

No. 1-11-0771

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN RE THE MARRIAGE OF D. RICHARD DAHLSTROM,	)	Appeal from the
	)	Circuit Court of
	)	Cook County
Petitioner-Appellee,	)	
	)	No. 08 D 3581
v.	)	
	)	
MARLA J. DAHLSTROM,	)	Honorable
	)	Kathleen G. Kennedy,
Respondent-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE EPSTEIN delivered the judgment of the court.  
Justices Joseph Gordon and McBride concurred in the judgment.

**ORDER**

¶ 1 *Held:* Respondent failed to show that the trial court abused its discretion in not awarding her maintenance or in not awarding her a larger share of the marital property. The trial court's finding that certain real estate was Petitioner's nonmarital property was not against the manifest weight of the evidence. Respondent forfeited any argument that Petitioner's trust account, which the parties stipulated was nonmarital property, was transmuted into marital property.

¶ 2 In this dissolution of marriage action between Petitioner D. Richard Dahlstrom (Richard) and Respondent Marla J. Dahlstrom, Marla appeals from the trial court's judgment. She raises

three issues: whether the trial court abused its discretion in not awarding her maintenance; whether the trial court's finding that certain real estate was Richard's nonmarital property was against the manifest weight of the evidence; and whether the trial court's finding that Richard's trust account was his nonmarital property was against the manifest weight of the evidence. We affirm.

¶ 3 BACKGROUND

¶ 4 The parties were married on September 16, 1989. No children were born to, or adopted by, the parties during their marriage. On April 15, 2008, Richard filed a petition for dissolution of marriage. At the time, Richard was 73 years of age and Marla was 66 years of age. Marla filed her answer on June 12, 2008. On March 31, 2009, the trial court ordered Richard to pay Marla temporary monthly maintenance of \$2,400 and to pay certain expenses of the marital residence which was a house in Barrington (the Barrington residence).

¶ 5 The trial commenced in May 2010. At the time of trial, the parties had been separated for more than two years. Marla was living in the Barrington residence and Richard was living in a townhouse in Wheaton (the Wheaton residence). Marla was 68-69 years of age and Richard was 76 years of age.

¶ 6 The parties stipulated to certain facts. On September 14, 1989, the parties entered into a premarital agreement which showed that Richard had assets valued at \$4,388,000 and Marla had assets valued at \$360,579. During the course of their marriage, Marla was unemployed and Richard paid all expenses.

¶ 7 Richard had been married to Jacquelyn D. Dahlstrom who died in November 1988. At

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the time of their marriage, Richard and Marla resided in Chicago in a property that had been purchased by Richard and Jacquelyn, just prior to her death. In August 1990, Richard and Marla purchased the Barrington residence for \$495,000.

¶ 8 The parties agreed that the marital estate consisted of the Barrington residence and a condominium in Winfield. The condominium was sold shortly before the trial court entered its judgment. The Barrington residence was still listed for sale at the time of the judgment.

¶ 9 On August 23, 2010, the trial court entered its 11-page written judgment for dissolution of marriage. The trial court's order contains, in 26 paragraphs, a list of facts to which the parties had stipulated. As Richard notes in his brief the record contains no copy of a stipulation. Thus, the record does not show whether the stipulation was oral or written. The record also does not contain a copy of the transcript of the trial proceedings. Nonetheless, as Richard concedes, “fortunately the Trial Court provided a careful, lengthy Judgment for Dissolution containing the findings of fact, the conclusions and the reasoning.” We do note, however, that the burden is on the appellant to provide an adequate record. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984). To the extent the record is deficient, we presume it supports the trial court's decision. See, e.g., *In re Marriage of Donovan*, 361 Ill. App. 3d 1059, 1063 (2005) (“When the record on appeal is inadequate, 'the reviewing court will presume that the order entered by the trial court was in conformity with the law and had a sufficient factual basis.' [Citation.]”).

¶ 10 The trial court divided the marital assets equally and allowed each party to keep the funds that each had withdrawn from the marital estate. Each party was also allowed to keep his or her nonmarital funds. Richard kept the Wheaton residence as his nonmarital property. Neither party

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received a maintenance award.

