobs—he worked a farm service job and ran a snow removal and lawn care business on top of his firefighter job—and "still did certainly more than my half of the household chores and duties." When Christine went back to work around 2009, he claimed that he did more of the basic care regarding the children and the house. He took the children to the doctor most of the time, while Christine usually took the children to the dentist.

¶ 19 Richard stated that he felt Christine was of questionable morals. He thought that Christine's "moral compass" was rooted in the marriage and in him. He "encouraged a traditional family type unit" and doing things together as a family. He was not religious, but he thought that the children's involvement in church and church activities was valuable, so he encouraged it and participated at times. He declared Christine to be "phony" and claimed that she had narcissist tendencies, including that she used the children as an accessory to garner attention for herself. She had admitted to having one affair, and she had told him on many occasions since April that she would bring any man she wanted to into the house. Since the divorce petition was filed, he had heard Christine have conversations with the children that he believed were inappropriate. She said things to the children like "pretty soon your dad will be gone and you won't have to pay attention to him anymore. This will be over soon." She also

told the children to remember what Richard did so they could tell the judge. She also recently told Wyatt that she was not afraid of Richard, which was said in response to her doing something with the laundry that Wyatt knew would upset Richard. Richard also stated that Christine undermined his authority in front of the children, and that she regularly said in their presence that Richard was mean, ill-tempered, and a bully. In addition, he believed that Christine was encouraging behavior in Caroline that was not age-appropriate. He claimed that Christine taught Caroline to wear makeup at a very young age—around 10 years old. He also claimed that Christine encouraged Caroline to wear revealing clothing and that she told Caroline about "dressing the right way to get the hot boys to pay attention to her." Christine encouraged Caroline to date at age 11, and when he objected, Christine called him names like "old-fashioned" both in and out of the children's presence.

¶ 20 Richard also testified that since the divorce petition was filed, Christine had made it difficult for him to see the children. She would make plans for the children so they would have other commitments, or she would reschedule his times with the children. He testified that if he were to receive custody of the children, both sets of grandparents had committed to watching the children on his on-duty days.

¶ 21 Richard alleged that when he had set up a psychologist appointment for the children, Christine showed up unannounced and "poisoned it" by getting the kids emotionally worked up prior to going into the appointment. He also alleged that she recently urinated on the sheets on his bed, placed feces on his toothbrush, and broke keys on his computer keyboard. He entered numerous pictures into evidence, including pictures of the damaged keyboard and pictures of the clutter around the house. He alleged that she blocked his movement around the house. She kept two credit cards secret and he did not find out about them until they were buying their current

house. He stated that there was pet urine and feces in the house three to four times per week, but it was less frequently now because the pets could go outside more. He admitted on cross that everyone in the family was responsible for pet care. He also stated that he did not have the money to pay for Christine's attorney fees.

¶ 22 Christine denied most of the allegations Richard made about her. She denied urinating on Richard's sheets, placing feces on his toothbrush, and breaking his keyboard. She claimed that at the psychologist's office, the children were already worked up emotionally, and she was simply attempting to calm them down. She denied saying that she would bring any man she wanted into the house. She denied interfering with Richard's time with the children. She denied leaving her sexual toys in plain view in the bedroom, as Richard had alleged. She denied parking her vehicle in the driveway in a manner so as to block him from being able to move his vehicle. She denied that she misused the air conditioner, furnace, and lights to run up the utility bills. She also denied blocking his movement in the house.

¶ 23 At the close of the hearing, the circuit court announced its ruling from the bench. Regarding custody, the court stated that it had considered all of the statutory best-interest factors listed in section 602 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/602(a) (West 2012)). The court also explained that joint custody was not an option because both parties had asked for sole custody due to the poor communication between them. Further, the court stated:

“There is a great deal of hostility between the parties. In fact, the respondent, father, really doesn't respect the petitioner at all. He basically called her a phony on the stand, so I don't -- I don't see where there is any possibility of joint custody.

The parties are not going to be able to discuss issues or work together for the benefit of the children.”

