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IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
May 13, 2026 Session

SARA RENEE MCINTYRE v. BLAKE ANTHONY STOREY

Appeal from the Chancery Court for Hamilton County
No. 22-0261 Jeffrey M. Atherton, Chancellor

No. E2025-00688-COA-R3-CV

In this divorce action, the trial court declared the parties divorced on stipulated grounds. Following a bench trial on the remaining contested matters, the trial court entered a memorandum opinion and final decree for divorce (1) naming the wife as the primary residential parent of the parties' minor child; (2) setting forth a "two weeks for wife/one week for husband" rotating residential co-parenting schedule; (3) directing the husband to pay child support; (4) finding that the husband owed $12,500.00 in child support arrearage; (5) distributing the proceeds from the sale of the marital residence; and (6) declining to award attorney's fees to either party. The court subsequently entered a final order and permanent parenting plan wherein the court made slight adjustments to the residential co-parenting schedule according to proposed parenting plans submitted by the parties. The final permanent parenting plan granted to the wife 243 days per year of co-parenting time and to the husband 122 days. The court set the husband's monthly child support obligation at $272.00. The wife has appealed, asserting issues related to the trial court's credibility determinations, the permanent parenting plan and best interest of the Child, the amount of child support and arrearage awarded, and the equitable division of marital property. Upon careful review, we vacate the trial court's determination of the husband's child support obligation and the award of child support arrearage in the amount of $12,500.00. In all other respects, we affirm the judgment of the trial court. The wife's request for attorney's fees on appeal is denied.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed in Part, Vacated in Part; Case Remanded

THOMAS R. FRIERSON, II, J., delivered the opinion of the court, in which JOHN W. MCCLARTY, P.J., E.S., and WILLIAM E. PHILLIPS, II, J., joined.

Michele L. Coffman and Whitley S. Aikman, Chattanooga, Tennessee, for the appellant, Sara Renee McIntyre.

Adam U. Holland and Phillip E. Fleenor, Chattanooga, Tennessee, for the appellee, Blake Anthony Storey.

OPINION

I. Factual and Procedural Background

On April 19, 2022, the plaintiff, Sara Renee McIntyre ("Wife"), filed a complaint for divorce in the Hamilton County Chancery Court ("trial court") against the defendant, Blake Anthony Storey ("Husband"). The parties had been married in August 2020, and their only child, L.M. ("the Child"), had been born in April 2021. In the complaint for divorce, Wife averred that she had obtained an *ex parte* order of protection in the trial court against Husband and was awaiting a hearing on her petition for a one-year order of protection. Wife alleged that Husband had exhibited anger toward her and the Child and that Husband was incapable of providing adequate care for the Child. Wife requested sole custody of the Child and submitted a proposed permanent parenting plan with no co-parenting time allotted to Husband. Wife also requested child support and attorney's fees.

On April 27, 2022, Husband filed a motion to adopt a temporary parenting plan, arguing that it would be in the Child's best interest "to have the maximum amount of parenting time with both parents." Husband averred that on April 21, 2022, the trial court had dismissed Wife's petition for an order of protection and had entered an agreed mutual restraining order, enjoining the parties from coming around or communicating with each other except for matters pertaining to the Child. Husband further alleged that Wife was in the process of relocating to Sewanee, Tennessee, and had not allowed him to visit or communicate with the Child. Husband attached a certificate indicating that he had completed a parenting course. Husband subsequently filed an answer and counterclaim, admitting the ground of irreconcilable differences but denying all other substantive allegations. In addition, Husband requested spousal support, child support, and attorney's fees. He included a proposed permanent parenting plan, designating the parents as "joint" primary residential parents with 182.5 days of co-parenting time each.

The trial court entered an agreed order on June 13, 2022, setting forth a temporary parenting plan with Wife as the Child's primary residential parent. The court granted Husband "temporary residential time" with the Child in three phases, beginning with supervised parenting time on Sundays for six hours in phase one, adding four hours of supervised parenting time on Wednesdays in phase two, and adding two hours of parenting time on two weekday afternoons in phase three. For the supervised parenting time, the order required Husband to either transport the Child with a supervisor or send to Wife a photograph of the Child with the supervisor upon reaching his destination. The order also provided for two FaceTime calls per week between Husband and the Child. Concerning

child support, the court entered an agreed order on February 9, 2023, directing Husband to pay to Wife $875.00 monthly.

In February 2023, Wife filed a motion to sell the parties' marital residence, a parcel of improved real property located on Haney Drive in Chattanooga ("the Marital Residence"). In March 2023, Husband filed a motion seeking to expand his co-parenting time with the Child. Following a hearing, the trial court entered an "Order Setting Visitation Schedule and Ordering Sale of Marital Home" on June 30, 2023. As to co-parenting time, the court granted to Husband supervised parenting time with the Child, to be supervised by one of Husband's parents, on alternate weekends with two hours of supervised parenting time on alternate Wednesdays. The court directed that the Wednesday sessions must be supervised by a third-party supervisor.

In July and August of 2023, Husband filed two motions to end supervised parenting time, which Wife opposed. Husband also filed a motion to set holiday co-parenting time. On November 17, 2023, the trial court entered an agreed order granting to Husband unsupervised parenting time with the Child on alternate weekends and alternate Thursday afternoons. The court also set forth a holiday co-parenting schedule. In the same agreed order, the trial court ordered partial disbursement of funds held in Wife's counsel's trust account, as agreed upon by the parties. In February 2024, the trial court entered an agreed order disbursing an additional $5,000.00 each to the parties' respective counsel from Wife's counsel's trust account. In January and February of 2024, Husband filed motions to modify his "temporary visitation" schedule, seeking more co-parenting time with the Child. Husband subsequently filed another motion in August 2024 for additional co-parenting time.

The trial court conducted a bench trial over the course of ten days, including five days in September 2024 and five days in January 2025. The parties each testified. In addition, Wife presented eight witnesses: Shannon Farr, a certified public accountant ("CPA"), whom Wife had retained to determine Husband's income; Caroline Thompson, Wife's friend and Associate Director of Dining at the University of the South ("Sewanee"); Laura Gibson, Wife's close friend; Juliet Thomas, Ph.D., a mental health provider and licensed professional counselor testifying regarding child development; Eric Ezell, a Sewanee employee whose children had attended the Child's pre-kindergarten program; James Schriok, Wife's mother's domestic partner; Mary Standefer, Wife's mother; and Tamika Wright, who had served as a parenting supervisor in this litigation. Husband presented seven additional witnesses, including Elle Johnson, Husband's friend whose children had been on play dates with the Child; Matthew Storey, Husband's father; Stephanie Storey Hobbs, Husband's mother; William H. Weathers, the real estate agent who assisted in the sale of the marital residence; Serena Elise Cambrea, Husband's friend whose children had spent time with the Child; Susan Johnson, CPA., regarding Husband's income; and Andrea Chase, a compensated parenting supervisor in this matter.

The trial court entered a "Memorandum Opinion and Final Decree" on April 10, 2025 ("Memorandum Opinion"), noting that it had "heard numerous witnesses out of order, saw the interruption of directs, crosses, and redirects, and mod-podged a trial schedule to allow each party the opportunity to clarify his or her viewpoint."[1] The court incorporated into the Memorandum Opinion sixteen stipulations that the parties had filed on April 24, 2024. The court rendered a credibility determination regarding each witness and explained the impact of each witness's testimony upon the court's decisions. To determine the residential co-parenting arrangement, the court undertook an analysis of each of the best interest factors delineated in Tennessee Code Annotated § 36-6-106(a) and set forth a rotating co-parenting schedule wherein Wife would enjoy two weeks' co-parenting time with the Child followed by Husband's co-parenting the Child for one week. The trial court determined that Husband should pay Wife "$356 per month for child support" and awarded to Wife a child support arrearage in the amount of $12,500.00.