¶ 11 On September 22, 2010, Marla filed a posttrial motion for rehearing, retrial or modification of judgment. The trial court amended its judgment as follows:

“[T]he Judgment states: 'Richard Dahlstrom transferred \$200,000 from the marital to a non-marital account which transmuted the \$200,000 into non-marital funds subject to reimbursement from the marital estate.' This sentence should be deleted and replaced with the following: 'There was no loss of identity of the \$200,000 marital contribution to Richard Dahlstrom's non marital estate in June 2005.

Therefore, the issue is one of contribution and reimbursement pursuant to section 503(c)(2) [of the Illinois Marriage and Dissolution of Marriage Act ], not transmutation pursuant to section 503(c)(1).”

¶ 12 Marla now appeals.

¶ 13 ANALYSIS

¶ 14 Whether the Trial Court Abused its Discretion in Not Awarding Maintenance

¶ 15 Marla first argues that the trial court abused its discretion in not awarding her maintenance. The propriety of a maintenance award (formerly known as alimony) is within the discretion of the trial court and its decision will not be disturbed absent an abuse of discretion. *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005). A trial court abuses its discretion only where no reasonable person would take the view adopted by the trial court. *Id.* Additionally, “the burden is on the party seeking reversal concerning maintenance to show an abuse of discretion.” *Id.*

¶ 16 Section 504(a) of the Illinois Marriage and Dissolution of Marriage Act (the Act) states that the court “may grant a temporary or permanent maintenance award for either spouse in amounts and for periods of time as the court deems just \* \* \*, in gross or for fixed or indefinite periods of time.” 750 ILCS 5/504(a) (West 2008). Section 504(a) also sets forth the following relevant factors which must be considered by the trial court in determining whether to award 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 the 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 2008).

“Maintenance issues are presented in a great number of factual situations and resist a simple analysis. [Citation.]” (Internal quotation marks omitted.) *In re Marriage of Bratcher*, 383 Ill. App. 3d 388, 390 (2008). Although we do not reverse a trial court's maintenance decision absent an abuse of discretion, “that does not mean that trial courts can do whatever they please in awarding maintenance.” *Id.* “It is important that reviewing courts have some ability to maintain control of and clarify the legal principles underlying maintenance awards.” *Id.*

¶ 17 Marla puts forth several claims as to why she was wrongfully denied maintenance. Richard characterizes these contentions as subarguments, has listed five subarguments and has proceeded to address each “subargument” or contention in turn. Actually, Marla has argued that, in denying her maintenance, the trial court failed to properly consider several of the relevant factors in section 504(a). Nonetheless, for purposes of clarity, we will address Marla's separate contentions as this court sees them. Marla's arguments can be summarized as follows: the trial court was prejudiced against her; the trial court's judgment did not adequately consider her needs; the court failed to consider her nonfinancial contributions to the marriage; and the court did not

sufficiently address the parties' future earning abilities. Marla has additionally argued that she should have been awarded a larger share of the marital property, where she was not awarded maintenance, and because Richard had greater nonmarital assets.

¶ 18 *Whether the Trial Court was Prejudiced Against Marla*

¶ 19 Marla states that she “respectfully submits that no reasonable person could find that she is not entitled to maintenance under the facts of her case.” She further asserts that she “fears that the Trial Court was prejudice[d] against her as the determination regarding maintenance is fully inconsistent with the requirements of Illinois law.” Marla additionally contends that “[w]ithout actually stating so, the Trial Court seemingly found Marla to be an obstructionist for simply taking legal positions on the issue at trial.”

¶ 20 As Marla correctly notes, “The right of a litigant to an unbiased, open-minded trier of fact is so fundamental to our system of jurisprudence that it should not require either citation or explanation.” *People v. Heiman*, 286 Ill. App. 3d 102 (1996). Nonetheless, apart from her unsupported accusations and her dissatisfaction with the trial court's judgment, Marla has failed to include any support for her claims of prejudice. As Richard correctly notes, our Supreme Court has explained as follows: “Judges, of course, are presumed impartial, and the burden of overcoming the presumption by showing prejudicial trial conduct or personal bias rests on the party making the charge.” *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 31. Marla has failed to meet this burden and we see nothing in the record to sustain her claim of prejudice.

¶ 21 *Whether the Trial Court's Judgment Adequately Considered Marla's Needs*

¶ 22 Marla's next contention, which is the crux of her argument as to why the trial court erred

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in not awarding her permanent maintenance is that the trial court failed to adequately consider Marla's needs.

