

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2008-CA-000829-MR

RANDALL D. LAWSON

APPELLANT

v. APPEAL FROM LAWRENCE CIRCUIT COURT  
HONORABLE JANIE MCKENZIE-WELLS, JUDGE  
ACTION NO. 06-CI-00323

DEBBIE COMPTON LAWSON

APPELLEE

OPINION  
AFFIRMING

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BEFORE: COMBS, CHIEF JUDGE; VANMETER, JUDGE; LAMBERT,<sup>1</sup>  
SENIOR JUDGE.

VANMETER, JUDGE: Randall D. Lawson appeals from an order entered by the  
Lawrence Circuit Court in a dissolution proceeding. For the reasons stated  
hereafter, we affirm.

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<sup>1</sup> Senior Judge Joseph E. Lambert sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

Randall and Debbie Compton Lawson married in 1990 and separated in 2006. No children were born to the marriage. According to the record, at the time of the marriage Randall owned no property but Debbie owned several acres, a mobile home, and vehicles. The parties agreed that proceeds from the sale of Debbie's nonmarital property, plus her \$40,000 inheritance, were invested in the marital residence. At some point Debbie quit her job and the parties sold their property so they could travel to the various locations of Randall's employment as a boilermaker. The \$7,000 equity payout from the sale of the marital residence was invested in a work truck and a recreational vehicle (RV) which thereafter served as the parties' residence.

Although the parties disagreed as to whether they separated in September or November 2006, the record shows Debbie filed a petition for dissolution on September 26, 2006. As she was unemployed at the time of the separation, Debbie was awarded \$200 per week as temporary maintenance.

After a hearing, the court entered a series of three orders which, viewed as a whole, found that Debbie's gross income was approximately \$1,480 per month, while Randall's was \$86,619 per year. Based on the September 2006 filing of the petition for dissolution, the court found that the parties "more likely" separated in September rather than November, "with a possible attempted reconciliation."

The court rejected Randall's claim that a \$137,000 home equity loan obtained by his mother constituted a marital debt, as Randall produced no written

documentation to support his claim that the funds subsequently were loaned to both parties or that the funds' expenditure created a marital debt rather than constituting a gift. The court awarded Debbie \$7,250, representing one-half of the equity in the truck and the RV, plus one vehicle and one-half of Randall's pension benefits. Randall was awarded the truck and the RV, as well as the debt associated with each. Credit card debts were apportioned between the parties. Finally, the court awarded Debbie maintenance in the amount of \$200 per week for three years from the September 2006 date of separation. This appeal followed.

First, Randall contends the trial court erred by finding that his mother's \$137,000 home equity loan did not create a marital debt. We disagree.

The videotape of the hearing shows that the parties, as well as Randall's mother and sister, testified regarding the home equity loan which Randall's mother allegedly obtained for the purpose of paying the parties' various debts. However, neither Randall nor Debbie signed or was named on any paperwork related to the loan, including any promises to repay Randall's mother for the amounts borrowed. Moreover, the loan proceeds were deposited into a bank account which apparently was within the exclusive control of Randall's sister. Although at some point Debbie evidently provided Randall's sister with payment books relating to the parties' debts, she denied knowing of the loan or benefitting from its proceeds. Finally, neither party listed the loan when completing the circuit court's financial disclosure statements which requested a listing of all debts.

The trial court concluded that although Randall's mother borrowed the money and allegedly permitted its use to pay certain marital debts of the parties, Randall produced

no written documentation that such monies were in the form of a subsequent loan to [Debbie and Randall] which would constitute a marital debt to be repaid by them. Further, [Randall's] sister set up an account and allocated the funds in her discretion for payment of debts herein and items for her mother. This could only be construed as a gift to her family.

Given the absence of probative evidence to show that the use of the loan proceeds created a debt rather than a gift to the parties, the trial court did not clearly err by failing to find the existence of a marital debt which was subject to apportionment or which the parties were obligated to repay. CR<sup>2</sup> 52.01.

Next, Randall contends that Debbie failed to specifically trace the proceeds of nonmarital property into other property, and that the trial court therefore erred by assigning nonmarital property to her. We find no error.

Randall admitted that Debbie inherited \$40,000 during the marriage, that she sold certain other nonmarital property for \$15,000, and that the proceeds were invested in a marital residence. The subsequent sale of the residence yielded equity proceeds of only \$7,000. Evidently those equity proceeds were applied toward the purchase of the truck and the RV.

The trial court initially found Debbie was entitled to the restoration of nonmarital property including the real property and a portion of the inherited

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<sup>2</sup> Kentucky Rules of Civil Procedure.

funds. However, in April 2008 the court amended its first order, agreeing with Randall that because they no longer existed,

the real property and mobile home cannot be restored as non-marital property. However, the Court finds that as the RV and work truck were awarded to [Randall] herein, [Debbie] remains entitled to her one-half (1/2) interest therein. She testified that she owned three (3) acres of real property and a mobile home at the time of the marriage. These were sold to buy the marital residence which was subsequently sold to buy the work truck and RV which were both awarded to [Randall] herein. The court therefore AMENDS its previous ORDER and JUDGMENT, Paragraphs “1” and “2,” to award [Debbie] her interest in the equity in the RV and truck which was awarded to [Randall] herein **instead of restoring any non-marital property used for the purchase thereof.**

(Emphasis added.) The value of Debbie’s marital interest in the truck and the RV subsequently was determined to be \$7,250, and Randall was directed to pay Debbie that amount.

Randall argues the trial court erroneously assigned \$7,250 to Debbie as nonmarital property. However, the court’s April 2008 order clearly vacated the original assignment of nonmarital property to Debbie, stating that it “instead” was awarding her \$7,250 as a one-half share of the equity in the truck and RV. Even though the court noted that the nonmarital property had been sold to buy the marital residence, which subsequently was sold to buy the work truck and the RV, the court did not award and the parties did not challenge its prior finding that the truck and the RV constituted marital property. Given that the truck and the RV were the primary items of marital property described in the record, the court did

not err by awarding Debbie one-half of their value as a division of marital property.

Finally, Randall asserts the trial court erred by concluding that Debbie was entitled to an award of maintenance. We disagree.

Evidence was adduced to show that Randall had a 2006 adjusted gross income of \$86,619 and monthly expenses of \$6,149.66, excluding maintenance. Debbie, by contrast, had a gross income of approximately \$1,480 per month, monthly expenses of \$1,762, and little property besides the \$7,250 awarded as marital property. In its April 2008 order, the trial court specifically found that Debbie lacked sufficient property to meet her reasonable needs and was unable to support herself through appropriate employment. *See* KRS 403.200(1). After considering the factors set out in KRS 403.200(2), the court awarded maintenance of \$200 per week for three years from the September 2006 date of separation. Given the evidence, the trial court neither erred by determining that Debbie was entitled to an award of maintenance, nor abused its discretion when setting the amount and duration of the award.

The Lawrence Circuit Court's order is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Roger W. Hall  
Ashland, Kentucky

BRIEF FOR APPELLEE:

Leo A. Marcum  
Lowmansville, Kentucky