

No. 1-14-3221

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> MARRIAGE OF JOSEPH LEVENTHAL,)	Appeal from the
)	Circuit Court of
Petitioner-Appellee,)	Cook County.
)	
and)	No. 05 D 9118
)	
CECILIA LEVENTHAL,)	Honorable
)	Naomi H. Schuster,
Respondent-Appellant,)	Judge Presiding.

JUSTICE ELLIS delivered the judgment of the court.
Presiding Justice McBride and Justice Cobbs concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not abuse its discretion in extending and reducing award of rehabilitative maintenance for former wife. Former wife had already received over six years of maintenance at \$14,000 per month and had training and experience working as registered nurse.

¶ 2 After 17 years of marriage, petitioner Joseph Leventhal and respondent Cecilia Leventhal divorced in 2007. Joseph agreed to pay Cecilia \$14,000 per month in maintenance for 59 months following the divorce. After 59 months, the maintenance was to become reviewable. In 2012, Cecilia filed a petition to extend and increase her maintenance. After a hearing, the trial court extended Cecilia's maintenance for another three years but reduced the monthly maintenance payments to \$8,000.

¶ 3 Cecilia appeals the trial court's reduction of her maintenance, alleging that \$8,000 per month is insufficient to cover her monthly expenses and is not commensurate with the standard of living she had been accustomed to in the marriage.

¶ 4 We affirm the trial court's judgment. We cannot say that the trial court's award was arbitrary or unreasonable, as it balanced the disparity between Cecilia's and Joseph's incomes and earning potentials with the goal of restoring Cecilia to self-sufficiency. While the standard of living that Cecilia enjoyed during the marriage was an important factor, it was only one of many factors the trial court had to consider in deciding whether to extend maintenance. Cecilia had received over six years of maintenance at \$14,000 per month and had the capacity to secure employment as a registered nurse.

¶ 5 I. BACKGROUND

¶ 6 Cecilia, who was 58 years old at the time of the hearing in 2014, testified that she worked part-time as a registered nurse at the University of Minnesota hospital from 1986 to 1996. While working there, she met Joseph, who was doing his residency at the same hospital. They married in 1990. She left the job because Joseph took a position at Northwestern Memorial Hospital (Northwestern) in Chicago and she moved with him. She approximated her salary at the University of Minnesota to be \$48,000 per year.

¶ 7 After moving to Chicago, Cecilia began working as a nurse at Northwestern, where she earned about \$50,000 per year. She worked there full-time for one year, when she took a job with the Center for Human Reproduction, where she earned approximately \$60,000 per year. She worked with the Center for Human Reproduction for two years, then took a job as a registered nurse with the University of Illinois-Chicago Hospital for one year. She earned approximately \$60,000 per year. She stopped working in 2001, due to "problems with fatigue and the hours."

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Cecilia testified that she had to wake up at 3 a.m. in order to get to work, which "was becoming difficult *** because of her fatigue." She testified that her fatigue had occurred because of "problems with [her] thyroid and *** anemia." From 2001 to 2011, Cecilia did not work.

¶ 8 At the time of the divorce in 2007, Cecilia and Joseph lived in a three-bedroom penthouse condominium in Chicago. As part of the divorce settlement, the condo was sold for \$980,000. Cecilia then purchased a condo at 1000 West 15th Street in Chicago for \$460,000. She sold that condo for \$380,000 in 2009, as she wanted to move back to Minnesota to be closer to her family.

¶ 9 At the time of the hearing, Cecilia lived in a three-bedroom, three-bathroom home in Minnesota that cost \$590,000. She paid approximately \$400,000 up front for the house and obtained a loan for \$180,000. She testified that she put that much money down for the house because she wanted stability in case the income that she had received would end. Her monthly mortgage payments were \$2,296. She estimated that the house was between 2,500 and 3,000 square feet. It had a "back wooded area and a front yard."

