

August 20, 2019

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Marriage of
ROBERTA CLARE SINOPOLE,

Appellant,

and

PATRICK LAWRENCE SINOPOLE,

Respondent.

No. 51048-1-II

UNPUBLISHED OPINION

WORSWICK, J. — Roberta Sinopole appeals final orders dissolving her twenty-five year marriage to Patrick Sinopole. Although the proceedings below also produced a parenting plan, Roberta contests only the division of assets and liabilities, the calculation of Patrick’s income for the child support order, and the spousal maintenance award.

Roberta argues that the trial court abused its discretion when valuing and distributing assets, calculating Patrick’s income for child support, and awarding spousal maintenance. Roberta also argues that the trial court violated the appearance of fairness doctrine and abused its discretion by declining to award her attorney fees.

We hold that the trial court did not abuse its discretion and did not violate the appearance of fairness doctrine. Accordingly, we affirm.

FACTS

Patrick and Roberta Sinopole married in November 1989 and separated in December 2014, a total of over twenty-five years. At the time the trial court issued its final orders, Roberta was fifty-four years old and Patrick was fifty-two years old.¹

The couple met when Patrick was serving in the Navy and Roberta was serving in the Marines. Roberta graduated from law school in 1993 and worked at a prestigious law firm for three years. In 1997, Patrick earned a medical degree and became an anesthesiologist. The same year, Roberta quit her job to raise the couple's children. After Patrick's retirement from the Navy, Patrick and Roberta bought a hobby farm in Poulsbo. By this time, the couple had four children, whom Roberta homeschooled. Patrick continued practicing anesthesiology.

On December 21, 2014, the parties separated and Roberta petitioned for dissolution. During the two and one-half years between filing and trial, Roberta received temporary spousal maintenance in amounts of \$4,000 per month for the first three months, then \$7,500 per month until September 2017.

Over the course of their marriage, Patrick and Roberta amassed a variety of assets and liabilities. The assets and liabilities at issue on appeal are Patrick's Vanguard Roth IRA, a Toyota Tundra, a Volkswagen Golf, a tractor, personal property from the marital home, two horse trailers, Patrick's thrift savings plan (TSP), a number of Navy Federal Credit Union checking and saving accounts, a Navy Federal personal loan, and tax debt.

Prior to trial, the parties made agreements regarding the use of assets to pay for costs associated with the dissolution. This included the sale of a tractor. The parties also agreed to

¹ We refer to the Sinopoles by their first names for clarity, intending no disrespect.

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exchange a variety of personal property. Personal property from the marital home was either given to Roberta, placed in storage units for Roberta to access, or remained with Patrick. This personal property was appraised by Stokes Auction. Stokes Auction appraised two horse trailers at \$10,000 and \$1,100.

In 2015, Patrick traded in a van for a \$20,000 credit toward a Tundra. Patrick took out a Navy Federal loan to cover costs for the Tundra that exceeded the trade-in value of the van. Patrick also cashed out his Vanguard Roth IRA, worth about \$33,000.

In 2016, the parties' Honda Ridgeline was totaled and they received an insurance check for \$19,481.12. Patrick used the funds toward the purchase of a Volkswagen Golf.

Between May 2, 2017 and June 23, 2017, the trial court conducted a 22-day dissolution trial. Witnesses testified to the above facts.

Additionally, Chris Frazier, a certified public accountant (CPA) reviewed the parties' tax returns and testified that Patrick's income for 2016 was "about \$300,000." Verbatim Report of Proceedings (VRP) (June 1, 2017) at 42. Patrick's W-2 wages from 2016 were \$294,986. Patrick testified that he made about \$300,000 per year in 2016.

The parties hired Ken Wilson to conduct a forensic accounting and to create a forensic examination report, about which Wilson testified. Wilson, who was not a CPA, stated, "[N]ot being a tax accountant it is difficult for me to sit up here with credibility to say that I can analyze a tax return." VRP (May 23, 2017) at 133. Wilson also testified that this was the only divorce case he had ever worked on. Wilson's report stated that the proceeds from the tractor were deposited into a joint account along with three other deposits. Wilson detailed credit card and mortgage payments that were paid from this account shortly thereafter. Wilson stated that the

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credit card charges that were paid resulted from Patrick's legal bills and the children's education expenses. As a result, Wilson believed that the tractor proceeds were not spent in accordance with the trial court's order. Additionally, Wilson believed that Patrick placed the \$33,000 from Patrick's cashed out Vanguard Roth IRA into a different account, and this account was used to pay some community credit card debt and a revolving line of credit.