¶ 23 In its written judgment, the trial court found that both parties were generally healthy, retired, unemployed, and receiving social security benefits. Marla was receiving \$760 per month and Richard was receiving \$1700 per month. The trial court also included a detailed accounting of the parties' financial situation during the marriage.

¶ 24 The trial court also acknowledged Marla's position regarding her needs. As the trial court noted:

“Marla Dahlstrom's concern is that the parties will be on unequal footing after the dissolution because upon entry of judgment Richard Dahlstrom owns his residence in Wheaton and has covered his housing needs while she has no such alternative housing to move into until the Barrington residence sells. She also asks for maintenance if she is not given a share of the value of the Wheaton residence. The parties' respective financial situations do not warrant a maintenance award to Marla Dahlstrom. As to her housing needs, after the court took the case under advisement the Winfield condominium sold. The parties had agreed to divide the proceeds equally. It is equitable for the proceeds for the sale of the Winfield property to be allocated immediately to Marla Dahlstrom in order for her to obtain or maintain housing and then for one half of the amount of Winfield proceeds to be deducted from her share of the proceeds of the sale of the Barrington residence.”



Marla asserts that the trial court discussed Richard's housing needs but “[r]egarding Marla's unmet needs, \*\*\* the Trial Court did not address either Marla or Richard's needs.” Richard agrees that “[t]he Judgment does not specifically address the needs of *either* Marla or Richard.” (Emphasis in original.) However, as Richard correctly notes, the trial court “was not required to provide detailed explanations of everything it considered \*\*\*[a]nd, it did discuss the parties' needs in relation to maintenance.”

¶ 25 It is “well established that an award of maintenance is warranted when the trial court finds that the spouse seeking maintenance lacks sufficient property to provide for her reasonable needs and is unable to support herself, or is otherwise without sufficient income.” *In re Marriage of Anderson*, 409 Ill. App 3d 191, 204 (2011). As the *Anderson* court further explained:

“An award of maintenance is generally determined by the needs of the spouse seeking maintenance and the ability of the other spouse to pay, in relation to the standard of living to which they were accustomed during marriage.

[Citation.] Further, the resources available to former spouses dictates whether they can maintain their lifestyle after dissolution of marriage. [Citation.] In addition, it has been recognized that most divorced couples do not have sufficient resources to maintain two households at the same standard of living enjoyed during the marriage and one or both parties often must change their lifestyle. [Citation.]

However, even if the parties' resources are insufficient to maintain their previous lifestyle, maintenance may still be appropriate where one spouse had insufficient income to meet her needs.” *Id.*

¶ 26 As Richard correctly notes, “there is nothing in the record before this court to show Marla's needs. Her comparison of the parties' after divorce needs is not supported by anything in the record.” Marla has not presented any evidence to sustain her burden of showing that the trial court abused its discretion by not adequately considering her needs. In fact, she has failed to include *any* evidence as to what her needs are. We therefore presume that the trial court's order was in conformity with the law and had a sufficient factual basis. *In re Marriage of Donovan*, 361 Ill. App. 3d at 1063.

¶ 27 *Whether the Trial Court Failed to Consider Marla's  
Nonfinancial Contributions to the Marriage*

¶ 28 Marla has also argued that the court only provided findings as to Richard's financial contributions to the marriage which resulted in substantial credit to him and nominal credit to her for her contributions and services, which are required to be considered pursuant to subsections 504(a)(4) and 504(a)(10) of the Act. As noted earlier, those subsections require the trial court to consider:

“(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;” and

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

As to subsection (10), Marla does not claim she contributed to Richard's education, training or

any license, but claims she contributed to Richard's career. As to subsection (4), Marla does not claim she had to forego or delay education, training, employment, or career opportunities due to the marriage, and does not explain how devoting time to domestic duties impaired her present and future earning capacity.