¶ 10 Since returning to Minnesota, Cecilia had applied for jobs at the University of Minnesota about 10 times. She had also applied for positions in retail and at hotels. In 2011, Cecilia took a job ticketing clothing at Macy's for \$7.75 per hour. In 2012, she took another job with Gentle Care, a home health care company, where she worked as a registered nurse giving home care to elderly people. She earned \$27 per hour with Gentle Care, but her schedule was sporadic.

¶ 11 Cecilia stopped working at Macy's and Gentle Care in 2013, when she began to work as a nurse with United Healthcare, an insurance company. She answered customers' medical and insurance questions over the phone. She worked about 20 hours per week from home. As part of her employment, she was required to obtain 15 additional nursing licenses, so that she could answer questions from customers in various states. She received health insurance, disability

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insurance, a health savings account, and a 401(k) through her job. She testified that she had not asked whether United Healthcare had full-time positions available.

¶ 12 Cecilia took several different educational paths following the divorce. In 2008, she obtained a bachelor's degree in communications studies at Northwestern University. She testified that she got this degree "to make [herself] more marketable *** for a job search, and *** to improve [her] communication." In 2008, she took a real estate broker course at Harold Washington College in Chicago, but she never obtained her real estate broker's license. In 2011, she attended Hennepin Technical College in Eden Prairie, Minnesota, where she took three photography classes. Cecilia testified that she also took courses on job interviewing, résumé writing, and computers. She also took about 30 to 40 continuing education classes in order to maintain her numerous nursing licenses and to improve her nursing skills.

¶ 13 Cecilia's father became ill in 2009. She and her sister, who was also a nurse, took care of him full-time in his home from 2009 until his death in April 2011. Cecilia's eight other siblings also contributed to his care. While she cared for her father, she did not get a job, although she did seek employment. After her father's death, she had to take care of her mother, who suffered from dementia and severe osteoporosis.

¶ 14 Cecilia testified that she took medications for an underactive thyroid gland, pernicious anemia, and anxiety. She was diagnosed with Hashimoto's disease—a thyroid disorder—in 2004. She testified that she had continued to experience fatigue, that "some days *** are worse than others," and the fatigue "impact[ed] how [she could] function." She also testified that the fatigue caused her to think less clearly and made it more difficult for her to exercise. On cross-examination, she testified that she was a member at a health club from 2004 to 2006.

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¶ 15 Cecilia testified that she paid quarterly taxes on her maintenance. In 2013, she paid \$9,000 in taxes on her maintenance each quarter. In 2014, she paid over \$10,000 per quarter.

¶ 16 Cecilia testified that she included repairs and maintenance to her home on her expense report. This figure included new windows, a new roof, a new furnace, a new air conditioner, an air exchange system, and landscaping. She estimated her monthly expenses as \$1,333 by totaling all of the repair expenses and dividing that number by 12. At the time of the hearing, these repairs had been paid in full, but she still paid \$3,000 per year for tree trimming. She also testified that she had to replace two kitchen chairs within the past year.

¶ 17 Cecilia testified that she drove an Infiniti FX35, the same kind of car that she drove when she was married to Joseph. She estimated her monthly car payment to be \$931. She testified that she still owed \$24,000 on the car at the time of the hearing. She listed her gasoline expenses as \$230 per month.

¶ 18 Cecilia testified that, since the divorce, she had taken vacations to northern Minnesota or Wisconsin with her family. She testified that, when she was married to Joseph, they traveled overseas "quite a bit," including trips to France, Italy, Scotland, Portugal, Spain, Turkey, and Greece. They had also traveled in the United States to various places, including Arizona, New York, Connecticut, Georgia, Washington, and Louisiana. On cross-examination, she testified that these trips were related to speaking engagements Joseph had in various locations. In her disclosures, Cecilia listed \$500 per month for vacations.