Regarding his cashed-out Vanguard IRA worth approximately \$33,719, Patrick testified that he cashed out this account because of an agreement between his and Roberta's attorneys. He testified that there was no court order allowing or prohibiting this action. Patrick stated that there were a number of agreements regarding assets that were not reflected in court orders. When explaining his Vanguard Roth IRA documents, Patrick testified that \$33,719 in funds were withdrawn to pay for the older children's college tuition.

Regarding the tractor, Patrick testified that the proceeds from the tractor were used to pay marital debts. Specifically, he believed he used the tractor proceeds to pay court costs and expert fees. Patrick also testified that he did not use proceeds from the tractor to pay for his attorneys, and that he did not know if he used the proceeds for the children's education.

Roberta testified regarding prior divisions of personal property. There were a number of items she requested but did not receive, like a red mixer and her photo albums. While testifying about the personal property that had not been divided, Roberta stated, "I just want this over" and "[I]t is not worth it to me anymore." VRP (June 22, 2017) at 57. Roberta stated that she wanted a few items, but that she "just [didn't] care" about the personal property distribution. VRP (June 22, 2017) at 65.

Patrick testified that each child had Navy Federal accounts with small balances. Patrick stated that these accounts should be removed from the list of marital assets to be distributed and should not be considered by the court because they belonged to the children.

After the trial concluded, the trial court issued a memorandum opinion addressing child support, maintenance, division of assets and liabilities, and attorney fees. A footnote in the trial court's memorandum opinion states Patrick "called Ken Wilson, forensic accountant, to testify regarding the financial accounts of the parties. This appears to have been his first accounting done for a dissolution proceeding and was of very limited use to the Court." Clerk's Papers (CP) at 122.

Regarding child support, the trial court stated, "Patrick's income is calculated by adding his W-2 wages of \$294,986.48 or 24,582.06/month, plus half of his Navy pension, \$2,381.08/month, and deducting his \$5,000/month maintenance payments to Roberta." CP at 120.

This memorandum opinion included a distribution spreadsheet, valuing and distributing the parties' assets and liabilities. The spread sheet did not contain line items referring to Patrick's Vanguard Roth IRA, various personal property, the horse trailers, the tractor, the proceeds from the van, or the proceeds from the Ridgeline insurance check.

Line items included the following assets and liabilities:

- Line 17 lists Navy Federal checking account #6708 and savings account #6005 valued at \$1,193.28. The bank statements show the value of these accounts together at \$1,193.28.
- Line 18 lists Navy Federal account #2859 and savings account #9001 valued at \$7,485.68 as of January 9, 2015. Amounts in these accounts range between \$0 and over \$8,000 for the first two months of 2015.

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- Line 19 lists Navy Federal accounts #6356 and #6596 valued at a combined \$652.64. In April 2017, these accounts were worth a combined \$656.29.
- Line 20 lists Navy Federal accounts #7003 and #1333 valued at \$811.85. In April 2017, these accounts were closed.
- Line 21 lists Navy Federal accounts #2004 and #1325 valued at \$586.34. In April 2017, these accounts were closed.
- Line 22 lists a Navy Federal account #6009 valued at 759.86. A statement shows the value of this account at \$762.72 for March 2016. In April 2017, this account was closed.
- Line 24 lists Navy Federal checking accounts #0025 and #8038 relating to Pisteuo Anesthesia valued at \$6,154 on December 31, 2014. On January 1, 2015, the balance of #0025 was \$2,082.27 and the balance of #8038 was \$4,349.24, totaling \$6,431.51. The following day, this amount dropped to \$6,081.51.
- Line 39 lists Patrick's TSP valued at \$183,356.43. The record contains valuations of the TSP from 2014 through 2017, valuing the account between \$158,004.46 and \$216,719.00.
- Line 48 lists the Toyota Tundra.
- Line 51 lists the Volkswagen Golf GTI.
- Line 62 lists the Navy Federal consumer loan.
- Line 63 lists \$174,000 of 2016 tax debt, divided evenly between Patrick and Roberta.

The distribution spreadsheet allocated community assets evenly, providing each party with \$480,521 in net community assets. However, the trial court allocated more debt to Patrick.

Further, the trial court's memorandum opinion states, "The personal assets have already been largely divided, however Roberta seeks the return of her photo albums of her children, her DVD's (digital video disks), a red mixer, and two pieces of furniture that she refinished. She is to receive these items." CP at 122.

The final dissolution order incorporated the distribution spreadsheet's valuations and distributions. It also states, "The personal property that [Patrick] now has or controls . . . is given to [Patrick] as his separate property with the exception of the items specifically awarded to [Roberta]." CP at 296. Further, the proceeds from the sale of the farm were to pay each party's share of the 2016 tax debt. Finally, it awarded Roberta spousal maintenance of \$5,000 per month for six years.