¶ 29 This court has affirmed maintenance awards to a wife on the basis she had been disadvantaged by the marriage in comparison to her husband because of her delayed entry into the workforce. See, e.g., *In re Marriage of Mayhall*, 311 Ill. App. 3d 765 (2000) (where the parties were married after high school, wife did not work much outside the home during their 14-year marriage but instead maintained the household and was the primary caretaker of the parties' two children.) As the *Mayhall* court explained:

“There is no question but that Illinois courts give consideration to a more permanent award of maintenance to wives who have undertaken to have children, raise and support the family, and who have lost or been substantially impaired in maintaining their skills for continued employment during the years when the husband was getting his education and becoming established.” *Id.* at 769, quoting *In re Marriage of Rubinstein*, 145 Ill. App. 3d 31, 40, (1986).

See also *In re Marriage of Drury*, 317 Ill. App. 3d 201, 206 (2000).

¶ 30 Marla cites *In re Marriage of Rubinstein*, 145 Ill. App. 3d 31 (1986) in support of her argument but that case is inapposite. There, the husband instituted the divorce proceeding soon after going into the private practice of medicine. The *Rubinstein* court found that the wife had been the “primary breadwinner for the family” during the nine years that the husband was

achieving his medical education and was therefore entitled to some form of compensation for support provided. *Id.* at 38-39.

¶ 31 Marla contends that “the Trial Court made no findings, despite Marla's un-rebutted evidence of same, that Marla made substantial non-financial contributions to the marriage and Richard's career; Marla contributed and served the marriage by consistently cleaning and maintaining the parties' residences, gardening and maintaining the landscaping on same, managing the parties' personal affairs, including hostessing Richard's professional parties, being a loving step-mother to his children, and involved grandmother to his grandchildren and competent bookkeeper and secretary for his business.”

¶ 32 As Richard correctly notes, Marla complains that the trial court ignored her “unrebutted evidence” but brings no such evidence before this court. Marla has failed to meet her burden of showing the trial court abused its discretion by failing to consider her nonfinancial contributions to the marriage.

¶ 33 *Whether the Trial Court Sufficiently Addressed the Parties' Future Earning Abilities*

¶ 34 Marla has argued that she has no marketable skills nor Richard's substantial earning capacity. She further notes that, at the time of the divorce, Richard was healthy and still able to run a business should he choose to do so. Richard counters that, at the time of the divorce, he was seven years older than Marla and long retired. He argues that the job market is not good for a 77-year old retiree. He further contends that he should not have been ordered to go find a job to support Marla when, during the marriage “he spent most of the assets accumulated over his lifetime, including his houses, his business, well over \$4,000,000 in pre-marital assets plus an

inherited house.” In any event, we have explained that the fact that one spouse *could* afford to pay some maintenance is not a reason for ordering him to do so. *In re Marriage of Bratcher*, 383 Ill. App. 3d 388, 392 (2008). Marla has failed to show that the trial court abused its discretion in not awarding her maintenance by failing to consider the parties' future earning abilities.

¶ 35 *Whether Marla Should Have Been Awarded a Larger Share of the Marital Property Where She Was Not Awarded Maintenance and Because Richard Had Greater Nonmarital Assets*

¶ 36 Section 503(d) of the Act provides that a court shall divide marital property in “just proportions.” 750 ILCS 5/503(d) (West 2007). “[T]he distribution of marital property both affects and is affected by the amount of maintenance.” *In re Marriage of Goforth*, 121 Ill. App. 3d 673, 678 (1984). Marla concedes that “where it is possible to do so, a division of property that adequately provides for the parties is preferable to an award of maintenance.” *In re Marriage of Bratcher*, 383 Ill. App. 3d 388 (2008). Marla argues, however, that the trial court should have awarded her a larger share of the marital estate where she did not receive maintenance and where Richard had greater nonmarital assets.

¶ 37 “An important objective to be reached by the trial court in entering [a judgment for dissolution of marriage] is to place the parties in a position from which they can begin anew.” *Id.* “A trial court's distribution of marital property should not be reversed absent a showing that the trial court abused its discretion.” *In re Marriage of Hluska*, 2011 WL 6244808, ¶ 61.

¶ 38 Marla cites *In re Marriage of Landfield*, 209 Ill. App. 3d 678 (1968) where the court concluded that the wife was entitled to most of the marital assets because of the husband's significant amount of non marital property. The court awarded the husband property valued at

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\$2,050,890 (\$483,139.50 of marital property and \$1,567,750.50 of nonmarital property) and awarded the wife marital property valued at \$797,074.50. *Id.* at 689. *Landfield* is factually dissimilar to the instant case and Marla fails to discuss its applicability here, but recognizes that “[t]he distribution of assets rests on the particular facts of each case.” Thus, we look to the facts of this case.