¶ 19 Cecilia also listed expenses for entertainment, social obligations, and dining out at \$500 per month. She testified that she included attendance at fairs and museums in the category of entertainment. She said she ate out once or twice a week. She also listed monthly expenses of \$323 for pets and \$605 for clothes. She testified that she had spent \$1,000 on clothes in the

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previous month but could not recall the last time she spent \$605 on clothing in a month. She also testified that she did not buy clothes every month.

¶ 20 Cecilia also listed monthly expenses of \$178 for "grooming." She testified that she got her hair cut every other month and spent \$150 per haircut. She also got her nails done. And she included expenses for cosmetic products in that monthly amount.

¶ 21 Cecilia identified statements from her checking account in court. As of December 2013, she had approximately \$15,000 in that account. She testified that this was her only checking account and that she used this account to pay for everyday expenses. Cecilia testified that she put \$2,500 per month in a savings account. She said, "I had the same sort of a savings during my marriage and I wanted to continue it." She also identified statements from her health savings account, individual retirement account, and Minnesota state employee pension.

¶ 22 Joseph testified that he lived in Chicago with his current wife and their two children, ages two and four. His home was appraised at \$1.425 million in 2013. He paid slightly more than \$8,000 per month for his mortgage, taxes, and a home equity loan. He had a maid service that cleaned his house twice a month for \$320. Joseph estimated that he spent \$500 per month for food and household supplies, \$230 per month on gasoline, and \$824.40 per month for his car. He also listed his monthly clothing expenses of \$500 and life insurance payments of \$3,000.

¶ 23 Joseph testified that he worked as a professor and transplant surgeon at Northwestern Memorial Hospital. At the time of the hearing, he was on call 26 out of 52 weeks per year, working 80 to 100 hours per week when on call. When he was not on call, he worked between 60 and 80 hours per week. Joseph was paid a salary and could receive bonuses based on meeting certain goals. From 2006 to 2014, his base salary varied between \$450,000 and \$499,000. Joseph also recalled receiving incentive compensation in the past five years. He testified that he received

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incentive compensation because he had taken on the work of other doctors who had left the hospital. But he assumed that it would be more difficult for him to get incentive pay going forward, as a new surgeon had just been hired.

¶ 24 Joseph was also paid for speaking engagements. He estimated his speaking fees in 2013 to be \$5,000, but he did not recall how much he had made from speaking in 2014. Joseph also had a retirement account through his job, with a balance of \$702,000 at the end of 2013.

¶ 25 Joseph testified that his clubs, social obligations, entertainment, and dining out amounted to \$400 per month. He testified that his family went out to eat four to five times per month, and that he was a member at a health club. For vacations, he estimated \$230 per month, which only took into account personal travel, not business travel.

¶ 26 Joseph estimated that his total childcare costs per month were \$3,800. He estimated his children's schooling cost \$3,000 per month. His four-year-old daughter attended private school, and his two-year-old was soon to begin preschool. He also paid a nanny \$3,400 per month to take care of the children and paid \$400 per month for babysitters when he and his wife went out in the evenings. Joseph paid \$1,000 per month for his children's college funds.

¶ 27 Joseph testified that, in total, he had a monthly deficit of \$4,135. He also testified that his current wife contributed to the household expenses.

¶ 28 Joseph testified that Cecilia received \$410,000 from the sale of the Chicago condo they lived in while they were married. As a result of the divorce, she also received \$117,000 from a mutual fund, \$170,000 from an insurance policy, \$104,000 in cash, and a car.

¶ 29 Dr. Howard Sweeney testified on Joseph's behalf regarding Cecilia's medical condition. Sweeney opined that Cecilia's Hashimoto's disease would not affect her day-to-day life so long as she took her thyroid medication. Sweeney did not meet with Cecilia or with her doctors; he

reached his conclusion by reviewing her medical records. He testified that he did not think it was necessary to examine Cecilia to reach his conclusion.

