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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Marriage of:

JODI WULF, *Petitioner/Appellee*,

v.

RONALD WULF, *Respondent/Appellant*.

No. 1 CA-CV 16-0525 FC
FILED 11-21-2017

Appeal from the Superior Court in Maricopa County
No. FC2014-004365
The Honorable Suzanne E. Cohen, Judge

AFFIRMED

COUNSEL

Viles Law Office, LLC, Phoenix
By James E. Viles
Counsel for Respondent/Appellant

Judi Wulf, Phoenix
In Propria Persona

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MEMORANDUM DECISION

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Kenton D. Jones and Chief Judge Samuel A. Thumma joined.

T H O M P S O N, Judge:

¶1 Appellant Ronald Wulf (Father) challenges several aspects of the family court’s decree dissolving the parties’ marriage and granting Mother primary decision-making authority for their minor child. We affirm for the reasons set forth below.

FACTUAL AND PROCEDURAL BACKGROUND

¶2 Mother petitioned for dissolution of the parties’ marriage in 2014. The parties have one minor child. Mother sought “an equitable order in the child’s best interests” regarding legal decision-making, spousal maintenance, and child support. Mother also alleged that Father had excluded her from the family finances, which he ran through his company Wulf Urethane, Inc., and was unwilling to disclose any financial information. Mother further alleged that Father was attempting to “hide and dissipate assets” and was “conducting increased cash jobs for his company in order to evade detection and to avoid reporting the earned income in this proceeding.”

¶3 The family court entered temporary orders granting the parties equal parenting time and awarding Mother \$1,500 in monthly spousal maintenance. The matter then proceeded to a bench trial, where Mother presented testimony from a forensic accountant who estimated Father’s average annual income to be \$120,000. Father testified, however, that his annual income was closer to \$60,000. Father also testified that Wulf Urethane was winding down its operations and presented testimony from a court-appointed neutral business evaluator suggesting that the company was only worth approximately \$33,000. Father also testified that Mother had taken \$14,000 in cash and several gold coins from the family home. Father also requested final decision-making authority for the child, while Mother requested “primary parenting time.”

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¶4 The family court entered its decree dissolving the marriage and granting the parties joint legal decision-making authority, with Mother retaining final decision-making authority. The court ordered Father to pay monthly child support of \$731.74 and monthly spousal maintenance of \$1,500 for two years. The court also ordered an equal division of community property, finding no credible evidence that Mother had taken either cash or gold coins as Father alleged.

¶5 The family court also awarded attorney fees to Mother under Arizona Revised Statutes (A.R.S.) § 25-324(A), finding “a substantial disparity of financial resources between the parties” and that Father had acted unreasonably in the litigation by failing to produce “all of the documents needed for [Mother’s] expert to do a complete analysis” and by testifying that he had closed Wulf Urethane, which the court found to be not credible. The court also found that Mother had acted unreasonably by “fil[ing] an unreasonable amount of petitions and motions . . . many of which were denied.”

¶6 Mother moved for a new trial and for relief from the judgment pursuant to Arizona Rules of Family Law Procedure 83(A)(6), 84, and 85(C), which the family court denied. Father then timely appealed.¹ We have jurisdiction pursuant to A.R.S. § 12-2101(A)(1).

DISCUSSION

I. Did Mother request final decision-making authority?

¶7 Father first contends Mother never requested final decision-making authority before trial. We disagree. Mother requested “primary legal decision-making” authority and stated that she would contest “legal decision-making concerning the minor child” in each of her pretrial statements. Father also identified legal decision-making authority as a “contested issue” to be litigated. Father’s counsel also specifically cross-examined Mother regarding final decision-making authority at trial. We therefore reject Father’s contention. *See* Ariz. R. Fam. Law P. 34(B) (“When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.”).

¹ Father also moved for reconsideration after filing his notice of appeal. The court denied Father’s motion because it no longer had jurisdiction over the matter.

II. Did the family court make sufficient findings to support granting Mother final decision-making authority?

¶8 The family court must determine legal decision-making authority in accordance with the child’s best interests. A.R.S. § 25-403(A). The court must make specific findings regarding all relevant factors and the reasons its decision is in the best interests of the child. *Hart v. Hart*, 220 Ariz. 183, 185–86, ¶ 9, 204 P.3d 441, 443–44 (App. 2009); A.R.S. § 25-403(B). Here, the court’s ruling reflects its consideration of the § 25-403(A) factors; we therefore review its findings for an abuse of discretion. *Nold v. Nold*, 232 Ariz. 270, 273, ¶ 11, 304 P.3d 1093, 1096 (App. 2013).

¶9 Father contends Mother did not present sufficient evidence to show she should have final decision-making authority. Father also contends the only support for the court’s decision was its finding that the parties were in “high conflict.” Father seemingly overlooks several other findings, including (1) Father’s travel schedule made it difficult to maintain an equal parenting time schedule; (2) Mother was close to Father’s grandchildren, who are close to the child’s age and live in the same area as Mother; and (3) the child was “struggling” and was in counseling. Father does not challenge any of these findings on appeal, and they are supported by the record.