The trial court's findings and conclusions incorporate the distributions from the final divorce order. Regarding spousal maintenance, the trial court stated that the parties were married for over twenty-five years. It also acknowledged that Roberta was an attorney, but had not been employed for twenty years. The court acknowledged that Roberta had given up her career to raise and homeschool the children during the marriage. The trial court found that Roberta, is intelligent, talented, and "fully capable of employment." CP at 289. The trial court found that Roberta would need time to retrain herself as an attorney, progress through behavioral therapy, and spend time parenting the parties' youngest daughter, who was then eleven years old. The court acknowledged Roberta's award pending the outcome of the trial as \$7,500 per month for almost two and one-half years.

Regarding the maintenance award, the trial court stated that Patrick was taking on substantial marital debt which limited his ability to pay maintenance. The trial court also stated that Roberta's lack of employment and share of residential time of their youngest daughter showed Roberta's need for maintenance. The court determined that six years would be enough time for Roberta to update her skills and parent the youngest daughter until she would presumably leave for college.

The trial court ordered each party to pay their own attorney fees. Roberta appeals the trial court's memorandum opinion, final divorce order, findings and conclusions about a marriage, and final child support order.

ANALYSIS

I. DIVISION OF PROPERTY AND LIABILITIES²

A trial court's distribution of property and liabilities in a dissolution action is guided by statute. *In re Marriage of Kaplan*, 4 Wn. App. 2d 466, 476, 421 P.3d 1046 (2018). The trial court must make a "just and equitable" distribution of the property and liabilities, whether community or separate, after considering certain factors. RCW 26.09.080. The trial court must consider (1) the nature and extent of the community property, (2) the nature and extent of the separate property, (3) the duration of the marriage, and (4) the economic circumstances of each spouse at the time the division of the property is to become effective. RCW 26.09.080. The trial court is to distribute all of the parties' property and liabilities. *Marriage of Kaplan*, 4 Wn. App. 2d at 476.

Although the division must be just and equitable, the trial court is not required to divide the property and liabilities equally. *In re Marriage of Rockwell*, 141 Wn. App. 235, 243, 170

² On appeal, Roberta relies heavily on Wilson's forensic examination report to contest the trial court's division and valuation of property. However, the trial court's memorandum opinion stated that Wilson's report "was of very limited use." CP at 122 n.5. Roberta seeks to have this court rebalance the financial evidence presented at trial by relying on Wilson's report instead of other documentation and testimony in the record. We do not reweigh evidence or review credibility determinations on appeal. *In re Marriage of Fahey*, 164 Wn. App. 42, 62, 262 P.3d 128 (2011). Further, we defer to the trial court's findings of property valuation when they are within the range of credible evidence. *In re Marriage of Rockwell*, 141 Wn. App. 235, 248, 170 P.3d 572 (2007).

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P.3d 572 (2007). “In a long term marriage of 25 years or more, the trial court’s objective is to place the parties in roughly equal financial positions for the rest of their lives.” *Marriage of Rockwell*, 141 Wn. App. at 243. However, this objective is permissive. *Marriage of Kaplan*, 4 Wn. App. 2d at 475. The objective “is not a mandate for trial courts to predict the future, divide assets with mathematical precision, or guarantee future equality.” *Marriage of Kaplan*, 4 Wn. App. 2d at 476; *see also In re Marriage of Doneen*, 197 Wn. App. 941, 950, 391 P.3d 594, *review denied*, 188 Wn.2d 1018 (2017).

Property valuation is a factual determination that must be supported by substantial evidence. *In re Marriage of Sedlock*, 69 Wn. App. 484, 491, 849 P.2d 1243 (1993). Substantial evidence is defined as a quantum of evidence sufficient to persuade a rational fair-minded person the premise is true. *Marriage of Rockwell*, 141 Wn. App. at 242. We review de novo whether the findings of fact support the conclusions of law. *Marriage of Rockwell*, 141 Wn. App. at 242; *In re Marriage of Chua*, 149 Wn. App. 147, 154, 202 P.3d 367 (2009). .

The fact finder is given wide latitude in the weight it gives to expert opinions. *Marriage of Sedlock*, 69 Wn. App. at 491. When parties offer conflicting evidence on the value of property, the trial court may adopt the value asserted by either party or a value in between. *Marriage of Sedlock*, 69 Wn. App. at 491-92. We do not review credibility determinations or weigh evidence on appeal. *In re Marriage of Fahey*, 164 Wn. App. 42, 62, 262 P.3d 128 (2011). Instead, we defer to the trial court’s finding of property valuation if it is within the range of credible evidence. *Marriage of Rockwell*, 141 Wn. App. at 248.