¶ 30 In closing, Cecilia's attorney argued that Joseph had many more assets, more income, and more earning capacity than Cecilia. She also noted that Joseph had remarried, and that his wife earned a substantial salary. She noted that Cecilia only worked part-time and had made efforts to secure full-time employment. Cecilia's attorney argued that Cecilia's earning potential was \$50,000 per year, "maybe a little bit more." And she noted that Cecilia would soon be 59 years old and was suffering from medical conditions that affected her ability to work. Cecilia's counsel asked the trial court to make maintenance permanent because she would never be able to rehabilitate herself to the standard of living she had enjoyed during the marriage, and to increase maintenance from \$14,000 per month to \$18,000 per month.

¶ 31 Joseph's counsel argued that Cecilia did not seek employment for two years after the divorce and did not actually obtain employment until four years after the divorce. Counsel also argued that Joseph had paid Cecilia hundreds of thousands of dollars in maintenance over the years. He argued that the amount that Cecilia spent on her home, including the amount spent on repairs and upgrades to the home, indicated that she did not use the maintenance to attempt to become independent; she used it to fund an unnecessarily profligate lifestyle.

¶ 32 The court found both Cecilia and Joseph to be credible, saying that they were both "forthright, honest, and open." The court cited section 510(a-5) of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/510(a-5) (West 2012)), noting that maintenance "may be modified or terminated only upon a showing of a substantial change in circumstances." The court then noted that, in making this determination, it was required to consider the factors in sections 510(a-5) and 504(a) of the Act (750 ILCS 5/504(a) (West 2012)).

¶ 33 The court said that the case was difficult "because of the lack of history of the earning potential of" Cecilia. The court noted that, although Cecilia had earned up to \$60,000 during the marriage, she also did not work for a substantial period during the marriage. The court stated that, following the divorce, Cecilia did not undertake a "significant amount" of "job application efforts," but also acknowledged that Cecilia was in school for part of this time. But, the court also said, "I'm not sure what the applications of photography class and other miscellaneous classes had [to do] with attempting to get back into her field of nursing or even the real estate classes. But, I'm not faulting her for attempting to secure employment wherever the employment can be found." The court acknowledged that Cecilia's age may have made it more difficult for her to find work. The court also noted that Cecilia's job search had been hampered by the time she took care of her ailing parents.

¶ 34 While the court was "pleased to hear" that Cecilia had found work as a nurse, it noted that this was only 20 hours of work per week, and that such a position was not "where [Cecilia] wants to be nor where the Court would expect [Cecilia] to be."

¶ 35 The court noted that Joseph had earned additional income in the years since the divorce, but found that that income had been earned due to additional hours he had worked. The court also noted that Joseph testified that he anticipated his incentive pay to be lower because he would likely work fewer hours in the future.

¶ 36 The court declined to take Dr. Sweeney's testimony into account, noting that he had not even examined Cecilia.

¶ 37 The court said that it had considered the parties' expenses "in substantial detail." The court noted that, taking Cecilia's disclosures as true, "without the consideration of the maintenance paid left [Cecilia] with less than \$9,000 of deficit." The court also noted that the

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\$1,333 in home repair and maintenance expenses included items such as the replacement of furniture, the furnace, the air conditioner, and windows, which had been paid off in full and would not be continuing expenses. The court found that, as Cecilia's monthly deficit was \$8,900, and the \$1,333 in home repairs would not be continuing, Joseph's maintenance should be reduced to \$8,000 per month. The court then clarified that the \$8,000 per month would be the gross amount, before taking taxes into account.

¶ 38 The court declined to make maintenance permanent, instead finding that it should be reviewable in three years. The court said that it hoped that, in three years, Cecilia would become self-sufficient, noting that Cecilia had already received six-and-a-half years of maintenance to that point.

¶ 39 Cecilia filed a motion to reconsider. She argued that the trial court failed to consider the tax consequences of the decrease in maintenance. She noted that, with \$8,000 in maintenance per month, she will only receive \$6,000 after 25% taxes. She then argued that this would leave her with a monthly deficit of \$5,466 (she disclosed \$8,966 per month in expenses plus the \$2,500 she saved every month), which would require her to deplete her savings to maintain her lifestyle. She also noted that the court found Cecilia's testimony and disclosures to be credible, and that Joseph did not testify that he could not afford \$14,000 per month, or that his earnings had decreased.