Regarding division of the marital assets, the trial court noted that the parties had waived any request for spousal support and had agreed to the division of all assets except the proceeds from the sale of the Marital Residence. The court ordered that the proceeds from the sale of the marital residence be distributed such that Husband would receive $79,731.60 as partial reimbursement for what the court found to be his separate contribution to the home's purchase, minus the $12,500.00 that had been awarded to Wife in child support arrearage. The court discerned that the parties had waived attorney's fees when they waived awards of spousal support in their stipulations. The parties had stipulated that there was no remaining marital debt. The court also stated that the parties had agreed that "going forward, they would utilize and defer to the Clerk and Master, Robin Miller, and/or her Staff Attorney, Rachael Kapperman, for their guidance and neutral decision-making upon party disagreements, and further for the purpose of acting as 'parenting coordinators.'" The court instructed the parties to submit proposed parenting plans for the court's review.

On July 18, 2025, the trial court entered a final order incorporating a permanent parenting plan that the court had crafted after both parties had missed the court's deadline to submit proposed parenting plans. However, the parties did subsequently submit proposed parenting plans, and the court considered those along with its own. The court stated in the final order that upon consideration, it had adjusted Wife's total co-parenting days each year to 243 and Husband's to 122. Because of this adjustment, the court modified the amount of Husband's child support obligation to $272.00 monthly. The final order and permanent parenting plan ("PPP") otherwise memorialized the trial court's rulings in the Memorandum Opinion.

[1] Upon Husband's motion and the parties' stipulation, both filed in April 2024, the trial court entered an order on March 17, 2025, *nunc pro tunc* to May 14, 2024, declaring the parties divorced on stipulated grounds pursuant to Tennessee Code Annotated § 36-4-129.

Wife filed a premature notice of appeal, which this Court treated as final upon entry of the trial court's final order. *See* Tenn. R. App. P. 4(d). In her appellate brief, Wife has included an appendix with proposed permanent parenting plans apparently filed by her in the trial court. However, these plans do not appear to be in the record. She has also included written closing arguments of the guardian *ad litem* and of Wife's counsel. Although the transcripts are in the record, these written closing arguments are not in the record. *See* Tenn. R. App. P. 24(a), (e); *Jennings v. Sewell-Allen Piggly Wiggly*, 173 S.W.3d 710, 712 (Tenn. 2005) ("This attachment [to an appellate brief] . . . does not serve to supplement the record on appeal."). We therefore will not consider Wife's appendix on appeal.

II. Issues Presented

Wife has presented the following issues on appeal, which we have restated slightly:

1. Whether the trial court erred in its witness observations and credibility determinations for Ms. Gibson and for Husband.

2. Whether the trial court erred by finding that the court's permanent parenting plan was in the best interest of the Child.

3. Whether the trial court erred in its calculations of child support and the child support arrearage.

4. Whether the trial court erred in its equitable division of the marital property.

5. Whether the trial court erred by declining to award Wife her attorney's fees and discretionary costs.

6. Whether Wife should be awarded her attorney's fees incurred on appeal.

III. Standard of Review

In a divorce action, we review a trial court's determinations regarding custody and co-parenting schedules as follows:

> Because decisions regarding parenting arrangements are factually driven and require careful consideration of numerous factors, *Holloway v. Bradley*, 190 Tenn. 565, 230 S.W.2d 1003, 1006 (1950); *Brumit v. Brumit*, 948 S.W.2d 739, 740 (Tenn. Ct. App. 1997), trial judges, who have the opportunity to observe the witnesses and make credibility determinations,

are better positioned to evaluate the facts than appellate judges. *Massey-Holt v. Holt*, 255 S.W.3d 603, 607 (Tenn. Ct. App. 2007). Thus, determining the details of parenting plans is "peculiarly within the broad discretion of the trial judge." *Suttles v. Suttles*, 748 S.W.2d 427, 429 (Tenn. 1988) (quoting *Edwards v. Edwards*, 501 S.W.2d 283, 291 (Tenn. Ct. App. 1973)). "It is not the function of appellate courts to tweak a [residential parenting schedule] in the hopes of achieving a more reasonable result than the trial court." *Eldridge v. Eldridge*, 42 S.W.3d 82, 88 (Tenn. 2001). A trial court's decision regarding the details of a residential parenting schedule should not be reversed absent an abuse of discretion. *Id.* "An abuse of discretion occurs when the trial court . . . appl[ies] an incorrect legal standard, reaches an illogical result, resolves the case on a clearly erroneous assessment of the evidence, or relies on reasoning that causes an injustice." *Gonsewski v. Gonsewski*, 350 S.W.3d 99, 105 (Tenn. 2011). A trial court abuses its discretion in establishing a residential parenting schedule "only when the trial court's ruling falls outside the spectrum of rulings that might reasonably result from an application of the correct legal standards to the evidence found in the record." *Eldridge*, 42 S.W.3d at 88.

Brunetz v. Brunetz, 573 S.W.3d 173, 178-79 (Tenn. Ct. App. 2018).

Regarding our review of a trial court's division of marital assets:

> This Court gives great weight to the decisions of the trial court in dividing marital assets and "we are disinclined to disturb the trial court's decision unless the distribution lacks proper evidentiary support or results in some error of law or misapplication of statutory requirements and procedures." *Herrera v. Herrera*, 944 S.W.2d 379, 389 (Tenn. Ct. App. 1996). As such, when dealing with the trial court's findings of fact, we review the record de novo with a presumption of correctness, and we must honor those findings unless there is evidence which preponderates to the contrary. Tenn. R. App. P. 13(d); *Union Carbide Corp. v. Huddleston*, 854 S.W.2d 87, 91 (Tenn. 1993). Because trial courts are in a far better position than this Court to observe the demeanor of the witnesses, the weight, faith, and credit to be given witnesses' testimony lies in the first instance with the trial court. *Roberts v. Roberts*, 827 S.W.2d 788, 795 (Tenn. Ct. App. 1991). Consequently, where issues of credibility and weight of testimony are involved, this Court will accord considerable deference to the trial court's factual findings. *In re M.L.P.*, 228 S.W.3d 139, 143 (Tenn. Ct. App. 2007) (citing *Seals v. England/Corsair Upholstery Mfg. Co.*, 984 S.W.2d 912, 915 (Tenn. 1999)). The trial court's conclusions of law, however, are accorded no presumption of correctness. *Langschmidt v. Langschmidt*, 81 S.W.3d 741, 744-45 (Tenn. 2002).

Keyt v. Keyt, 244 S.W.3d 321, 327 (Tenn. 2007). Questions relating to the classification of assets as marital or separate are questions of fact. *Stratienko v. Stratienko*, 529 S.W.3d 389, 398-99 (Tenn. Ct. App. 2017) (citing *Bilyeu v. Bilyeu*, 196 S.W.3d 131, 135 (Tenn. Ct. App. 2005)). *See Manis v. Manis*, 49 S.W.3d 295, 306 (Tenn. Ct. App. 2001) (holding that appellate courts reviewing a distribution of marital property "ordinarily defer to the trial judge's decision unless it is inconsistent with the factors in Tenn. Code Ann. § 36-4-121(c) or is not supported by a preponderance of the evidence.").

Wife has raised an issue focused on the trial court's credibility determinations. In addressing this issue, we rely on the following instruction from our Supreme Court:

> Unlike appellate courts, trial courts are able to observe witnesses as they testify and to assess their demeanor, which best situates trial judges to evaluate witness credibility. *See State v. Pruett*, 788 S.W.2d 559, 561 (Tenn. 1990); *Bowman v. Bowman*, 836 S.W.2d 563, 566 (Tenn. Ct. App.1991). Thus, trial courts are in the most favorable position to resolve factual disputes hinging on credibility determinations. *See Tenn-Tex Properties v. Brownell-Electro, Inc.*, 778 S.W.2d 423, 425-26 (Tenn. 1989); *Mitchell v. Archibald*, 971 S.W.2d 25, 29 (Tenn. Ct. App. 1998). Accordingly, appellate courts will not re-evaluate a trial judge's assessment of witness credibility absent clear and convincing evidence to the contrary. *See Humphrey v. David Witherspoon, Inc.*, 734 S.W.2d 315, 315-16 (Tenn. 1987); *Bingham v. Dyersburg Fabrics Co., Inc.*, 567 S.W.2d 169, 170 (Tenn. 1978).