We review a trial court’s division of property and liabilities for a manifest abuse of discretion. *Marriage of Kaplan*, 4 Wn. App. 2d at 477. A trial court abuses its discretion only if

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its decision is manifestly unreasonable or based on untenable grounds or reasons. *Marriage of Kaplan*, 4 Wn. App. 2d at 477. If the distribution results in a patent disparity between the parties' economic circumstances, the trial court has abused its discretion. *Marriage of Rockwell*, 141 Wn. App. at 243.

A. *Patrick's Vanguard Roth IRA*

Roberta appears to argue that funds from Patrick's Vanguard Roth IRA were omitted assets from the trial court's valuation and division of property. We hold that the trial court did not abuse its discretion when it did not distribute an asset that no longer existed.

When a trial court exercises its broad discretion to distribute assets, it addresses the assets presented at the time of trial. *In re Marriage of White*, 105 Wn. App. 545, 549, 20 P.3d 481 (2001). If the parties disposed of an asset before trial, the trial court has no ability to distribute that asset at trial. *Marriage of White*, 105 Wn. App. at 549.

Here, Roberta argues that, after their separation but prior to trial, Patrick had a Vanguard Roth IRA account, made two withdrawals from the account, and closed the account. She argues that the funds from this account were not valued, characterized, or distributed by the trial court.

In 2015, Patrick cashed out his Vanguard Roth IRA, worth approximately \$33,719. Patrick testified that he cashed out this Vanguard IRA account because of an agreement between his and Roberta's attorneys. When explaining his Vanguard Roth IRA documents, Patrick testified that \$33,719 in funds were withdrawn to pay for the older children's college tuition.

Wilson concluded that Patrick placed \$33,718.75 from the cashed out Vanguard Roth IRA into a different account, and this account was used to pay some community credit card debt and a revolving line of credit.

The trial court did not make any findings regarding Patrick's Vanguard Roth IRA. Roberta does not dispute that neither Patrick's Vanguard Roth IRA nor the funds from it existed at the time of trial. Although Roberta argues that these funds were a pretrial distribution to Patrick, Patrick testified that he used the funds from his Vanguard Roth IRA to pay for community expenses such as college expenses, and Wilson concluded that the account was used to pay community debt. The record does not support Roberta's claim that these funds were taken by Patrick as a pretrial distribution to him as his sole property. As a result, we hold that the trial court did not abuse its discretion by not valuing, characterizing, or distributing a nonexistent asset.³

B. *Vehicles and Insurance Money*

Roberta argues that the trial court failed to value and distribute proceeds from a van that Patrick traded in for the Tundra and an insurance check for the value of a Ridgeline that Patrick used for the Golf. Roberta also argues that the trial court impermissibly designated these assets as community as opposed to separate. We disagree.

Assets acquired before the marriage, during the marriage by gift or inheritance, or during the marriage with traceable proceeds from separate property are separate property. RCW 26.16.010; *In re Marriage of Schwarz*, 192 Wn. App. 180, 188, 368 P.3d 173 (2016). Assets acquired during the marriage are presumptively community property. RCW 26.16.030. The

³ Roberta speculates, "If Patrick paid some of these funds to a community credit card and overdraft, it flies in the face of the trial court's statement that Patrick was to take the 'vast majority' of the community debt." Br. of Appellant at 34. After reviewing the record, we disagree with this characterization of the trial court's division of the community assets and debts.

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party asserting that property is separate must offer clear and convincing evidence. *See Marriage of Schwarz*, 192 Wn. App. at 189.

Here, Patrick used the proceeds from trading in the parties' van toward the purchase of the Tundra. The Tundra is listed as a community asset. The distribution spreadsheet states the Tundra's value and encumbrances. Additionally, Patrick applied an insurance check for the value of the Ridgeline toward the purchase of the Golf. The Golf is listed as a community asset and the spreadsheet notes its value and encumbrances.

Both vehicles were purchased with funds from community assets, namely the parties' van and the insurance check from the parties' Ridgeline. Thus, the Tundra and Golf were community property. Roberta presents no evidence that the Tundra or the Golf were acquired with separate funds. The proceeds from these transactions involving community assets were valued and distributed by the trial court. We hold that the trial court did not abuse its discretion.

C. *Navy Federal Credit Union Loan #0372 for the Tundra*

Roberta argues that Patrick took out a loan for the Tundra after they separated, therefore it should have been considered separate property and should not have been calculated and distributed as a community liability. We disagree.