¶ 40 At the hearing on the motion to reconsider, the court said that it had considered all of the evidence and all of the factors in sections 504(a) and 510(a-5). The court said that it had reviewed the transcripts of the hearing and did not find any error in its reduction of maintenance. This appeal followed.

¶ 41

II. ANALYSIS

¶ 42 Cecilia's sole contention on appeal is that the trial court erred in reducing her maintenance to \$8,000 per month. She contends that this amount did not appropriately reflect the standard of living to which she was accustomed during her marriage to Joseph, particularly once tax consequences are taken into account. Joseph argues that the trial court did not abuse its discretion in reducing maintenance where it expressly said that it had considered any tax consequences, it found that several of Cecilia's disclosed expenses would not be recurring, and \$8,000 per month was sufficient to cover her expenses.

¶ 43 Joseph and Cecilia's settlement agreement provided that Joseph would pay her "reviewable maintenance" for 59 months following the divorce. The purpose of reviewable maintenance is to allow the trial court to reserve jurisdiction over an award of maintenance "to encourage a spouse to become self-sufficient while providing the court with an opportunity to review the award at the end of a fixed period to determine what efforts the spouse has made toward achieving this objective and whether those efforts have been successful." *In re Marriage of Pearson*, 236 Ill. App. 3d 337, 348 (1992).

¶ 44 Our supreme court has held that, when a marital settlement agreement provides for reviewable maintenance, the party seeking a modification does not bear the burden of proving a substantial change in circumstances to justify modification of maintenance. *Blum v. Koster*, 235 Ill. 2d 21, 35-36 (2009). Instead, the trial court "ha[s] discretion to continue maintenance without modification, to modify or terminate maintenance, or to change the maintenance payment terms." *Id.* at 36. In exercising its discretion, the court should consider the factors in sections 504(a) and 510(a-5). *Id.*

¶ 45 A trial court's modification of maintenance will not be disturbed absent an abuse of discretion. *Id.* An abuse of discretion occurs when the trial court's ruling is arbitrary, fanciful, or where no reasonable person would take the view adopted by the trial court. *Id.*

¶ 46 The parties do not dispute that their settlement required Joseph to pay Cecilia rehabilitative, as opposed to permanent, maintenance. Rehabilitative maintenance is intended to provide a party "with the opportunity to adjust to nonmarital life and to provide herself with independent means of support." *In re Marriage of Carpel*, 232 Ill. App. 3d 806, 828 (1992). But the party is not required to sell his or her assets in order to achieve financial independence. *Id.* And the goal of financial independence should be "balanced against a realistic appraisal of the likelihood that the spouse will be able to support herself in some reasonable approximation of the standard of living established during the marriage." *Id.*

¶ 47 Section 504(a) lays out 12 factors that the court should consider in awarding maintenance:

"(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance;

(2) the needs of each party;

(3) the present and future earning capacity of each party;

(4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;

(5) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to

support himself or herself through appropriate employment or is the custodian of a child making it appropriate that the custodian not seek employment;

(6) the standard of living established during the marriage;

(7) the duration of the marriage;

(8) the age and physical and emotional condition of both parties;

(9) the tax consequences of the property division upon the respective economic circumstances of the parties;

(10) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;

(11) any valid agreement of the parties; and

(12) any other factor that the court expressly finds to be just and equitable." 750

ILCS 5/504(a) (West 2014).