Wells v. Bd. of Regents, 9 S.W. 3d 779, 783 (Tenn. 1999). "In order for evidence to be clear and convincing, it must eliminate any 'serious or substantial doubt about the correctness of the conclusions drawn from the evidence.'" *Kelly v. Kelly*, 445 S.W.3d 685, 692-93 (Tenn. 2014) (quoting *State v. Sexton*, 368 S.W.3d 371, 404 (Tenn. 2012)).

IV. Witness Credibility

Wife contends that the trial court erred in its credibility determinations concerning the testimony of Wife's friend, Ms. Gibson, and the testimony of Husband. We consider each argument in turn.

A. Testimony of Laura Gibson

Ms. Gibson was called to testify regarding her knowledge of Wife's and Husband's relationship with one another and with the Child. Regarding Ms. Gibson's testimony, the trial court found:

> Ms. Laura Gibson is an extraordinarily close friend with [Wife]. Although called to present testimony favorable to [Wife] relating to her parenting style, Ms. Gibson's inclination was, whenever the evidentiary "door" was opened, to criticize [Husband]. Although the Court usually attempts to temper its unfavorable description of a witness' testimony, doing so with this witness represents a great challenge. In short, her testimony and observed demeanor was unreasonably biased and was not credible. The Court was troubled by her testimony detailing how she and [Wife] would conduct a detailed "previsitation" physical examination of the child before [Husband's] visits and, immediately thereafter, conduct a detailed "post-visit" physical examination. As an example of her bias, on re-direct, in an apparent attempt to rehabilitate this witness after certain scathing cross-examination inquiries into her relationships with and viewpoints of men, this witness was asked about her perspective on a man's role in parenting. Her response, in essence if not exactly quoted, was that "a man might have a place in a child's life, but not in the child's home." As a result, this witness' testimony was not helpful to [Wife's] case or to consideration of the Tenn. Code Ann. § [36-6-]106(a) factors, other than negatively, in that upon continued intrusion/participation by this witness, the likelihood of [Wife's] encouraging a close parent-child relationship with [Husband], is, at best, minimal. *See* Tenn. Code Ann. § [36-6-]106(a)(2).

In the above excerpt, the trial court predicated its credibility determination upon its observation that Ms. Gibson's "demeanor" appeared "unreasonably biased" and upon Ms. Gibson's criticism of Husband's behavior, her participation with Wife in "previsitation" and "post-visit" physical examinations of the Child surrounding Husband's co-parenting time, and her viewpoints on men in general.

Regarding the trial court's conclusion that "Ms. Gibson's inclination was, whenever the 'evidentiary door' was opened, to criticize [Husband]," the evidence supports the trial court's conclusion. Ms. Gibson outlined several instances during which she had observed Husband's behavior at his medical practice, at the home Husband shared with Wife and the Child, and outside the courtroom during trial. Relaying these encounters, Ms. Gibson consistently gave a negative account of Husband's interactions with Wife, the Child, or herself. Ms. Gibson stated that she had observed Husband acting "controlling" and disrespectful of "boundaries" toward Wife and the Child. Ms. Gibson additionally expressed her opinion that Husband was "not a truthful person" based upon her interactions with him at his business. Specifically, Ms. Gibson explained that Husband had treated Ms. Gibson using acupuncture prior to her medical procedure but had failed to "disclose that he was running a fever and sick at the time of treatment." Additionally, Ms. Gibson detailed certain interactions between herself and Husband in the Marital Residence, as well as in the courtroom during the litigation, that had caused Ms. Gibson to feel

"uncomfortable." Our review of the trial transcripts reveals that Ms. Gibson's testimony was consistent with the trial court's credibility determination on this point.

Regarding what the trial court characterized as Wife's and Ms. Gibson's "post-visit examinations" of the Child, Ms. Gibson's testimony, together with the documents in the record, supports the trial court's findings. Ms. Gibson testified that Wife would regularly visit Ms. Gibson's house after Wife had picked up the Child from Husband's home. When prompted, Ms. Gibson testified at length concerning observations she had made over time regarding the Child's physical condition upon return from Husband's co-parenting time, including: "sunburn" "on [the Child's] shoulders and on her back and on her face"; "matted" hair; "dirt" under the Child's fingernails and toes, which indicated to Ms. Gibson that the Child had "not had a bath for a few days"; "severe blisters on the back of her heels and the top of her feet"; "the remnants of a bowel movement in [the Child's] diaper area where she was not cleaned properly"; "underwear that smelled of urine"; "rashes on her legs" that appeared as if the Child had "peed" in her pants and "had not been changed"; and small, "puncture marks" on the Child's knee.

Ms. Gibson further described a "book" that she and Wife had kept and updated over the course of several months, which they had used to "document" their observations regarding the Child's well-being after her visits with Husband. Ms. Gibson stated that she and Wife would observe and document the Child's condition and would then "take a picture of it for records." The exhibits at trial included several entries from the book containing detailed observations of the Child's body, including her genitalia. Contrary to Wife's assertion on appeal, this evidence supports the trial court's determination that Ms. Gibson and Wife conducted "post-visit physical examinations" of the Child. Significantly, Wife has provided no countervailing evidence to undermine the trial court's credibility determination respecting Ms. Gibson's criticism of Husband or her participation with Wife in examining the Child following Husband's co-parenting time. *See Worth v. Cumberland Mountain Prop. Owners Ass'n, Inc*., No. 03A01-9709-CV-00442, 1999 WL 61629, at *4 (Tenn. Ct. App. Feb. 10, 1999) ("[F]indings that are related to the issue of credibility will not be disturbed by this court, absent other concrete evidence to the contrary which shows that the trial judge erred in his judgment of the veracity of the witnesses.").

On the other hand, the evidence does not support the trial court's determination that Ms. Gibson and Wife would conduct "detailed 'previsitation' physical examinations" of the Child before Husband's visits with the Child. During direct examination, the following exchange ensued:

> Attorney: Did [you and Wife]-- do you document what you were seeing after she gets back with [the Child]?

Ms. Gibson: Yes. When or if we are noticing that we feel we need to document, we write them down. I have a book that we have kept that I initial, and then we take a picture of it for records.

Attorney: And have you had the opportunity to actually see [the Child] before she goes?

Ms. Gibson: No.

Attorney: You've never seen her before she went to her dad's?

Ms. Gibson: No.

Later, on cross-examination, the following exchange occurred:

Attorney: So, are you aware of the fact that prior to overnight visits with—[the Child's] overnight visits with [Husband], that [Wife] does a pre-visit body check?

Ms. Gibson: No.

Attorney: Are you aware of that?

Ms. Gibson: No.

Twice Ms. Gibson was questioned regarding whether she was aware of or participated in physical examinations of the Child before Husband's co-parenting time, and twice Ms. Gibson denied knowledge of or participation in such examinations. There is a dearth of evidence or other testimony indicating that Ms. Gibson participated in or was aware of "previsitation" examinations conducted of the Child prior to Husband's co-parenting time.

In the Memorandum Opinion, the trial court found that Ms. Gibson's testimony in essence was that "a man might have a place in a child's life, but not in the child's home." The record does not reflect that Ms. Gibson specifically articulated that a man "might have a place in a child's life, but not in the child's home." When opposing counsel asked Ms. Gibson during cross-examination, "You don't feel that men have any place in the home, do you?" Ms. Gibson responded, "I never said that, ever." When counsel followed up with the statement, "You don't believe that men have any place in the home, do you?" Ms. Gibson responded, "I don't feel that way." On redirect, Wife's attorney asked Ms. Gibson, "when [Husband's attorney] was saying men don't have a place in that home, you're saying you don't feel that that statement is correct, right?" to which Ms. Gibson responded, "Yes. That is not my opinion."