There is a "general presumption that a debt incurred by either spouse during the marriage is a community debt." *Sunkidd Venture, Inc. v. Snyder-Entel*, 87 Wn. App. 211, 215, 941 P.2d 16 (1997). A party may overcome this presumption "by clear and convincing evidence that the debt was not contracted for community benefit." *Sunkidd Venture*, 87 Wn. App. at 215.

The distribution spreadsheet at line 62 lists a consumer loan in the amount of \$10,014. Patrick took out this loan to cover costs for the Tundra exceeding the trade-in value of the van.

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Because it was acquired during the marriage, the Tundra is presumed community property and the loan encumbering that property is as well. Roberta does not show by clear and convincing evidence that the loan for the Tundra was not a community liability contracted for community benefit. We hold that the trial court did not abuse its discretion valuing and distributing the Tundra loan.

D. *Personal Property, Including Horse Trailers, from the Marital Home*

Roberta argues that Stokes Auction appraised personal property at the parties' former marital home, and that the trial court failed to value and divide approximately \$33,940 of this property. Further, Roberta argues that the trial court failed to include two horse trailers in its division and valuation of property. Roberta argues that Patrick retained possession of two horse trailers worth approximately \$11,100. Roberta argues only that the trial court did not value and distribute the assets, not that the trial court unfairly distributed them. We hold that the trial court did not abuse its discretion because it divided this property in the final divorce order.

Stokes Auction appraised various personal property at the former marital home. This appraisal included two horse trailers, valuing them at \$10,000 and \$1,100. Neither the trailers nor numerous items from the marital home are listed as personal property in the trial court's distribution spreadsheet. Roberta claims that Patrick has retained all of these items.

During the trial, Roberta testified regarding prior divisions of personal property. Roberta detailed items that Patrick had given to her through a personal property exchange agreement. There were a number of items requested that she did not receive, like the red mixer and her photo albums. Personal property from the marital home was either given to Roberta or placed in storage units for Roberta to access. While testifying about the personal property still remaining

for division, Roberta stated, “I just want this over” and “[I]t is not worth it to me anymore.” VRP (June 22, 2017) at 57. Roberta stated that she wanted a few items, but that she “just didn’t care” about the personal property distribution. VRP (June 22, 2017) at 65.

The trial court’s memorandum opinion states, “The personal assets have already been largely divided, however Roberta seeks the return of her photo albums of her children, her DVD’s, a red mixer, and two pieces of furniture that she refinished. She is to receive these items.” CP at 122. Although Roberta argues that the trial court failed to distribute the personal property from the house and the trailers, the final divorce order states, “The personal property that [Patrick] now has or controls . . . is given to [Patrick] as his separate property, with the exception of the items specifically awarded to [Roberta].” CP at 296. The trial court did, in fact, distribute all of the personal property. Accordingly, we reject Roberta’s argument that the trial court failed to distribute personal property.

E. *Proceeds from the Sale of the Tractor*

Roberta argues that the trial court failed to distribute the proceeds from the sale of the tractor. We disagree.

As stated above, if the parties disposed of an asset before trial, the trial court has no ability to distribute that asset at trial. *Marriage of White*, 105 Wn. App. at 549.

Here, the trial court ordered the parties to sell the tractor to cover costs associated with the guardian ad litem, psychological evaluations, and supervised visitations. Roberta argues that the funds from the tractor were used to pay other liabilities, citing only Wilson’s report. Wilson’s report stated that the proceeds from the tractor were deposited into a joint account along with three other deposits. Wilson detailed credit card and mortgage payments that were

paid from this account shortly thereafter. Wilson stated that the credit card charges that were paid resulted from Patrick's legal bills and the children's education expenses. As a result, Wilson believed that the tractor proceeds were not spent in accordance with the trial court's order. But, the trial court gave little weight to Wilson's report.

Patrick testified that the proceeds from the tractor were used to pay marital debts. Specifically, he believed he used the tractor proceeds to pay court costs and expert fees. Patrick also testified that he did not use proceeds from the tractor to pay for his attorneys, and that he did not know if he used the proceeds for the children's education. We hold that Roberta does not overcome the burden of proving the trial court abused its discretion regarding distribution of the proceeds from the sale of the tractor.

F. *Thrift Savings Plan Account*

Roberta argues that the trial court improperly valued Patrick's TSP. Specifically, she argues that the account's value grew from the date of valuation listed in the distribution spreadsheet through the actual distribution of assets, and that she should be entitled to a share of the account's appreciation. We disagree.

Trial courts have broad discretion when valuing and distributing assets based on credible evidence. *See Marriage of Rockwell*, 141 Wn. App. at 248; *Marriage of White*, 105 Wn. App. at 549. The record contains valuations of the TSP from 2014 through 2017, valuing the account between \$158,004.46 and \$216,719.00. On the distribution spreadsheet, line 39, Patrick's TSP is valued at \$183,356.43. The trial court valued the TSP within the range of values presented at trial. As a result, we hold that the trial court did not abuse its discretion when valuing and distributing the TSP.