¶ 48 Section 510(a-5) provides nine additional factors to look to in deciding whether to modify or terminate maintenance:

"(1) any change in the employment status of either party and whether the change has been made in good faith;

(2) the efforts, if any, made by the party receiving maintenance to become self-supporting, and the reasonableness of the efforts where they are appropriate;

(3) any impairment of the present and future earning capacity of either party;

(4) the tax consequences of the maintenance payments upon the respective economic circumstances of the parties;

(5) the duration of the maintenance payments previously paid (and remaining to be paid) relative to the length of the marriage;

(6) the property, including retirement benefits, awarded to each party under the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage and the present status of the property;

(7) the increase or decrease in each party's income since the prior judgment or order from which a review, modification, or termination is being sought;

(8) the property acquired and currently owned by each party after the entry of the judgment of dissolution of marriage, judgment of legal separation, or judgment of declaration of invalidity of marriage; and

(9) any other factor that the court expressly finds to be just and equitable." 750 ILCS 5/510(a-5) (West 2014).

¶ 49 No one of the above factors is dispositive in determining the duration or amount of maintenance. *In re Marriage of Foster*, 2014 IL App (1st) 123078, ¶ 119. While the trial court must consider each of these factors, it does not need to make specific findings as to the reasons for its decision. *Id.* Nor does it need to afford each factor equal weight, "so long as the balance struck by the court is reasonable under the circumstances." *In re Marriage of Miller*, 231 Ill. App. 3d 480, 485 (1992).

¶ 50 Cecilia first takes issue with the trial court's modification because, she claims, the trial court did not consider the tax consequences of the reduction. But the record demonstrates that the trial court told Cecilia's counsel that it understood that the award was taxable, and that it was awarding Cecilia a "gross" amount, not an after-tax amount. The court noted that it had considered each of the factors in sections 504(a) and 510(a-5), one of which was the tax consequences of the maintenance payments. The trial court was not required to expressly single

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out the tax consequences in its findings prior to ruling. *In re Marriage of Fredericks*, 218 Ill. App. 3d 533, 543 (1991).

¶ 51 Cecilia maintains that the trial court's figure could not have taken into account the taxes applicable to her maintenance because, taking taxes into account, the maintenance award would leave her with a significant deficit each month. But the trial court recognized this deficit when it reduced Cecilia's maintenance award. It had "a very difficult time" continuing maintenance at the same level in light of Cecilia's expenditures. Specifically, the trial court noted that Cecilia's disclosure statement included \$1,333 for non-recurring home improvements such as roof, window, furnace, and air conditioner replacement. And it included \$150 for furniture replacements, which the court also found to be non-recurring. Even Cecilia conceded she could not recall replacing any furniture other than two kitchen chairs that had broken in the past two years.

¶ 52 Moreover, Cecilia's argument is premised on the notion that she is entitled to maintain the standard of living that she currently enjoys, and that she is entitled to have maintenance to cover the difference between her current salary and her current expenses. But the Act does not require that a former spouse be supported at precisely the same standard of living that he or she enjoyed during the marriage. See *Carpel*, 232 Ill. App. 3d at 828 (maintenance should provide for "some reasonable *approximation* of the standard of living established during the marriage" (emphasis added)). While the standard of living during the marriage is a significant factor in deciding whether, and to what extent, maintenance should be awarded, it is still only one factor of many. See *Foster*, 2014 IL App (1st) 123078, ¶ 119 (no one factor in sections 504(a) or 510(a-5) is determinative in setting maintenance). To exalt this standard-of-living factor over all others would run counter to the language of the Act and the case law construing it.

¶ 53 Other factors support the trial court's reduction of maintenance. Since the initial award of maintenance, Cecilia's employment and educational circumstances had improved. At the time of the divorce, she had been unemployed for six years. At the time of the hearing on her petition to continue maintenance, she had obtained part-time employment in her chosen profession, had obtained licenses to practice nursing in several states, and had added a bachelor's degree in communications to her résumé. Thus, her prospects for employment were better than when she was first divorced.