¶ 39 Marla asserts that “the Trial Court awarded over a million dollars of marital and non-marital assets to Richard while awarding Marla approximately “\$550,000.” Richard disputes this statement. He contends that he was awarded marital assets worth approximately \$654,000 and Marla was awarded marital assets of approximately \$540,000. Richard states that the trial court's judgment “gave him almost 55% of the marital estate and left [Marla] slightly more than 45%.” Richard contends that Marla received \$40,800 in temporary maintenance and will receive her nonmarital estate with a stipulated value of \$191,000 plus approximately \$67,000 of the sale proceeds from the Winfield condominium plus one-half of the net proceeds received from the sale of the Barrington residence. Richard will have the same \$191,000 from his nonmarital estate, \$41,959.69 of the sale proceeds from the Winfield condominium (\$67,000 minus \$25,000 of Marla's attorney fees), one-half of the net proceeds received from the sale of the Barrington residence, plus his nonmarital Wheaton town home. Marla will receive \$760 per month in social security income; Richard will receive \$1,700 per month.

¶ 40 Marla has failed to support her assertion that Richard was awarded “over a million dollars” in assets. Although she refers to a “trust with a value in excess of \$480,000 from which maintenance could be paid” she cites to her 2008 affidavit as evidence of the trust. According to

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the trial court's judgment, “[a]s of April 30, 2010, \$191,100 of Richard Dahlstrom's non-marital funds remained in an account in his name alone. Marla Dahlstrom has approximately the same amount in an account in her name alone.” Although the trial court's judgment also refers to nonmarital funds Richard received when he sold his business and retired in 1997, Richard has stated in his brief that “[t]he vast majority of his nest egg is gone used to support the parties.” It is unclear to this court, based on the record, whether Richard refers to the nonmarital assets from the sale of his business. In any event, as we have already noted, when the record on appeal is inadequate, we presume the trial court's decision had a sufficient factual basis. *In re Marriage of Donovan*, 361 Ill. App. 3d at 1063.

¶ 41 Here, the trial court divided the marital assets between the parties in equal proportion, providing each with one-half of the proceeds from the sale of both the Winfield condominium and the Barrington residence. The court also considered the withdrawals from the marital estate by each party, resulting in a division of marital property of 55/45. Marla argues that the split is “closer to 68/32” when “considering non-marital assets and [the parties'] respective income and social security benefits.” Again, Marla provides no figures to support her calculations but she apparently refers to the disparity between the social security income each party will receive, as well as Richard's award of the nonmarital Wheaton residence. The trial court's determination that certain property was nonmarital is the subject of other issues raised by Marla which we address later. Marla has failed to meet her burden of showing that the trial court should have awarded her a larger share of the “marital” property based upon the fact that she was not awarded maintenance.

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¶ 42 In sum, Marla has failed to show that the trial court abused its discretion in not awarding her maintenance. She has further failed to show that the trial court abused its discretion in not awarding her a larger share of the marital property.

¶ 43 Whether the Trial Court's Finding That Certain Real Estate Was Richard's Nonmarital Property Was Against the Manifest Weight of the Evidence

¶ 44 Marla argues that the trial court's finding that the Wheaton residence was Richard's nonmarital property was against the manifest weight of the evidence. Generally, a trial court's classification of property as marital or nonmarital will not be disturbed on appeal unless it is against the manifest weight of the evidence. See, e.g., *In re Marriage of Steel*, 2011 IL App (2d) 080974. A trial court's decision is against the manifest weight of the evidence only where “the opposite conclusion is clearly evident or where it is unreasonable, arbitrary, and not based on the evidence.” *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 669 (2008). “Property acquired during a marriage is presumptively marital [citation] and the presumption can be overcome only by clear and convincing evidence. [Citation.]” *In re Marriage of Steel*, 2011 IL App (2d) 080974, ¶ 57. “Although the placement of nonmarital funds into a joint checking account may transmute the nonmarital funds into marital property [citations], nonmarital funds that are placed into a joint account merely as a conduit to transfer money will not be deemed to be transmuted into marital property [Citations.]” *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 673 (2008); see also *In re Marriage of Steel*, 2011 IL App (2d) 080974, 2011 WL 5869518, 17 (noting “the clarity of this court's precedent that whether nonmarital funds have lost their identity through commingling requires attention to the specific history of those funds”).