G. *Roberta's Tax Liability*

Roberta argues that the trial court unfairly assigned her a disproportionate amount of tax liability for 2016. Specifically, Roberta argues that she will have to pay these taxes entirely from her share of the marital home's proceeds, while Patrick will only partially use the home proceeds to pay the debt, thus reducing the value of assets distributed to her. We hold that the trial court did not abuse its discretion.

The trial court must make a "just and equitable" distribution of the property and liabilities, whether community or separate. RCW 26.09.080. The trial court is to distribute all of the parties' property and liabilities. *Marriage of Kaplan*, 4 Wn. App. 2d at 476.

Here, Roberta's argument fails to consider the entire distribution of assets and liabilities. Regarding tax liability for 2016, the trial court divided the total community tax liability between Patrick and Roberta. Although Patrick was assigned more debt than Roberta, the distribution spreadsheet allocates an equal amount of community assets to each party, after subtracting liabilities. As a result, we hold that the trial court did not abuse its discretion regarding the equal division of the 2016 tax liability.

H. *Valuation of Assets and Liabilities*

Roberta argues, "The trial court did not value a single asset or debt in its Findings of Fact and Conclusions of Law and Divorce Decree. This error of law requires reversal." Br. of Appellant at 44 (citation omitted). Roberta also argues that the valuation of her tax liability is "simply wrong" and various accounts listed in the distribution spreadsheet "are not supported by the evidence, nor testimony of the parties." Br. of Appellant at 45.

First, the trial court's memorandum opinion contains the specific valuations of assets and liabilities. The final divorce order lists these valued assets and liabilities, distributing them according to the memorandum's distribution spreadsheet. The findings and conclusions incorporate the final divorce order. We hold that the trial court did indeed value assets and liabilities and did not err in this regard.

Second, Roberta argues that her tax liability is incorrectly stated in the distribution spreadsheet. However, Roberta confuses her individual tax liability with the community tax liability distributed to her by the court. In 2016, Patrick and Roberta had substantial tax debt stemming from community assets. Although they filed separately, that tax liability totaled \$174,000. The trial court split this amount evenly, with a liability of \$87,000 for each party. Although Roberta's individual tax return reflected a lesser amount for her tax liability, the trial court did not abuse its discretion when dividing the community tax liability for 2016 evenly.

Third, Roberta summarily states that seven accounts listed on the distribution spreadsheet, lines 17-22 and line 24, are not supported by the evidence. We disagree.

Line 17 lists Navy Federal checking account #6708 and savings account #6005 valued at \$1,193.28. The bank statements show the value of these accounts together at \$1,193.28. Line 17 is supported by substantial evidence.

Line 18 lists Navy Federal Credit Union account #2859 and savings account #9001 valued at \$7,485.68 as of January 9, 2015. Statements for these accounts are in the record. Amounts in these accounts range between \$0 and over \$8,000 for the first two months of 2015. Because the listed valuation falls within the range for the time period, substantial evidence supports the trial court's valuation.

Lines 19-22 list four Navy Federal accounts that Patrick owned with each of his children. Patrick testified that each child had Navy Federal accounts with small balances. Patrick stated that these accounts should be removed from the list of assets to be distributed and not considered by the court because they belong to the children. The trial court valued these accounts, but did not distribute them. Our record does not appear to contain these accounts' listed valuations from December 31, 2014. However, a Navy Federal account summary from April 2017 shows some of these accounts.

- Line 19 lists Navy Federal Credit Union account #6356 and #6596 valued at a combined \$652.64. In April 2017, these accounts were worth a combined \$656.29.
- Line 20 lists Navy Federal Credit Union account #7003 and #1333 valued at \$811.85. In April 2017, these accounts had been closed.
- Line 21 lists Navy Federal Credit Union account #2004 and #1325 valued at \$586.34. In April 2017, these accounts had been closed.
- Line 22 lists a Navy Federal Credit Union account #6009 valued at 759.86. A statement shows the value of this account at \$762.72 for March 2016. In April 2017, this account had been closed.

In the distribution spreadsheet, the trial court deemed these accounts belonged to the children and did not distribute them. Because these accounts were not distributed as marital property, we hold that their valuation is immaterial and the trial court did not abuse its discretion regarding these accounts.⁴

Line 24 lists Navy Federal Credit Union checking accounts #0025 and #8038 relating to Pisteuo Anesthesia valued at \$6,154 on December 31, 2014. On January 1, 2015, the balance of

⁴ Roberta seems to agree that the trial court was not to distribute the children's accounts. In Appendix A of her brief, Roberta's "corrected" distribution spreadsheet neither values nor distributes these accounts. Rather, her spreadsheet states that each is a "kids account." Br. of Appellant at Appendix A.