¶ 24 The court then commented on the testimony regarding the parties as parents. The court noted that both parents had favorable and unfavorable qualities; Richard was a disciplinarian and role model but could also be inflexible and rigid, while Christine wanted to make things fun for the children and was very involved in their activities, but she also disparaged Richard in front of the children. Ultimately, the court noted that despite the manner in which the parties characterized each other, they had done a great job raising three “wonderful human beings” who were respectful, well-behaved, and good students. The court then stated:

“Now the character testimony on behalf of the mother was some of the best I’ve ever heard as a judge. They were all friends of the mother, I understand that, but they weren’t relatives, they were familiar with the mother for long periods of time and they raved about what a great mother she was. That’s hard to believe from the description of her by the father but they were very credible.”

¶ 25 The court then found that it was in the best interest of the children to award sole custody to Christine, and then the court discussed visitation schedules. The court also set child support at 32% of Richard’s net income, and ruled that whoever had the cheaper health insurance would be required to retain it for the children. The court stated that if Christine would be covering the children, Richard would not be able to take any reduction off his child support payment for healthcare costs. However, if Richard would be covering the children, “he’ll get the benefit of a deduction from gross down to the net for child support.”

¶ 26 Regarding other property distribution matters, the court ruled, inter alia, that: (1) Richard would receive three dependency tax reductions for 2014, and thereafter would receive two until

the oldest child turned 18, at which point the parties would have to return to court to determine how the remaining two deductions would be handled; (2) the parties would split uncovered medical expenses; (3) Christine would receive the marital home, subject to a requirement that she would attempt to refinance the mortgage every six months and if she was unable to do so after two years, the house would be sold; (4) Christine would be responsible for all expenses for the house, including the mortgage, taxes, and insurance; (5) the parties would receive their own cars and the associated debts; (6) Christine would be assigned her credit card debts with Capital One and Barclay's; (7) the parties would split a debt related to a house repair; (8) Christine would receive the dental debt; (9) Christine would not receive maintenance because she was getting the house; (10) the parties would receive their own life insurance policies; (11) college expenses for the children were reserved; (12) Richard would receive his unused sick and vacation days; (13) the parties would receive their own bank accounts; and (14) the parties' IRA, 401(k), retirement, and pension plans would be divided via qualified domestic relations orders. The court also divided the parties' personal property, including the disputed items, and then ordered Richard to pay one-half of the remaining balance of Christine's attorney fees, which was determined to be \$2,045.15.

¶ 27 Richard filed a motion to reconsider, which was denied. After a written order was prepared and filed on August 5, 2014, Richard appealed.

¶ 28 While the appeal was pending, Christine filed in the circuit court a motion to supplement the record on appeal. Christine sought inclusion of the transcript from the May 1, 2014, hearing before Judge Pentuic, which Christine stated was referenced by Richard at the June 19, 2014, hearing before Judge Chickris. After a hearing and over Richard's objection, the court granted Christine's motion. The court ruled that Supreme Court Rule 323 (eff. Dec. 13, 2005) allowed

Christine to include the transcript from the May 1, 2014, hearing with the record on appeal. The court also stated that "[i]t seems to me that the Appellate Court would be able to sort out the fact that I didn't have available the transcript of Judge Pentuic and they would only look at it if they wanted to look at the entire record."

¶ 29

ANALYSIS

¶ 30

Initially, we note that Richard raises an argument that the circuit court erred when it granted Christine's motion to supplement the record on appeal. Richard contends that the court erred because the May 1, 2014, hearing transcript was not evidence that was considered by Judge Chickris in his ruling on June 19, 2014.

¶ 31

The interpretation of a supreme court rule presents a question of law that we review *de novo*. *In re Edmonds*, 2014 IL 117696, ¶ 36.

¶ 32

The record on appeal may be supplemented to include material omissions, correct inaccuracies, or settle controversies regarding whether the record on appeal accurately reflected what transpired in the circuit court. Ill. S. Ct. R. 329 (eff. Jan. 1, 2006); *In re N.L.*, 2014 IL App (3d) 140172, ¶ 25. Supplementation of the record on appeal pursuant to Rule 329 is limited to evidence that was actually before the circuit court. *Id.*; see also *Jones v. Ford Motor Co.*, 347 Ill. App. 3d 176, 180 (2004).