¶ 54 While the trial court found that Cecilia's efforts to obtain self-sufficiency were, on the whole, reasonable, it also expressed some doubts about them. The court noted that a part-time nursing position was not "where the Court would expect [Cecilia] to be" in her job search. The court also questioned how the photography and real-estate classes that Cecilia took helped her to obtain a job in nursing. On cross-examination, Cecilia conceded that she had not asked her current employer whether there were any full-time positions available. And at the close of its ruling, the trial court stressed that it hoped that Cecilia will have found full-time employment when the court next reviews her maintenance.

¶ 55 The amount of maintenance that Cecilia had already received also supported the trial court's decision. Joseph had already paid over six years of maintenance—more than one-third the length of the 17-year marriage—at \$14,000 per month (\$168,000 per year). Cecilia received 55% of the marital assets, including \$410,000 from the sale of the Chicago condo they lived in while they were married, \$117,000 from a mutual fund, \$170,000 from an insurance policy, \$104,000 in cash, and a car. The court's reduction of maintenance struck a balance between the fact that Cecilia had made efforts to reestablish herself and the fact that she already had received substantial time and resources to establish herself.

¶ 56 We recognize that Joseph had a higher income and earning capacity as a transplant surgeon. But the trial court found that Joseph's income was likely to decline in the coming years, crediting his testimony that he would be less likely to receive incentive pay after the hospital hired another surgeon. Joseph also had additional expenses related to his two school-aged children, while Cecilia had no dependents. And in any event, the disparity in the parties' respective incomes was only one factor out of many.

¶ 57 We will not reweigh the trial court's balancing of these factors, and we cannot characterize the trial court's decision as arbitrary or fanciful, or one that no reasonable person would adopt. See *In re Marriage of Viridi*, 2014 IL App (3d) 130561, ¶ 26 (when reviewing modification of maintenance, "[i]t is not our job to reweigh the statutory factors, and absent an abuse of discretion, we will not substitute our judgment for that of the trial court").

¶ 58 The court was faced with the difficult task of balancing the goal of rehabilitative maintenance as a method of giving Cecilia time to become self-sufficient with the fact that Joseph had much greater economic means than Cecilia. Although Cecilia's standard of living may not be precisely the same as the standard of living she enjoyed during the marriage, she also was not living well below her prior standards. Reviewing the evidence presented at the hearing, we cannot say that the balance the court struck was arbitrary, fanciful, or unreasonable.

¶ 59 Cecilia cites *In re Marriage of Pearson*, 236 Ill. App. 3d 337 (1992), and *In re Marriage of Krupp*, 207 Ill. App. 3d 779 (1990), for the proposition that the trial court cannot base its maintenance award on "mere speculation that the spouse seeking maintenance will improve her employability and increase her earning potential." Both *Pearson* and *Krupp* do provide that maintenance awards should not be based on speculation. See *Pearson*, 236 Ill. App. 3d at 350 ("Since the record is speculative as to her future ability to support herself at the standard of living

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established during the marriage, the trial court's 36-month limit on the award of rehabilitative maintenance is reversed and remanded."); *Krupp*, 207 Ill. App. 3d at 798 ("Maintenance awards must be based on circumstances disclosed by the evidence and not on speculation."). But the trial court did not engage in speculation here. The trial court was presented with evidence that Cecilia's prospects for employment had improved since the initial award of maintenance. She had gone from being unemployed for six years to being employed part-time as a nurse and having obtained additional nursing licenses. She also had a bachelor's degree in communications and had improved her computer skills. Her medical conditions had improved with the use of medication. Thus, there was evidence that Cecilia was more employable at the time of the reduction of her maintenance than at the time of the divorce; the trial court did not speculate as to her employability.