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#0025 was \$2,082.27 and the balance of #8038 was \$4,349.24, totaling \$6,431.51. The following day, this amount dropped to \$6,081.51. We hold that substantial evidence supports the trial court's valuation of this account. Accordingly, we hold that Roberta's arguments about the valuation of assets and liabilities fail.

II. PATRICK'S INCOME

Roberta argues that substantial evidence does not support the trial court's calculation of Patrick's income. We hold that the trial court's finding of Patrick's income is supported by substantial evidence.

Substantial evidence is defined as a quantum of evidence sufficient to persuade a rational fair-minded person the premise is true. *Marriage of Rockwell*, 141 Wn. App. at 242. We defer to the trial court's finding if it is within the range of credible evidence. *Marriage of Rockwell*, 141 Wn. App. at 248.

The trial court stated, "Patrick's income is calculated by adding his W-2 wages of \$294,986.48 or 24,582.06/month, plus half of his Navy pension, \$2,381.08/month, and deducting his \$5,000/month maintenance payments to Roberta." CP at 120. Patrick's W-2 wages from 2016 were \$294,986. Frazier reviewed the parties' tax returns and stated that Patrick's income for 2016 was "about \$300,000." VRP (June 1, 2017) at 42. Patrick testified that he made about \$300,000 per year in 2016. We hold that substantial evidence supports the trial court's calculation of Patrick's income for child support.

III. SPOUSAL MAINTENANCE

Roberta argues that the trial court erred when granting her spousal maintenance. Specifically, Roberta argues that the trial court's findings regarding the parties' income is not

supported by substantial evidence and the trial court failed to consider all relevant factors, namely the parties' disparate earning potential. We disagree.

A trial court may grant a spousal maintenance order to either party after consideration of all relevant statutory factors. RCW 26.09.090. The statutory factors for maintenance include, but are not limited to, the financial resources of the party seeking maintenance; time necessary to obtain the skills for employment; the parties' standard of living during the marriage; duration of the marriage; the age, physical and emotional condition, and financial obligations of the seeking party; and the ability to pay of the other party. RCW 26.09.090(1)(a)-(f).

RCW 26.09.090 does not require the trial court to make specific factual findings on each factor listed in RCW 26.09.090(1). Rather, the statute merely requires the court to consider the listed factors. *In re Marriage of Mansour*, 126 Wn. App. 1, 16, 106 P.3d 768 (2004). The trial court's goal in determining maintenance in a long-term marriage is to put the parties in a roughly equal position. *In re Marriage of Wright*, 179 Wn. App. 257, 262, 319 P.3d 45 (2013).

We review a trial court's determination regarding the amount of maintenance for an abuse of discretion. *In re Marriage of Valente*, 179 Wn. App. 817, 822, 320 P.3d 115 (2014). A maintenance order that does not show a fair consideration of the statutory factors is an abuse of discretion. *In re Marriage of Spreen*, 107 Wn. App. 341, 349, 28 P.3d 769 (2001).

Here, the trial court considered all relevant factors when determining the amount and duration of maintenance for Roberta. The trial court stated that the parties were married for over twenty-five years. It acknowledged that Roberta was an attorney, but had not been employed for twenty years. Rather, Roberta gave up her career to raise and homeschool the children during the marriage. The trial court found that Roberta, is intelligent, talented, and "fully capable of

employment.” CP at 289. The trial court found that Roberta would need time to retrain herself as an attorney, progress through behavioral therapy, and spend time parenting the parties’ youngest daughter. The court acknowledged Roberta’s award pending the outcome of the trial as \$7,500 per month for almost two and a half years.

After considering these factors, the trial court awarded Roberta maintenance of \$5,000 per month for six years. It stated that Patrick was taking substantial marital debt, limiting his ability to pay. Further, the trial court stated that Roberta’s lack of employment and share of residential time of their youngest daughter showed Roberta’s need for maintenance. It stated that six years would be enough time for Roberta to update her skills and parent the youngest daughter until she presumably leaves for college.⁵

We hold that the trial court did not abuse its discretion when awarding Roberta \$5,000 per month for six years. The trial court fairly considered all factors listed in RCW 26.09.090(1)(a)-(f). It examined Roberta’s financial resources and obligations, including the property and child support apportioned to her and Roberta’s independent ability to meet her needs. It also considered the time necessary for Roberta to obtain the skills for employment, the standard of living during the marriage, duration of the marriage, her age, her physical and emotional condition, and Patrick’s ability to pay. Roberta’s and Patrick’s 2016 tax debt was taken from the sale of the marital home, leaving Roberta debt free. However, Patrick, after accounting for the tax debt, was still liable for \$180,000 of separate and community debt. After