¶ 33

In this case, we find no error in the circuit court's decision to grant Christine's motion to supplement the record on appeal. We disagree with Richard's interpretation of Rule 329, which is based on three cases that are completely inapposite. Each of these three cases—*Brady v. Brady*, 26 Ill. App. 3d 131 (1975); *In re Marriage of Sorenson*, 127 Ill. App. 3d 967 (1984); and *In re Marriage of Fotsch*, 139 Ill. App. 3d 83 (1985)—address instances in which a hearing on certain matters had initially been presided over by one judge, who recused himself or herself

before rulings were issued on all of those matters, and then the case was assigned to another judge. *Brady*, 26 Ill. App. 3d at 132-33; *Sorenson*, 127 Ill. App. 3d at 967-68; *Fotsch*, 139 Ill. App. 3d at 85. In this case, we are not faced with a situation in which one judge heard testimony at a hearing and then recused himself or herself before issuing rulings on the pleadings that required the hearing. See generally *Smith v. Freeman*, 232 Ill. 2d 218, 223-28 (2009) (addressing the law applicable to successor judges and discussing *Sorenson* and *Fotsch*). Here, Judge Pentuic's ruling was a part of the trial court record and was referenced in the court's minute entries, including Judge Pentuic's admonishment of the parties' immature behavior. Transcripts from this hearing are not evidence of the type that Rule 329 seeks to preclude. See *Jones*, 347 Ill. App. 3d at 180 (ruling on a motion to supplement the record with documents that had been submitted to the circuit court months after the court's ruling); *Avery v. Sabbia*, 301 Ill. App. 3d 839, 843-44 (1998) (same). For these reasons, we hold that the circuit court did not err when it granted Christine's motion to supplement the record on appeal.² Additionally, we deny the motion Richard filed on appeal that sought to strike the portions of Christine's brief that referenced matters from the May 1, 2014, hearing.

¶ 34 Substantively, Richard argues on appeal that: (1) the circuit court erred when it awarded sole custody to Christine; (2) the court's property distribution was erroneous; and (3) the court erred when it ordered Richard to contribute to Christine's attorney fees.

¶ 35 I. CUSTODY

¶ 36 Richard's first argument on appeal is that the circuit court erred when it awarded sole custody of the parties' three children to Christine.

² Even if the circuit court had erred when it granted the motion to supplement the record, our disposition of this case would be the same, given the evidence that was presented at the hearing on June 19, 2014.

¶ 37 When making a custody determination, a circuit court is required to consider all relevant factors, including: (1) the parents' wishes regarding custody; (2) the interaction and interrelationship of the children with their parents, their siblings, and any other person who may significantly affect the children's best interest; (3) the children's adjustment to their schools and community; and (4) "the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child[ren]." 750 ILCS 5/602(a) (West 2012). We will not disturb a circuit court's custody decision unless it is against the manifest weight of the evidence. *In re Marriage of Iqbal*, 2014 IL App (2d) 131306, ¶ 55. "A judgment is against the manifest weight of the evidence when an opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary or not based upon the evidence." *In re Marriage of Hefer*, 282 Ill. App. 3d 73, 80 (1996).

¶ 38 Richard's argument on this issue centers around three main complaints: (1) the circuit court did not decide the case based on the section 602 factors, but rather, some "strengths and weaknesses" test; (2) the court placed too much weight on Christine's character witnesses; and (3) a consideration of the evidence in light of the section 602 factors indicates that Richard should have been awarded sole custody. We find all of these complaints to be meritless.

¶ 39 First, it is imperative to recognize that the circuit court is under no obligation to make specific findings on the section 602 factors "as long as evidence was presented from which the court could consider the factors prior to making its decision." *Hefer*, 282 Ill. App. 3d at 79. In this case, the circuit court did not expound on the statutory factors in section 602, but the court did comment on the parties' parenting abilities. This does not mean, as Richard suggests, that the court invented some "strengths and weaknesses" test to determine custody. The court was commenting on the evidence that was presented at the hearing. Further, Richard does not

advance any argument that the evidence presented at the hearing was insufficient for the court to consider the statutory factors, and we have found nothing in the record to suggest as much.