¶ 60 *Pearson* and *Krupp* are also distinguishable. In *Pearson*, the wife had been a homemaker and raised two children for most of the 24-year marriage. *Pearson*, 236 Ill. App. 3d at 346. But the trial court placed a 36-month limit on her maintenance, "with any further maintenance barred." *Id.* at 345. On appeal, the court found that the trial court did not abuse its discretion in granting the wife rehabilitative, rather than permanent, maintenance, but it found that the 36-month cap on maintenance was unreasonable in light of the wife's lack of an employment history. *Id.* Here, Cecilia had already had the benefit of more than six years of monthly maintenance at \$14,000 per month. That amount has allowed her to go back to school and obtain a bachelor's degree, to secure part-time employment as a nurse, and to obtain nursing licenses in several states. And, rather than terminating the maintenance award, the trial court extended it for another three years, albeit at a reduced amount, and allowed for its review after three years. Once the three years pass, Cecilia will not automatically lose maintenance; the trial court will simply

review it again. Thus, the limits on Cecilia's maintenance do not resemble the short, permanent time limit placed on the maintenance award in *Pearson*.

¶ 61 In *Krupp*, the trial court ordered the wife's maintenance to be cut in half. *Krupp*, 207 Ill. App. 3d at 782. On appeal, the husband sought to completely abate maintenance *Id.* The court declined to find that the reduction was an abuse of discretion, noting that the wife was 59 years old and had only been working in a new field for three years. *Id.* at 798. According to the court, the trial court "could have reasonably concluded that the record was speculative as to the [wife]'s future security and economic independence." *Id.* Thus, the court in *Krupp* simply concluded that the continuation of maintenance at a lower rate was not an abuse of discretion. This case comes to us in the opposite procedural posture. Here, Cecilia argues that her maintenance should not have been reduced at all; she argues that it should have been maintained at the past level or made permanent. It is her burden on appeal to show that the reduction of maintenance was unreasonable and arbitrary. Because the court in *Krupp* did not find an abuse of discretion, Cecilia's attempt to compare her case to *Krupp* does not support Cecilia's argument that this case involved an abuse of discretion.

¶ 62 For similar reasons, Cecilia's citation to *In re Marriage of Tietz*, 238 Ill. App. 3d 965 (1992), and *Head v. Head*, 168 Ill. App. 3d 697 (1988), is misplaced. In both of those cases, the husbands appealed an award of maintenance, and the courts affirmed. *Tietz*, 238 Ill. App. 3d at 971-73; *Head*, 168 Ill. App. 3d at 701-02. By comparing this case to *Tietz* and *Head*, Cecilia has not provided us with a basis to *reverse* the trial court's reduction of maintenance. And both *Tietz* and *Head* involved a trial court's *initial* award of maintenance, not a scenario such as this, where the trial court reduced a rehabilitative maintenance award after Cecilia had already received substantial sums for over six years. *Tietz*, 238 Ill. App. 3d at 967; *Head*, 168 Ill. App. 3d at 699.

¶ 63 Finally, Cecilia cites *In re Marriage of Emery*, 179 Ill. App. 3d 744 (1989), but we also find this case to be distinguishable. Again, *Emery* involved a trial court's *initial* decision to deny maintenance, not a review hearing after a party had received maintenance for over six years. *Id.* at 745-46. More importantly, in *Emery*, the wife was not capable, due to her lack of vocational skills, of securing more than a minimum-wage job, and her health and childcare responsibilities also limited her ability to acquire earn income. *Id.* at 749. Here, Cecilia did not lack vocational skills, and she would not be limited to a minimum-wage job. She is educated, trained, and currently working as a registered nurse. Although she had not found a full-time nursing position, she conceded that she had not asked her current employer if one was available. And, while the wife in *Emery* had childcare responsibilities that would impact her ability to work, Cecilia did not; she has no dependents. While Cecilia did have some health problems that led to her experiencing fatigue, the trial court did not find that she was incapable of working as a nurse.

¶ 64 In sum, the trial court's extension of maintenance at \$8,000 per month rather than \$14,000 per month was not an abuse of discretion. The trial court took into account the tax consequences of the award and balanced the standard of living Cecilia enjoyed during the marriage with the goal of returning Cecilia to self-sufficiency.

¶ 65

III. CONCLUSION

¶ 66 For the reasons stated, we affirm the trial court's extension and reduction of Cecilia's maintenance.

¶ 67 Affirmed.