Nonetheless, upon careful review, we determine that although the statement assigned to Ms. Gibson does not appear in the transcript, the trial court relied on other facts and observations that did support its ultimate credibility determination. Significantly, the trial court predicated its credibility determination not only on Ms. Gibson's oral testimony but on her "observed demeanor," which the court determined to be "unreasonably biased." It is well settled in Tennessee that, "trial courts are able to observe witnesses as they testify and to assess their demeanor, which best situates trial judges to evaluate witness credibility." *Wells*, 9 S.W.3d at 783. Moreover, "[w]hen it comes to live, in-court witnesses, appellate courts should afford trial courts considerable deference when reviewing issues that hinge on the witnesses' credibility because trial courts are uniquely positioned to observe the demeanor and conduct of witnesses." *Barton v. Barton*, 696 S.W.3d 571, 581 (Tenn. Ct. App. 2024) (quoting *Kelly v. Kelly*, 445 S.W.3d 685, 692-93 (Tenn. 2014)) (internal quotation marks omitted). Thus, we afford considerable deference to the trial court's determination concerning Ms. Gibson's credibility and, absent clear and convincing evidence to the contrary, will not disturb the court's resultant credibility determination.

B. Husband's Testimony

Wife next posits that the trial court improperly failed to make an adverse credibility finding against Husband despite Husband's "continued dishonesty" with Wife "concerning the parenting of the minor child" and his "dishonesty and inability to follow the trial court's orders throughout the parties' litigation." Concerning Husband's testimony, the trial court found:

> [Husband] is the father of the minor child in this case and is a co-owner of Chattanooga Holistic Medicine, LLC, where he works as an acupuncturist. Based on all of the testimony provided, it is clear to the Court that while [Husband], like most parents, clearly loves his child, he is still learning how to parent a toddler, especially considering the limited time with which he has been able to have hands-on parenting experience. This does not negate, however, the series of missteps that [Husband] seemed to take part in during his parenting time, i.e., sunburns, splinters, missed doses of medication, etc. While there was not testimony surrounding any inherently dangerous or significantly injurious issues that arose over the course of [Husband's] custodial time with the child, the Court does want to reiterate to [Husband] that the missteps above do tend to arise when a parent overlooks certain aspects of raising a child, aspects which took [Husband] quite some time to learn which he should henceforth remember.
>
> As discussed below, the Court is cognizant of, and deems as credible, the growth and maturity which [Husband] has been able to muster up throughout this litigation. Though perhaps not always the best example of a

> perfect parent, the Court feels that [Husband] has shown a dedication to and an intention of becoming a better and more present father to the parties' child. Nevertheless, the same issues of distrust and disdain felt by [Wife] toward [Husband] are clearly reciprocated in full. In fact, testimony from [Wife] directly raised the issue of [Husband] name-calling [Wife] in front of the child or even telling the child that she had multiple "mommies." While [Husband] denied such claims, the Court would remind both parties that children can be like parrots—they will often repeat everything they hear to anyone who will listen. While name-calling may have been cute in elementary school, such antagonistic behavior rarely produces positive results in Court.

(Footnote omitted.)

Wife urges that Husband had demonstrated that he was not a "credible source" throughout the litigation because he had "not followed court orders, ha[d] made contradictory statements, ha[d] been unforthcoming and ha[d] demonstrated an inability to take accountability or compromise with [Wife]" regarding co-parenting the Child. Wife cites to several portions of Husband's testimony and asserts that he (1) had not been truthful regarding supervised visits with the Child, (2) had not timely paid his child support obligation, (3) had thrown away medications sent by Wife with the Child and had administered "herbal" remedies to the Child without informing Wife, (4) had "made an assumption" that Wife received a reduced "campus housing" rate without knowing for certain that this was the case, (5) had kept the Child in shoes that were "too small" despite Wife's messages regarding the Child's correct shoe size, (6) had failed to disclose "water damage" at his home upon the recommendation of his realtor, (7) had been the object of a "court order" directing that he remain on his porch during pick-up and drop-off times, (8) had been aware that his mother had "trimmed" the Child's "frayed bangs" but had informed Wife at the time that he had not "cut her hair," (9) had not consistently complied with the court's order regarding his supervised co-parenting time with the Child, and (10) had made "assumptions" without having actual knowledge of certain topics.

Upon reviewing Wife's concerns listed above, we note that each of Wife's accusations points to Husband's actions or statements during the pendency of the litigation rather than to any untruthfulness of Husband's testimony as a witness during trial. Indeed, Husband acknowledged and explained or clarified each of the accusations and questions that were presented to or asked of him during his testimony. Additionally, we note that the trial court did not discount Husband's "series of missteps" in parenting, but the court focused its credibility determination on Husband's "growth and maturity" in bettering himself as a parent during the pendency of the litigation. Finding no clear and convincing evidence to contradict the trial court's credibility determination as to Husband, we will not re-evaluate the trial court's assessment. *See Wells*, 9 S.W.3d at 783.

V. Permanent Parenting Plan and Child's Best Interest

Wife contends that the trial court erroneously adopted a PPP that is "impractical, non-forward-looking, and contrary to Tennessee Code Annotated § 36-6-404 *et seq*." Foremost among Wife's concerns is the trial court's decision to set forth a "two (2) weeks with [Wife] to one (1) week with [Husband] schedule." Wife urges that such a schedule is "impractical," "particularly considering the parties' significant geographical distance." Wife further asserts that such a schedule is not in the Child's best interest because it results in the Child's placement "in the position of attending a different school each week." As stated above, although we presume the trial court's factual findings are correct unless the evidence preponderates otherwise, we review the court's rulings regarding the details of a residential co-parenting schedule for an abuse of discretion. *See Brunetz*, 573 S.W.3d at 178-79.

As relevant to Wife's issue on appeal, Tennessee Code Annotated § 36-6-404(a) (West July 1, 2014, to June 30, 2026) instructs, *inter alia*, that a "permanent parenting plan shall . . . [p]rovide for the child's changing needs as the child grows and matures, in a way that minimizes the need for further modifications to the permanent parenting plan." Section 36-6-404(b) provides:

> Any permanent parenting plan shall include a residential schedule as defined in § 36-6-402. The court shall make residential provisions for each child, consistent with the child's developmental level and the family's social and economic circumstances, which encourage each parent to maintain a loving, stable, and nurturing relationship with the child. The child's residential schedule shall be consistent with this part. If the limitations of § 36-6-406 are not dispositive of the child's residential schedule, the court shall consider the factors found in § 36-6-106(a).