¶10 Father also contends the family court disregarded his testimony accusing Mother of placing the child in her preferred school against his wishes. The record clearly reflects that the court authorized Mother to enroll the child in that school through an earlier order. Mother also testified that she wrote Father regarding school choices and the benefits of the child attending her preferred school. Mother having acted in an entirely consistent manner with a prior court order does not create a basis upon which to argue she should not have been granted final legal decision-making.

III. Did the family court abuse its discretion by attributing \$120,000 annual income to Father?

¶11 Father next contends the family court erred in attributing \$120,000 annual income to him in the course of making its child support calculation. Generally, we review a child support award for an abuse of discretion. *Engel v. Landman*, 221 Ariz. 504, 510, ¶ 21, 212 P.3d 842, 848 (App. 2009). We will accept the family court’s findings of fact unless they are clearly erroneous but will draw our own legal conclusions from facts found or implied in the judgment. *Id.*

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¶12 Father contends the family court improperly relied upon “guess or conjecture” from Mother’s forensic accountant in determining his annual income. But the court found Father had failed to fully disclose relevant Wulf Urethane financial information and Mother’s expert’s opinions were, by necessity, based upon the limited records Father provided. Mother’s expert also testified he could not confirm Father’s testimony that he was paid \$5,000 per month.

¶13 Father next cites the court-appointed neutral business evaluator’s valuation of Wulf Urethane as evidence that Mother’s expert overstated his annual income. But Mother’s expert directly challenged that valuation, testifying that it was inaccurate because it was based upon the book value of company assets as opposed to their fair market value. Mother’s expert also testified that he reviewed checks that indicated Wulf Urethane continued to conduct business despite Father’s testimony to the contrary.

¶14 The family court has broad discretion to resolve conflicts in the testimony. *See Hurd v. Hurd*, 223 Ariz. 48, 52, ¶ 16, 219 P.3d 258, 262 (App. 2009) (“Our duty on review does not include re-weighing conflicting evidence or redetermining the preponderance of the evidence.”). It did not abuse that discretion in accepting Mother’s expert’s opinions on these issues.

IV. Did the family court err by declining to grant Father reimbursement for Mother’s alleged conversion of community property?

¶15 Father next contends the family court erred by declining to award him an equalization payment based upon \$14,000 in cash and approximately \$5,000 in gold coins he claims Mother took from the marital community’s residence. Father cites Mother’s testimony that she often found cash in the community residence, but Mother also testified that she always returned what she found to Father. Father also contends Mother never denied taking the gold coins, but the transcript suggests otherwise. The court found Father was not credible on these issues, and we defer to the court’s credibility determinations. *Gutierrez v. Gutierrez*, 193 Ariz. 343, 347, ¶ 13, 972 P.2d 676, 680 (App. 1998).

¶16 Father next contends the family court should have granted him an equalization payment based on \$8,925 of rent payments he says Mother received. The court instead found Father had received \$11,000 in rent payments, and there is support in the record for such a finding. We

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therefore will not disturb it. *Vincent v. Nelson*, 238 Ariz. 150, 155, ¶ 18, 357 P.3d 834, 839 (App. 2015).

V. Did the family court abuse its discretion by awarding attorney fees to Mother?

¶17 Father also challenges the family court’s decision to award Mother attorney fees pursuant to § 25-324(A), under which the court must consider the parties’ financial resources and the reasonableness of their positions throughout the proceedings. *Keefer v. Keefer*, 225 Ariz. 437, 441, ¶ 16, 239 P.3d 756, 760 (App. 2010). We review the fee award for an abuse of discretion. *MacMillan v. Schwartz*, 226 Ariz. 584, 592, ¶ 36, 250 P.3d 1213, 1221 (App. 2011).

¶18 Father first argues there was no substantial financial disparity because his annual income was \$60,000, not \$120,000. We rejected that contention above; the family court did not abuse its discretion in finding a financial disparity.

¶19 Father next argues the court should not have awarded Mother attorney fees because it found both parties had acted unreasonably. While this is true, the court did not need to find that only Father took unreasonable positions to award fees. *Cf. Mangan v. Mangan*, 227 Ariz. 346, 352-53, ¶¶ 26-28, 258 P.3d 164, 170-71 (App. 2011) (finding no abuse of discretion in awarding fees based solely upon the unreasonableness of a party’s actions once the parties’ financial resources were considered).

¶20 Finally, Father cites the family court’s previous fee awards based upon his disclosure violations. As noted above, the court found Father acted unreasonably not only by “failing to disclose requested documents until right before the trial set in January 2016,” but also by “claim[ing] during the pendency of this litigation that he closed . . . Wulf Urethane.” In any event, the court clearly considered its earlier fee awards. The court did not abuse its discretion by awarding Mother additional fees.

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CONCLUSION

¶21 We affirm the decree. Father requests that we “order Mother to be responsible for her reasonable attorney fees incurred with regard to this Appeal.” It does not appear Mother incurred any attorney fees on appeal. We therefore deny Father’s request as moot. We will award Mother her costs incurred on appeal, if any, upon compliance with Arizona Rule of Civil Appellate Procedure 21.



AMY M. WOOD • Clerk of the Court
FILED: AA