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¶ 45 Richard argues that Marla's failure to submit a complete record of the proceedings in the trial court will prevent this court from determining what the manifest weight of the evidence showed. Marla argues that the court's careful, lengthy judgment and Marla's extractions of the relevant findings suffice. Thus, we look to the trial court's written judgment.

¶ 46 The relevant findings of the trial court were:

“12. The parties stipulated to the following facts:

(n) At the time of the parties' marriage, Richard Dahlstrom owned property on Washington Island, Door County, Wisconsin which had been purchased by him and his late wife.

(o) In May, 1992, Richard Dahlstrom and Marla Dahlstrom refinanced a mortgage on the Wisconsin property, originally taken by Richard Dahlstrom and his late wife.

(p) At the same time the mortgage was taken by the parties, Richard Dahlstrom conveyed title to the property from himself to himself and his wife.

(q) In June, 2005, the Washington Island property was sold; \$439,439.59 was received and put into a joint account on June 7, 2005.

(r) On June 13, 2005, \$200,000 from the joint account which received the Washington Island sale proceeds was transferred to Richard Dahlstrom's non-marital account.

(s) In July, 2006, Richard Dahlstrom purchased a town home in Wheaton,

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Illinois for \$259,000, using funds from his non-marital account for the purchase.”

¶ 47 As the court noted, the parties disputed whether the Wheaton residence was marital property. The court originally found that Richard's transfer of the \$200,000 from the marital account to a nonmarital account transmuted the \$200,000 into nonmarital funds. After ruling on Marla's posttrial motion the court amended its order and concluded as follows:

“There was no loss of identity of the \$200,000 marital contribution to Richard Dahlstrom's non-marital estate in June 2005. Therefore, the issue is one of contribution and reimbursement pursuant to section 503(c)(2), not transmutation pursuant to section 503(c)(1).”

¶ 48 Section 503(c) of the Act states:

“ Commingled marital and non-marital property shall be treated in the following manner, unless otherwise agreed by the spouses:

(1) When marital and non-marital property are commingled by contributing one estate of property into another resulting in a loss of identity of the contributed property, the classification of the contributed property is transmuted to the estate receiving the contribution, subject to the provisions of paragraph (2) of this subsection; provided that if marital and non-marital property are commingled into newly acquired property resulting in a loss of identity of the contributing estates, the commingled property shall be deemed transmuted to marital property, subject to the provisions of paragraph (2) of this subsection.

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(2) *When one estate of property makes a contribution to another estate of property, or when a spouse contributes personal effort to non-marital property, the contributing estate shall be reimbursed from the estate receiving the contribution notwithstanding any transmutation; provided, that no such reimbursement shall be made with respect to a contribution which is not retraceable by clear and convincing evidence, or was a gift, or, in the case of a contribution of personal effort of a spouse to non-marital property, unless the effort is significant and results in substantial appreciation of the non-marital property. Personal effort of a spouse shall be deemed a contribution by the marital estate. The court may provide for reimbursement out of the marital property to be divided or by imposing a lien against the non-marital property which received the contribution.”*

(Emphasis added.) 750 ILCS 5/503(c)(2) (West 2008).

In arguing that the Wheaton property was “marital property” Marla contends that the 2006 purchase of the Wheaton residence occurred during the parties' marriage and is therefore presumed to be marital property. She argues that “[t]he statutory presumption under the \*\*\*Act, Section 503 (a) and (b) is that all property acquired during the marriage is marital property.” Her argument, however, fails to address the trial court's finding regarding the June 2005 transfer of funds to Richard's “non-marital” account. There was no dispute that this account was Richard's non-marital account and the parties had stipulated to this fact. Moreover, the trial court ordered Richard to reimburse the marital estate for the 2005 transfer of marital funds to his non-marital account. When, one year later, in 2006, Richard purchased the Wheaton property, he did so with

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funds from his non-marital account.