⁵ The trial court also stated, “By refusing to file a financial declaration with the court, there is no way for the court to justify an amount higher than \$5,000.” CP at 289. Although Roberta argues about this statement elsewhere in her briefing, she does not argue that the trial court abused its discretion when awarding spousal maintenance because of the statements about her financial declaration.

considering these factors, the trial court ordered spousal maintenance in addition to the property distributed to Roberta and the child support she received. We hold that the trial court did not abuse its discretion when awarding Roberta maintenance.

IV. APPEARANCE OF FAIRNESS DOCTRINE

Roberta argues that the trial court violated the appearance of fairness doctrine because its decision was “fraught with error and favoritism to Patrick.” Br. of Appellant at 49. We disagree.

A judicial proceeding satisfies the appearance of fairness doctrine only if a reasonably prudent, disinterested person would conclude that the parties received a fair, impartial, and neutral hearing. *Neravetla v. Dep’t of Health*, 198 Wn. App. 647, 670, 395 P.3d 1028, *review denied*, 189 Wn.2d 1010 (2017). Under this doctrine, a judge must be impartial both in fact and in appearance. *Neravetla*, 198 Wn. App. at 670. A judge is presumed to perform her functions regularly and properly without prejudice or bias. *In re Estate of Hayes*, 185 Wn. App. 567, 607, 342 P.3d 1161 (2015). “The test for determining whether a judge’s impartiality might reasonably be questioned is an objective one that assumes the reasonable person knows and understands all the relevant facts.” *Hayes*, 185 Wn. App. at 607.

The party asserting the doctrine must show evidence of a judge’s actual or potential bias. *Neravetla*, 198 Wn. App. at 670. Although the asserting party need only show evidence of potential bias, that party must produce sufficient evidence of actual or potential bias, such as a judge’s personal or pecuniary interest. *Kok v. Tacoma Sch. Dist. No. 10*, 179 Wn. App. 10, 24, 317 P.3d 481 (2013).

Here, Roberta argues that the trial court violated the appearance of fairness because it erroneously calculated Patrick's income, mentioned her refusal to file a financial declaration, and unfairly divided the assets and liabilities. But under applicable law, an unfavorable outcome alone is not evidence of actual or potential bias of the trial court. As a result, we hold that Roberta's argument fails.

V. ATTORNEY FEES AT TRIAL

Roberta argues that the trial court abused its discretion when declining to award attorney fees in her favor. We disagree.

Where the trial court's authority to award attorney fees is not in question, we review a trial court's award of attorney fees and costs for an abuse of discretion. *In re Marriage of Obaidi*, 154 Wn. App. 609, 617, 226 P.3d 787 (2010). RCW 26.09.140 permits the trial court to order one party in a dissolution proceeding to pay attorney fees and costs to the other party after considering the parties' financial resources.

The trial court ordered each party to pay their own fees. Roberta argues that the denial of awarding her attorney fees is neither fair nor equitable because of the parties' income disparity. However, RCW 26.09.140 is discretionary—allowing, but not requiring, a court to award fees after considering the financial resources of the parties. Here, the trial court considered the financial resources of the parties by valuing and distributing the parties' assets and liabilities and by awarding Roberta maintenance. Following these considerations of financial resources, the trial court declined to award fees. We hold that the trial court did not abuse its discretion by declining to award Roberta her attorney fees.

VI. ATTORNEY FEES ON APPEAL

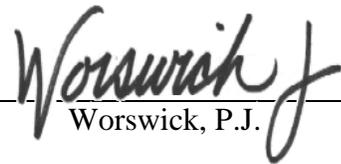
Roberta argues that she is entitled to attorney fees on appeal under RAP 18.1 and RCW 26.09.140. Patrick also requests attorney fees under RAP 18.1.

RAP 18.1 allows this court to grant a party reasonable attorney fees or expenses if an applicable statute permits. RCW 26.09.140 permits a court to order a party to pay a reasonable amount for the cost to the other party of maintaining or defending a proceeding related to a dissolution, after considering the financial resources of both parties. RAP 18.1(c) requires the parties to file a financial affidavit at least ten days prior to the date for consideration.

Although Roberta filed a financial declaration, she failed to meet the ten day deadline. We decline to award attorney fees to either party.

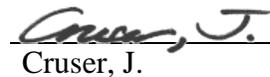
We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.


Worswick, P.J.

We concur:


Glasgow, J.


Cruser, J.