The version of Tennessee Code Annotated § 36-6-106(a) (West March 18, 2022, to April 22, 2024), in effect when the complaint for divorce was filed in this action provided the following best interest factors for a court to consider when making a custody determination:

> (1) The strength, nature, and stability of the child's relationship with each parent, including whether one (1) parent has performed the majority of parenting responsibilities relating to the daily needs of the child;
>
> (2) Each parent's or caregiver's past and potential for future performance of parenting responsibilities, including the willingness and ability of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, consistent with the best interest of the child. In

determining the willingness of each of the parents and caregivers to facilitate and encourage a close and continuing parent-child relationship between the child and both of the child's parents, the court shall consider the likelihood of each parent and caregiver to honor and facilitate court ordered parenting arrangements and rights, and the court shall further consider any history of either parent or any caregiver denying parenting time to either parent in violation of a court order;

(3) Refusal to attend a court ordered parent education seminar may be considered by the court as a lack of good faith effort in these proceedings;

(4) The disposition of each parent to provide the child with food, clothing, medical care, education and other necessary care;

(5) The degree to which a parent has been the primary caregiver, defined as the parent who has taken the greater responsibility for performing parental responsibilities;

(6) The love, affection, and emotional ties existing between each parent and the child;

(7) The emotional needs and developmental level of the child;

(8) The moral, physical, mental and emotional fitness of each parent as it relates to their ability to parent the child. The court may order an examination of a party under Rule 35 of the Tennessee Rules of Civil Procedure and, if necessary for the conduct of the proceedings, order the disclosure of confidential mental health information of a party under § 33-3-105(3). The court order required by § 33-3-105(3) must contain a qualified protective order that limits the dissemination of confidential protected mental health information to the purpose of the litigation pending before the court and provides for the return or destruction of the confidential protected mental health information at the conclusion of the proceedings;

(9) The child's interaction and interrelationships with siblings, other relatives and step-relatives, and mentors, as well as the child's involvement with the child's physical surroundings, school, or other significant activities;

(10) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment;

(11) Evidence of physical or emotional abuse to the child, to the other parent or to any other person. The court shall, where appropriate, refer any issues of abuse to juvenile court for further proceedings;

(12) The character and behavior of any other person who resides in or frequents the home of a parent and such person's interactions with the child;

(13) The reasonable preference of the child if twelve (12) years of age or older. The court may hear the preference of a younger child upon request. The preference of older children should normally be given greater weight than those of younger children;

(14) Each parent's employment schedule, and the court may make accommodations consistent with those schedules;

(15) Any other factors deemed relevant by the court; and

(16) Whether a parent has failed to pay court-ordered child support for a period of three (3) years or more.

In its Memorandum Opinion, the trial court considered each of the best interest factors and found that eleven of them (factors one, two, three, six, seven, eight, nine, eleven, twelve, fourteen, and fifteen) did not favor either parent over the other. The court also determined that factor four (disposition of each parent to provide food, medical care, education, etc.), factor five (degree to which a parent has been the primary caregiver), and factor ten (the importance of continuity in the child's life) slightly favored Wife. The court found that factor thirteen (the child's preference) and factor sixteen (whether a parent has failed to pay child support) were not applicable in this case. The court determined that it would not adopt either parent's proposed permanent parenting plan. Instead, although the court awarded to Husband more days annually with the Child than Wife had proposed, the court did award to Wife approximately two-thirds of the co-parenting time and designated her as the primary residential parent.

Wife propounds that the trial court rendered an "erroneous conclusion" for factors one, two, four, five, seven, eight, nine, ten, eleven, fourteen, and fifteen. As to factor one, which addresses the "strength, nature, and stability of the child's relationship with each parent" and includes a consideration of whether one parent has "performed the majority of parenting responsibilities," the trial court found:

> Based on the evidence and testimony provided, both parties seem to clearly love and care for their child, with such love being clearly reciprocated. Though testimony seemed to hint at issues within Husband's relationship with the child during the early/newborn years, the Court is confident that any strain in that relationship has been eased. In addition, the Court takes specific note of Husband's growth in his time in front of this Court since the initial filing of this case.

Although the record supports the trial court's conclusion that "both parties seem to clearly love and care for their child," the trial court did not address, as relevant to this factor, the fact that Wife had borne the great majority of responsibility in caring for the Child with the Husband enjoying only supervised parenting time for the first years of the Child's life. Instead, the trial court stated that Husband's relationship with the Child had improved over time. Again, although Husband's "growth" during the litigation is apparent to this Court through the evidence in the record, this factor requires consideration of which parent had performed the "majority of parenting responsibilities." Ergo, we determine that the evidence preponderates in favor of Wife.

Regarding factor two, which considers the parents' performance of parenting responsibilities relative to the child's relationship with both parents, the trial court determined that this factor did not favor either parent. We agree. The evidence strongly supports the trial court's determination that although both parties exhibited "great potential" to parent well, they both "likewise miserably fail[ed]" to facilitate and encourage a close relationship between the Child and the other parent. For the same reason, the evidence preponderates in favor of the trial court's finding that factor seven—the emotional needs and developmental level of the child—favored neither party over the other.

As to factor four, "the disposition of each parent to provide the child with food, clothing, medical care, education and other necessary care," the trial court determined that this factor slightly favored Wife. Wife asserts that the court erred by finding that this factor only "slightly" favored her because Husband "had supervised visitation until November of 2023" due to Husband's previous inability to properly care for the Child. However, the trial court repeatedly noted Husband's improvement in his ability to parent throughout the litigation, and the evidence supports the trial court's conclusions in this regard. Therefore, the evidence preponderates in favor of the trial court's factual findings as to factor four. For the same reasons, we find that the evidence supports the trial court's conclusion that factor five slightly favored Wife.

Wife argues that factor eight, regarding the "moral, physical, mental, and emotional" fitness of each parent as it relates to his or her ability to parent the child, should weigh in favor of Wife because Husband's "inconsistency in telling the truth, following court orders, and supporting the [Child's] relationship with both parents tarnishes his moral fitness." Although Husband's testimony did reveal that he had been untruthful in his

communications with Wife on some occasions and had failed to follow certain court orders, such evidence must be balanced against the mutual acrimony between the parents and the fact that Husband had demonstrated overall improvement in developing his parenting skills. The evidence that supports the trial court's findings as to factors two and four similarly supports the trial court's determination that factor eight did not favor either parent.

The trial court weighted factor nine in favor of neither party, noting that both parents "spoke to a consistent presence of friends, family members, and other children" who played important roles in the life of the Child. The testimony of witnesses on behalf of both Wife and Husband was consistent with this conclusion. As to factor ten—the importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment—we agree with the trial court that this factor slightly favored Wife because the Child had "mainly resided with [Wife]" while Husband had maintained a "consistent presence and role" in the Child's life.

The trial court further found that factor eleven—evidence of physical or emotional abuse to the child, other parent, or other persons—did not favor either party. Wife stresses that the trial court had previously "chastised" Husband regarding his care of the Child but that the court had, in the Memorandum Opinion, proceeded to "downplay the injuries" that the Child had sustained "resulting from [Husband's lack of responsibility and appropriate attention to the [Child]." The trial court concluded that although Wife had alleged incidents of "negligence or endangerment" against Husband in his care of the Child, the trial court did not fault Husband for the "day-do-day 'bumps and bruises' that come with raising a curious, energetic little girl." The evidence presented, particularly in the form of the testimony of both Husband and Wife, preponderates in favor of the trial court's factual findings respective of factor eleven.

The trial court weighed factor fourteen, concerning each parent's employment schedule, in favor of neither parent. The court explained that both parties worked full-time but each also appeared "able and willing to accommodate" the Child's schedule "as demanded." Wife claims that Husband's schedule was not as flexible as Husband had testified to at trial and that such inflexibility had caused Husband to miss several opportunities to parent the Child. However, upon our review of the emails referenced by Wife regarding Husband's FaceTime visits with the Child, we note that Wife appears to have been at least as inflexible regarding scheduling the FaceTime visits as Husband had been, with Wife often asking for Husband to call at a different time or for a shorter duration due to her own work schedule or other responsibilities.

Finally, Wife contests the trial court's analysis of factor fifteen, which considers "any other factors deemed relevant by the court." The trial court found:

> The child in this case is going on four (4) years of age. This is a critical time for the child to learn about the world around her and her place within it. In that capacity, the Court would remind the parties that the innocence of a child can be quickly taken from her when she is subjected to vitriol/disdain between and amongst the two most important people in her life. Though noted above, the Court finds it relevant and important to remind the parties that both testified, under oath, to their willingness to work together for the well-being of their child.

Upon review, we note that the trial court did not weigh this factor in favor of either party but used this factor as an opportunity to instruct the parents to "work together" for the Child's well-being. Wife asserts that this constitutes error on the part of the trial court. Wife presents the same arguments she raised in relation to other factors, namely Husband's lack of truthfulness in communicating with Wife, Husband's failure to comply with court orders regarding supervised parenting time, Husband's unwillingness to cooperate with Wife regarding co-parenting the Child, and Wife's comparative willingness to work with Husband toward the best interest of the Child. For the same reasons relative to other factors above, we decline to overturn the trial court's determination as to factor fifteen.