¶ 49 As the trial court explained:

“The proceeds of the sale of the now-marital Washington Island property went into a marital account. Richard Dahlstrom transferred \$200,000 from the marital to a non-marital account *which transmuted the \$200,000 into non-marital funds subject to reimbursement of the marital estate. The transfer did not make the non-marital account or the Wheaton residence purchased with non-marital funds marital property.*” (Emphasis added).

The court also noted that Marla made a similar transfer of funds, although in a lesser amount, to which the court applied the same analysis.

¶ 50 In conclusion, Marla has failed to show that the trial court's decision that the Wheaton residence was Richard's nonmarital property was against the manifest weight of the evidence.

¶ 51 Whether the Trial Court's Finding That Richard's Trust Account Was His Nonmarital Property Was Against the Manifest Weight of the Evidence

¶ 52 Although raised as a separate issue, Marla's argument that the trial court's “finding” that Richard's “trust account” was his nonmarital property was against the manifest weight of the evidence is related to her argument that the Wheaton residence was marital property. Marla's argument refers to the account into which Richard deposited the \$200,000. As Richard correctly notes, however, the trial court made no “finding” that this account was “non-marital” property. Rather, the parties “stipulated” to the fact that the account was Richard's nonmarital account. Marla concedes that the parties had a premarital agreement in which Richard would keep as his

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sole and separate property certain non-marital property.

¶ 53 To the extent that Marla is now arguing that this stipulated non-marital account of Richard's was “transmuted” into a marital account by the depositing of some marital funds into the account, she has forfeited this argument.

¶ 54 Marla failed to raise this argument in her posttrial motion. Instead, Marla conceded this point as follows:

“[Marla] agrees with the Court's analysis of [Richard's] transfer of \$200,000.00 from marital funds representing the sale of the parties' jointly owned Door County property to his non-marital trust at Fidelity and [Richard's] use of said funds to acquire, in part, his non-marital condominium in Wheaton, Illinois. [Marla] further agrees with the Court's analysis that the marital estate is entitled to reimbursement from [Richard's] non-marital estate to the marital estate of \$200,000.00, with a credit to [Marla] of one-half (½) thereof, of \$100,000.”

Thus, Marla conceded that the account was Richard's nonmarital account. Her argument in her posttrial motion related to the trial court's decision to reduce the \$100,000 by the \$36,000 that Marla had transferred from the marital account into her own nonmarital account.

¶ 55 In her amendment to her posttrial motion, however, Marla did raise the argument that Richard's nonmarital account was transmuted into a marital account, despite the pre-marital agreement, when he deposited the marital funds into the account. She cites no support for her argument.

¶ 56 On appeal, she again fails to support her argument that Richard's nonmarital account was

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transmuted into a marital account. Marla merely states that “although a non-marital receiving account can transmute contributed marital funds into non-marital property, that is not the case in every situation.” The cases cited are inapposite and Marla has failed to present a reasoned argument that the discussions therein apply to the instant case. We therefore conclude that she has forfeited this argument.

¶ 57 We further observe, however, that Richard has noted that Marla *stipulated* that the account was Richard's nonmarital account and cannot now appeal from her own stipulation. See, e.g., *In re Marriage of Galen*, 157 Ill. App. 3d 341, 344 (1987) (“A stipulation is an agreement between parties or their attorneys with respect to the business before the court, and, generally, matters which have been stipulated to by the parties cannot be disputed on appeal.”). The trial court's reference to Richard's nonmarital account was based upon the parties' stipulation on that fact. As Richard notes, Marla did not attack the stipulation before the trial court and is silent about the stipulation in this appeal. Thus, even if the issue had not been forfeited, we would reject Marla's argument that the “trial court's finding that Richard's trust account was his nonmarital property was against the manifest weight of the evidence” because the trial court did not make such a “finding” in the first instance, but instead relied upon the parties' stipulations.

#### ¶ 58 CONCLUSION

¶ 59 In conclusion, we hold that Marla has failed to show that the trial court abused its discretion in not awarding her maintenance or in not awarding her a larger share of the marital property. We further conclude that the trial court's finding that certain real estate was Richard's nonmarital property was not against the manifest weight of the evidence, and that Marla has

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forfeited any argument that Richard's trust account was transmuted into marital property. We further note that the argument is nonetheless meritless where the parties stipulated that the account was Richard's nonmarital property.

¶ 60 Affirmed.