¶ 40 Second, we also recognize that a circuit court's custody determination is entitled to great deference because the court is in a superior position to determine witness credibility and the best interest of the children. *Iqbal*, 2014 IL App (2d) 131306, ¶ 55. Richard's comment that Christine's character "witnesses *** made the customary hyperbolic and inflated observations of what they saw in their limited view of Christine with the children versus almost having no sight of Richard and the kids when he had them" is of no consequence on this issue. Richard has not advanced any substantive argument as to why Christine's character witnesses were not credible, and we have found nothing in the record to cast doubt on the court's credibility determination with regard to these witnesses.

¶ 41 Third, our review of the record reveals no error in the circuit court's custody determination. As the court noted, the evidence painted a picture of respectful, well-behaved, and good children. Both parties presented extensive testimony on each other's parenting ability—or alleged lack thereof—and most of the evidence in this regard was conflicting, which warrants deference from this court on review (see, e.g., *In re Marriage of D.T.W.*, 2011 IL App (1st) 111225, ¶ 82 (stating that when evidence does not clearly favor one party over another, a reviewing court cannot say that the circuit court's decision was against the manifest weight of the evidence)). While Christine's alleged disparaging of Richard in front of the children is problematic, Christine's character witnesses also testified that she displayed excellent parenting skills. It is also apparent from the testimony that both parties struggled with communicating and cooperating regarding parenting decisions. Both parties sought sole custody of the children, and the court's decision disrupted the children's lives as minimally as possible—including their

school and community ties—and also allowed for Richard to have extensive visitation with the children. Under these circumstances, we hold that the circuit court's custody determination was not against the manifest weight of the evidence. See *In re Marriage of Pfeiffer*, 237 Ill. App. 3d 510, 513 (1992) (stating that it is not a reviewing court's function to reweigh the evidence or to substitute its judgment for that of the circuit court).

¶ 42 Richard also argues, alternatively, that the circuit court erred by not considering joint custody as an option. We disagree.

¶ 43 In relevant part, in order for the circuit court to order joint custody, section 602.1(c)(1) of the Act requires that the court find that the parents have the ability to "cooperate effectively and consistently in matters that directly affect the joint parenting of the child." 750 ILCS 5/602.1(c)(1) (West 2012). In this case, the evidence was overwhelming that the parties could not cooperate effectively and consistently with regard to decisions affecting the joint parenting of the children. Both Christine and Richard testified that their communication was poor, and the evidence indicated that their ability to jointly parent had irreparably broken down. In this regard, the court specifically found:

“There is a great deal of hostility between the parties. In fact, the respondent, father, really doesn't respect the petitioner at all. He basically called her a phony on the stand, so I don't -- I don't see where there is any possibility of joint custody. The parties are not going to be able to discuss issues or work together for the benefit of the children.”

Under these circumstances, we hold that the circuit court's ruling that rejected joint custody as an option in this case was not against the manifest weight of the evidence. See *Iqbal*, 2014 IL App (2d) 131306, ¶ 56.

¶ 44

II. PROPERTY DISTRIBUTION

¶ 45

Richard's second argument on appeal is that the circuit court's property distribution was erroneous. Specifically, he pans the court's ruling as "highly inequitable and substantially favor[ing] Christine," and he argues that the court ignored the applicable statutory factors in arriving at its decision. He also claims that he contributed more to the marital estate and therefore should have received more.

¶ 46

Section 503(d) of the Act requires the circuit court to consider numerous factors when "divid[ing] the marital property without regard to marital misconduct in just proportions." 750 ILCS 5/503(d) (West 2012). Among these factors are the contributions each party made to the marital and non-marital property, including any contributions made by a spouse as a homemaker; the value of the property assigned to each party; the relevant economic circumstances of the parties at the time of the division of property, including whether the marital home should be assigned to the person having custody of the children; factors related to the parties' age, health, skills, and employability; custodial provisions for the children; whether the property division is in addition to or in lieu of maintenance; and the tax consequences of the property division. 750 ILCS 5/503(d)(1)-(12) (West 2012). Arriving at an equitable division of property does not require mathematical equality. *In re Marriage of Joynt*, 375 Ill. App. 3d 817, 821 (2007). We review a circuit court's property division for an abuse of discretion. *In re Marriage of Sawicki*, 346 Ill. App. 3d 1107, 1113 (2004). "An abuse of discretion is said to have occurred only when no reasonable person would take the view adopted by the trial court." *Id.*