After the trial court reviewed each of the factors in § 36-6-106(a) and noted that they weighed slightly in favor of Wife, the court concluded that it would be in the Child's best interest to spend time with both parents. The court deemed Wife to be the primary residential parent but granted more co-parenting time to Husband than he had previously enjoyed, setting forth the rotating co-parenting schedule. The trial court established a co-parenting schedule as follows:

> [I]n order to best promote the child's best interests, the Court finds that, as best as practicable, the parties shall operate on a two (2) week to one (1) week schedule: the child shall reside with [Wife] for two consecutive weeks, then stay with [Husband] for one week, back to [Wife] for two consecutive weeks, and so on. As the Court sees it, Friday afternoons at 6:00 pm CT, unless otherwise agreed on by the parties, seems to be the best time for both parties to retrieve their child for his or her designated time.

To the extent that Wife argues that adoption of this schedule is not in the Child's best interest because it "effectively ensures that future disagreements will arise at each educational transition point," the trial court noted that the Child was only "going on four (4) years of age" at the time, such that the matter of formal education was not yet at issue. We reiterate that it is "not the function of appellate courts to tweak a [residential parenting schedule] in the hopes of achieving a more reasonable result than the trial court." *Brunetz*, 573 S.W.3d at 178-79 (quoting *Eldridge v. Eldridge*, 42 S.W.3d 82, 88 (Tenn. 2001)). We

therefore affirm the residential co-parenting schedule as set forth by the trial court in the PPP as supporting the best interest of the Child.[2]

VI. Child Support and Determination of Monthly Income

Wife contends that the trial court abused its discretion in calculating Husband's child support obligation by "disregarding record evidence establishing [Husband's] income and relying on [Husband's] unreliable, self-report income." This Court has described the proper standard of review for child support determinations as follows:

> Because setting child support is a discretionary matter, "we review child support decisions using the deferential 'abuse of discretion' standard of review." *State ex rel. Vaughn*[*v. Kaatrude*], 21 S.W.3d [244,] 248 [Tenn. Ct. App. 2000)]. "This standard requires us to consider (1) whether the decision has a sufficient evidentiary foundation, (2) whether the court correctly identified and properly applied the appropriate legal principles, and (3) whether the decision is within the range of acceptable alternatives." *Id.* (citing *BIF v. Service Constr. Co.*, No. 87-136-II, 1988 WL 72409, at *2 (Tenn. Ct. App. July 13, 1988)). We "will set aside a discretionary decision if it rests on an inadequate evidentiary foundation or if it is contrary to the governing law," but "we will not substitute our judgment for that of the trial court merely because we might have chosen another alternative." *Id.*

Smallman v. Smallman, 689 S.W.3d 845, 868 (Tenn. Ct. App. 2023).

Here, the trial court found:

> As noted within Tenn. Code Ann. § 36-5-101(a)(1), within this divorce action, "the court may make an order and decree for the suitable support and maintenance of the children by either spouse." The specific amount that a parent pays pursuant to such an order is "based on an Income Shares Model, which 'presumes that both parents contribute to the financial support of the child in pro rata proportion to the actual income available to each parent.'" *Johnson v. Johnson*, No. M2008-00236-COA-R3-CV, [],

[2] With reference to Mother's stated issue of whether the PPP was in the best interest of the Child, Mother additionally contends that the trial court improperly included verses from the Bible in its factual findings, that the court improperly relied upon Tennessee Code Annotated § 49-6-3001(c) in making its residential co-parenting determination, and that the court improperly delegated its judicial authority to the clerk and master for the purpose of resolving future conflicts between the parties. However, Mother does not raise these collateral points as separate issues on appeal and they are therefore waived. *See Hodge v. Craig*, 382 S.W.3d 325, 335 (Tenn. 2012) ("[A]n issue may be deemed waived when it is argued in the brief but is not designated as an issue in accordance with Tenn. R. App. P. 27(a)(4).").

2009 WL 890893, at *3 (Tenn. Ct. App. Apr. 2, 2009) (quoting Tenn. Comp. R. & Regs. 1240-2-4-.03(1)(a)).

> When applying the provided incomes and time spent with each parent, the Court finds that [Husband] shall pay [Wife] $356 per month for child support, *based on the parties' income at the time of trial*. For [Wife's] income, the Court primarily utilized [Wife's most recent paycheck] for August 01-31, 2024. For [Husband's] income, the Court utilized his listed income within his Proposed Parenting Plan[.] Though [Wife] attempted to elicit testimony and evidence surrounding [Husband's] listed income being, allegedly, lower than it should be, the Court was not swayed by these attempts. Within this calculation, [Wife] receives credit for her maintenance of the child's health insurance, as shown by Stipulation 12 above, but neither party received credit for childcare expenses as each testified to being responsible for his or her own during his or her custodial time with the child.

(Internal citations to the record omitted.)[3]

In the PPP, the trial court entered Husband's "gross monthly income" as $3,321.17 and Wife's as $5,255.82. Wife does not dispute the trial court's determination of her own monthly income but asserts that the trial court erred by simply accepting Husband's self-reported monthly income, a figure that Wife contends was much lower than Husband's actual income. According to Wife, Husband did not provide any reliable evidence of his income during the pendency of the litigation, causing Wife to hire Shannon Farr, CPA, to determine Husband's income for the purpose of calculating Husband's child support obligation. Ms. Farr was certified as an expert witness during trial and produced a report estimating Husband's annual income for 2023 to be $84,000.00. Ms. Farr opined in the report and during her testimony that the discrepancy between this number and Husband's self-reported annual income of "$33,220.00" "suggest[ed] the possibility of undisclosed income." Husband, in turn, called as a witness Susan M. Johnson, a CPA who had completed tax returns for Husband's business, Chattanooga Holistic Medicine ("CHM"), and who had estimated Husband's share of CHM's business income in 2023 to be $41,909.00.

The trial court found both Ms. Farr and Ms. Johnson to be credible witnesses and certified both as experts to testify within the scope of their fields. The court also noted similarities in their respective testimonies regarding Husband's accounting practices. Evaluating Ms. Farr's testimony, the trial court determined:

[3] The trial court adjusted the number of days that Wife and Husband would each spend with the Child and accordingly re-calculated Husband's child support obligation and determined it to be $272.00 per month.

> Ms. Shannon Farr is a C.P.A. who was hired by [Wife] to determine [Husband's] income and, thereby, assist in the determination of child support. Allegedly, this trial was continued on one or more occasions due to certain challenges faced by Ms. Farr in determining [Husband's] income. The Court found her testimony persuasive to the extent it identified that [Husband's] business records/accounting practices were less than ideal. For example, she identified the business as having an electronic "calendaring system" rather than an electronic bookkeeping/accounting system. As a result, she opined that [Husband] and/or his business would be obligated to amend one or more tax returns to accurately reflect certain deductions. As noted below, [Husband's] bookkeeper, Ms. Johnson, agreed. In addition, her assertions that [Husband] slow-walked his document production were similarly persuasive. However, and ultimately, it became apparent that [Husband] did not have substantial, unreported income in the form of cash, credit cards, Venmo or other sources that would significantly alter the calculation of his income. As a result, Ms. Farr's testimony, although credible, did not significantly reveal a significant variance between what [Husband] claimed to be his income versus his actual income for child support calculation purposes.

Concerning Ms. Johnson's testimony, the trial court found:

> Ms. Susan Johnson is a C.P.A. of over twenty-three (23) years working with the firm of Wilkins, Cruise and Associates. She was called by [Husband] on the issue of [Husband's] income. Her testimony was reasonably persuasive and her opinion of [Husband's] income did not reveal or support an inference that he was hiding or failing to report considerable income. Her testimony was not considerably different than that provided by Ms. Farr. As acknowledged by Ms. Johnson, a C.P.A. has to rely, to a degree, upon the information provided by one's client. She did so and will, as a result, be amending certain returns on behalf of [Husband] and/or Chattanooga Holistic Medicine, L.L.C.

After considering the testimony of both Ms. Farr and Ms. Johnson, the trial court determined that neither had presented testimony sufficient to convince the court that Husband had substantial unreported income such that his actual income in 2023 would be significantly different from his reported income in 2023. Accordingly, the trial court accepted Husband's self-reported monthly income of $3,321.17 for the purpose of calculating Husband's child support obligation.

Upon thorough review of the testimony and reports of Ms. Farr and Ms. Johnson, as well as the trial court's Memorandum Opinion, final order, PPP, and the exhibits presented at trial, we conclude that the trial court's assignment of monthly income to each

party for the purpose of calculating child support was sufficiently supported by the evidence and fell within the range of acceptable outcomes. *See Smallman*, 689 S.W.3d at 868. We therefore conclude that the trial court did not abuse its discretion in determining Husband's self-reported monthly income of $3,321.17 as proper for the purpose of calculating child support.

VII. Work Related Child-Care Expenses

Wife advances the position that the trial court erred by failing to credit either party with work-related childcare expenses in its calculation of child support. The parties' stipulations, as incorporated into the trial court's Memorandum Opinion, included the following regarding childcare expenses:

> Wife's work-related childcare expenses per month:
>
> a. 2022 & 2023 - $559
> b. 2024 - $575 (January – June)
> $609 (July – December)

The stipulations did not include a monthly childcare expense for Husband. On the child support worksheet, which was entered with the PPP, the trial court left the "work-related childcare" section under "additional expenses" blank for each parent. The trial court explained this decision in its Memorandum Opinion:

> Within [the child support] calculation, [Wife] receives credit for her maintenance of the child's health insurance . . . but neither party received credit for childcare expenses as each testified to being responsible for his or her own during his or her custodial time with the child.

Wife argues that the trial court's reasoning was flawed and that the decision not to afford either party credit for childcare expenses was "inconsistent with the evidence and with the Tennessee Child Support Guidelines." We agree.

The section of the Tennessee Child Support Guidelines ("the Guidelines") concerning calculation of child support awards includes a subsection entitled, "Adjustments for Additional Expenses." *See* Tenn. Comp. R. & Regs. 1240-02-04-.04(8). The provisions in this subsection offer instructions for adjusting the child support award based on the inclusion of additional expenses such as health insurance premiums and work-related childcare costs. This subsection expressly states that "additional expenses for the child's health/dental insurance premium, recurring uninsured medical expenses, and work-related childcare shall be included in the calculations to determine child support." *See* Tenn. Comp. R. & Regs. 1240-02-04-.04(8)(a)(1). "Childcare expenses necessary for either parent's employment . . . shall be averaged for a monthly amount and entered on the

[Child Support] Worksheet in the column of the parent initially paying the expense." *See* Tenn. Comp. R. & Regs. 1240-02-04-.04(8)(c).

Pursuant to the Guidelines, the trial court was required to assign credit to each parent for work-related childcare in its calculation of child support. *See* Tenn. Comp. R. & Regs. 1240-02-04-.04(8)(a)(1). Therefore, the trial court erred by failing to include an amount for work-related childcare for each parent on the child support worksheet. *See Smallman*, 689 S.W.3d at 868 ("We will set aside a discretionary decision if it rests on an inadequate evidentiary foundation or if it is contrary to the governing law[.]") (internal quotation marks omitted). For these reasons, we vacate the trial court's child support determination and remand for the trial court to recalculate child support upon determination and entry of each parent's work-related childcare expenses on the child support worksheet as contemplated by the Guidelines.

VIII. Child Support Arrearage

Wife also asserts that the trial court erred in setting Husband's child support arrearage obligation at $12,500.00 because the trial court "did not explain" how that amount was determined. At trial, the parties agreed that Husband maintained a retroactive child support arrearage obligation but disagreed as to the amount owed and the timeframe to use for calculating the arrearage. On appeal, Wife contends that Husband "should owe over $24,000 in child support arrears." In its Memorandum Opinion, the trial court addressed the issue as follows:

> [B]oth parties agree there is an arrearage of child support to be paid by [Husband]. In this vein, the parties disagree on both what this amount should be and what specific payments/timeline should be the focal point of such an analysis. [Husband] testified to there being an arrearage of, approximately, $10,000, stemming from missed payments between April 2022 and January 2023. On the other hand, [Wife] seeks an arrearage stemming from March 2022 to March 2025, though little evidence was produced regarding a specific number being sought. Likely, [Wife's] calculation would be much higher than [Husband's]. In looking at the testimony provided by both parties, the Court understands that, prior to the implementation of its June 2023 Order, [Husband] did not provide consistent child support payments, if at all. Even after this Order, however, [Husband] routinely was late on payments. When looking at the numbers provided by the parties during these distinctive time periods, the Court finds that an arrearage amount of $12,500, from [Husband] to [Wife], adequately represents the missed payments over the course of this litigation, whilst still giving credit to [Husband] for those he made.

The Guidelines provide the following detailed instructions for calculating retroactive child support:

> The retroactive support amount shall be calculated as follows, using the Guidelines in effect at the time of the hearing on retroactive support:
>
> (a) For the monthly [basic child support obligation], apply the Guidelines in effect at the time of the order, using the Child Support Worksheet. Use the average monthly income of both parents over the past two (2) years as the amount to be entered for "monthly gross income," unless the tribunal finds that there is adequate evidence to support a different period of time for use in the calculation and makes such a finding in its order. Do not include any current additional expenses on the retroactive worksheet. Complete the worksheet for the retroactive monthly amount, and multiply the amount shown on the worksheet as the "Final Child Support Order" times the number of months the tribunal has determined to be the appropriate period for retroactive support.
>
> (b) An additional amount may be added onto the judgment for retroactive support calculated above in subparagraph (a) to account for the [alternate residential parent's] share of amounts paid by the primary residential parent for childcare, the child's health insurance premium, and uninsured medical expenses over the retroactive period under consideration, and other expenses allowed under Tennessee Code Annotated § 36-2-311.
>
> (c) Add the total amount from subparagraph (a) above to the amount from subparagraph (b) for the total retroactive support due. The retroactive support amount as calculated in subparagraphs (a) and (b) above is presumed to be correct unless rebutted by either party.

Tenn. Comp. R. & Regs. 1240-02-04-.06.

Upon review of the trial court's Memorandum Opinion, Final Order, and PPP, we are unable to discern how the trial court calculated and arrived at the $12,500.00 amount for Husband's child support arrearage obligation. Thus, we are unable to determine whether the trial court complied with the required calculations within the Guidelines concerning retroactive child support. *See id*. Therefore, we vacate the trial court's determination of Husband's child support arrearage and remand the matter to the trial court

for entry of an order containing sufficient findings of fact to support its calculation of Husband's retroactive child support obligation.

IX. Equitable Division of Marital Property

Wife posits that the trial court "abused its discretion" and "failed to achieve an equitable distribution" of the parties' marital property because the court was "silent as to whether it considered any of the applicable factors [set forth in Tennessee Code Annotated § 36-5-121(c)] governing the equitable division of material assets." Wife narrowly focuses her argument on the trial court's division of the proceeds from the sale of the Marital Residence, which Wife characterizes as the parties' "most significant asset." However, we cannot review the distribution of the proceeds from the Marital Residence in isolation. As this Court has explained:

> When a divorcing party appeals a trial court's decision concerning the division of marital property but "'wishes to focus on whether the division as to particular assets was equitable rather than whether the overall property distribution was equitable,'" this Court must avoid such a narrow focus and keep in mind that "'the goal is an overall equitable marital property distribution.'" *Brown v. Brown*, No. E2017-01629-COA-R3-CV, 2018 WL 5307092, at *8 (Tenn. Ct. App. Oct. 25, 2018). "A trial court is charged not with making an equitable division of each separate marital asset but rather with making an equitable division of the entire marital estate." *Givens v. Givens*, No. E2016-00865-COA-R3-CV, 2017 WL 4339489, at *8 (Tenn. Ct. App. Sept. 29, 2017).