¶ 47

Our review of the record reveals no error in the circuit court's property distribution ruling. Initially, while Richard contends that the court failed to consider the statutory factors in reaching its decision, we recognize that the court is not required to make specific findings in that decision

(*In re Marriage of Benkendorf*, 252 Ill. App. 3d 429, 433 (1993)). Additionally, while Richard emphasizes that he contributed more toward the marital property, that factor is only one of the factors the court is required to consider in arriving at its property division decision. *In re Marriage of Polsky*, 387 Ill. App. 3d 126, 136 (2008). Further, that emphasis by Richard ignores that the same statutory provision also recognizes that contributions made by a homemaker must also be recognized (750 ILCS 5/503(d)(1) (West 2012))—a role that Christine filled for approximately three years during the marriage. Further, while Christine was in fact awarded certain furniture, including the living room and bedroom furniture, Richard's emphasis on that award is made in spite of the fact that he was awarded numerous items with substantial value, including trailers, guns, power tools, hand tools, yard tools, a stove, and a freezer. Also, Christine's receipt of the marital home is not as lucrative as Richard contends, as the house had only about \$5,000 in equity, and she was required to refinance the house within two years or would be forced to sell it. She was also assigned the mortgage and all of the house-related expenses. Child support was awarded pursuant to statute (750 ILCS 5/505(a)(1) (West 2012)), and it cannot be minimized that Richard was not ordered to pay maintenance to Christine, who earned less than half of what Richard earned every month. We have carefully reviewed the circuit court's property division decision, and we conclude that under the circumstances, the court's decision was not an abuse of discretion.

¶ 48

III. ATTORNEY FEES

¶ 49

Richard's third argument on appeal is that the circuit court erred when it ordered Richard to contribute to Christine's attorney fees. Richard argues that there was no evidence that Christine was unable to pay her attorney fees, and the evidence showed that Richard was in no financial position to contribute.

¶ 50 Generally, a party who incurs attorney fees is responsible for paying those fees. *In re Marriage of Suriano*, 324 Ill. App. 3d 839, 852 (2001). However, section 508(a) of the Act provides that "[t]he court from time to time, after due notice and hearing, and after considering the financial resources of the parties, may order any party to pay a reasonable amount for his own or the other party's costs and attorney fees." 750 ILCS 5/508(a) (West 2012). An award of attorney fees may be predicated on the maintenance or defense of a proceeding brought under the Act. 750 ILCS 5/508(a)(1) (West 2012). When deciding a party's request for attorney fees, the circuit court should consider the allocation of the parties' liabilities and assets, whether maintenance was awarded, and the relative earning capacities of the parties. *In re Marriage of Keip*, 332 Ill. App. 3d 876, 884 (2002). The party seeking contribution to her attorney fees must show an inability to pay on her part and an ability to pay on the other party's part. *In re Marriage of Reimer*, 387 Ill. App. 3d 1066, 1076 (2009). The inability to pay exists when such payment would strip the party requesting contribution of her means of support or undermine her financial stability. *Id.* The decision to award attorney fees is a matter within the discretion of the circuit court, and we will not disturb the court's decision absent an abuse of that discretion. *Id.*

¶ 51 Our review of the record reveals no error in the circuit court's decision to order Richard to pay \$2,045.15 toward Christine's attorney fees. Richard claims on appeal that he had no ability to pay because he earned \$4,538.33 per month and had expenses of \$4,503.00 per month, but that claim is misleading because those expenses included the mortgage payment and other house-related expenses. Christine was earning less than half of what Richard was earning, and she was given the marital home with a minimal amount of equity and the full responsibility for the mortgage and house-related expenses. She was awarded child support, but she also did not receive maintenance. Even with her child support award, she was essentially just breaking even

each month. The circuit court had the parties' financial information before it when it issued its ruling on this issue, and we have found nothing in the record to indicate that the court's decision on this issue constituted an abuse of the court's discretion. See, e.g., *In re Marriage of Pond*, 379 Ill. App. 3d 982, 992-93 (2008).

¶ 52

CONCLUSION

¶ 53

For the foregoing reasons, the judgment of the circuit court of Mercer County is affirmed.

¶ 54

Affirmed.