Tarver v. Tarver, No. W2017-01556-COA-R3-CV, 2019 WL 1200274, at *13-14 (Tenn. Ct. App. Mar. 13, 2019). Moreover, the "Rules of this Court 'set out specific requirements for the contents of a brief in a domestic relations case in which a party challenges a trial court's disposition of marital property.'" *See id*. (quoting *Ingram v. Ingram*, No. W2017-00640-COA-R3-CV, 2018 WL 2749633, at *11 (Tenn. Ct. App. June 7, 2018)) (additional internal quotation marks omitted).

Significantly, the appellant has not presented this Court with a table that complies with Court of Appeals Rule 7 to facilitate our review. Rule 7 requires that a brief that raises an issue regarding classification or division of marital property contain a tabulation of the parties' property and debts with values assigned by each party and the trial court, including citations to the record identifying where such information may be found. *See* Tenn. Ct. App. R. 7. This Court has found that failure to comply with Rule 7 may result in waiver of the issue on appeal:

> "'[W]here an appellant fails to comply with [Rule 7], that appellant waives all such issues relating to the rule's requirements.'" *Slaughter v. Slaughter*,

> No. W2007-01488-COA-R3-CV, 2008 WL 1970491, at *2 (Tenn. Ct. App. May 8, 2008). "This Court is under no duty to search a trial court record in order to discern the valuation of the couple's property." *Slaughter*, 2008 WL 1970491 at *2 (citations omitted). This Court has previously found issues involving the valuation and division of property waived for failure to comply with Rule 7. *See e.g. Slaughter v. Slaughter*, No. W2007-01488-COA-R3-CV, 2008 WL 1970491 (Tenn. Ct. App. May 8, 2008); *Bean v. Bean*, 40 S.W.3d 52 (Tenn. Ct. App. 2000); *Durant v. Durant*, No. M2001-00691-COA-R3-CV, 2002 WL 772923 (Tenn. Ct. App. April 30, 2002).
>
> Valuation and division of property are perhaps two of the most complicated decisions a trial court must make in a divorce proceeding. Often when these issues are appealed, the record consists of volumes of trial transcripts and exhibits. Therefore, it is essential that the parties comply with Rule 7 in order to aid this Court in reviewing the trial court's decision. The table required by Rule 7, allows this Court to easily and correctly determine the valuation and distribution of the marital estate as ordered by the trial court. Further, the Rule 7 table, allows this Court to ascertain the contentions of each party as to the correct valuations and proper distribution, as well as the evidence in the record which the party believes supports its contention. Consequently, a table, in full compliance with Rule 7, is vital as this Court must consider the *entire* distribution of property in order to determine whether the trial court erred. *Watters v. Watters*, 959 S.W.2d 585, 591 (Tenn. Ct. App. 1997). Moreover, this Court is under no duty to minutely search the record for evidence that the trial court's valuations may be incorrect or that the distribution may be improper. *Slaughter*, 2008 WL 1970491 at *2 (citations omitted).

Harden v. Harden, No. M2009-01302-COA-R3-CV, 2010 WL 2612688, at *8 (Tenn. Ct. App. June 30, 2010) (internal citations omitted).

Here, although Wife's brief contains a single-row table containing valuations for the Marital Residence with citations to the record, she provides no such tabulation for any of the other items of marital property. Accordingly, Wife's brief does not comply with Court of Appeals Rule 7 and she has therefore waived any issue regarding the trial court's equitable division of the parties' marital property. *See Harden*, 2010 WL 2612688, at *8.

X. Attorney's Fees

Wife urges that because the parties had stipulated that attorney's fees and court costs would be reserved for determination by the trial court, the trial court erred by failing to award Wife her attorney's fees and court costs. Additionally, Wife contends that she is entitled to attorney's fees pursuant to Tennessee Code Annotated § 36-7-103, a subsection

of Tennessee's "Uniform Deployed Parents Custody and Visitation Act" which authorizes a trial court to assess reasonable attorney's fees and costs against a party if the court finds that that party "has acted in bad faith or intentionally failed to comply" with the Act. Because neither parent presented proof that they had been deployed as military personnel, this statute is inapplicable to the instant action.

The relevant statute concerning an award of attorney's fees is Tennessee Code Annotated § 36-5-103(c) (West July 1, 2021, to current), which provides:

> A prevailing party may recover reasonable attorney's fees, which may be fixed and allowed in the court's discretion, from the nonprevailing party in any criminal or civil contempt action or other proceeding to enforce, alter, change, or modify any decree of alimony, child support, or provision of a permanent parenting plan order, or in any suit or action concerning the adjudication of the custody or change of custody of any children, both upon the original divorce hearing and at any subsequent hearing.

The trial court declined to award attorney's fees to either party, reasoning that "both parties have a similar need for support and [] ability to pay" and that both had also received disbursement from the sale proceeds of the Marital Residence and "assistance" from family members for the payment of fees and costs.

"Tennessee courts long have recognized that the decision to grant attorney's fees under section 36-5-103(c) is largely within the discretion of the trial court and that, absent an abuse of discretion, appellate courts will not interfere with the trial court's finding." *Eberbach v. Eberbach*, 535 S.W.3d 467, 475 (Tenn. 2017) (citing *Keyt*, 244 S.W.3d at 334). Upon careful review, we conclude that the trial court did not abuse its discretion in declining to award either party attorney's fees pursuant to § 36-5-103(c).

XI. Attorney's Fees on Appeal

In her "Statement of the Issues," Wife requests an award of attorney's fees incurred on appeal. However, Wife does not include in her brief any argument explaining why she should be entitled to such fees and does not cite to any legal authority in support of the request. Accordingly, Wife has waived this issue, and we decline to consider her request. *See* Tenn. R. App. P. 27(7); *Wheeler v. Wheeler*, No. M2019-01016-COA-R3-CV, 2020 WL 2893435, at *6 (Tenn. Ct. App. June 3, 2020) ("When a brief fails to include an argument satisfying Tennessee Rule of Appellate Procedure 27(a)(7) . . . the issue may be waived."); *see, e.g.*, *K.A.G. v. B.L.I.*, No. M2008-02484-COA-R3-JV, 2009 WL 4175861, at *2 (Tenn. Ct. App. Nov. 25, 2009) (citing *Hawkins v. Hart*, 86 S.W.3d 522, 531 (Tenn. Ct. App. 2001)).

We note that Husband has stated as a separate issue, "whether either party is entitled to an award of attorney's fees incurred during this appeal." In support, Husband includes a brief paragraph stating that "the income similarities between the parties make an award of attorney's fees on appeal not appropriate." Nevertheless, Husband requests that to the extent he prevails on appeal, he be awarded "a portion of his attorney's fees and all of the costs incurred." Exercising our discretion, we decline to award Husband his attorney's fees incurred on appeal. *See* Tenn. Code Ann. § 36-5-103(c).

XII. Conclusion

For the above-stated reasons, we vacate the trial court's determinations respecting Husband's monthly child support and child support arrearage obligations and remand those matters to the trial court with instructions to employ the Guidelines in calculating those amounts. In all other respects, we affirm the judgment of the trial court, including the trial court's grant of a final decree of divorce. We remand also for collection of costs below. Wife's request for attorney's fees on appeal is denied. Costs of this appeal are taxed one-half to the appellant, Sarah Renee McIntyre, and one-half to the appellee, Blake Anthony Storey.

s/Thomas R. Frierson, II

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THOMAS R. FRIERSON, II, JUDGE