

ARKANSAS COURT OF APPEALSDIVISION I
No. CA 11-1139

SHEILA GOSLEE

APPELLANT

V.

ROBERT J. GOSLEE

APPELLEE

Opinion Delivered May 9, 2012

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. DR-2010-231-II]HONORABLE VICKI SHAW COOK,
JUDGE

AFFIRMED

ROBIN F. WYNNE, Judge

Appellant Sheila Goslee appeals from the circuit court's order denying her entitlement to half of appellee Robert Goslee's monthly military-disability payments as part of the parties' property-settlement agreement. We affirm.

After a thirteen-year marriage, the parties were divorced by decree entered on May 26, 2010. Incorporated in the decree was a child-custody and property-settlement agreement, which stated that Ms. Goslee would have primary custody of the parties' children, that Mr. Goslee would pay a minimum of \$75 per week in child support, and that "Husband agrees to pay Wife half of his monthly pension each and every month for as long as he draws it." At the time of the divorce, Mr. Goslee received a monthly military-disability payment in the gross amount of \$2283, which he had been receiving since he left the military due to his diabetes. For the next nine months following the entry of the divorce decree, Mr. Goslee paid half of this disability payment to Ms. Goslee, in addition to child-support payments.

However, beginning in March 2011, Mr. Goslee stopped paying her half of the disability and made only child-support payments.

Ms. Goslee filed a motion for contempt on March 17, 2011, arguing that Mr. Goslee willfully failed to pay half of his monthly military pension as ordered by the decree. At a hearing held on June 13, 2011, Mr. Goslee argued that, pursuant to the United States Supreme Court's opinion in *Mansell v. Mansell*, 490 U.S. 581 (1989), the disability payment was not divisible as marital property. He also argued that the disability payment was not a "pension" as contemplated by the property-settlement agreement and that he would not receive a "pension" until he reached retirement age. Ms. Goslee argued that Mr. Goslee voluntarily agreed to pay half of his disability payments and that she relied on that agreement by taking responsibility for certain debts and not requesting alimony. Ms. Goslee testified that the intent of the agreement was for her to receive half of the disability payments Mr. Goslee was currently receiving. She stated that she signed the agreement in reliance on the one-half interest in the disability payments.

Following the hearing, the circuit court entered an order on August 3, 2011, finding that Ms. Goslee was not entitled to one-half of Mr. Goslee's disability payments because the payments were not a "pension." The court further found that the Uniformed Services Former Spouses' Protection Act (FSPA) does not grant states the power to treat such disability payments as divisible property. This timely appeal followed.

Ms. Goslee's sole point on appeal is that Mr. Goslee's monthly disability payment—which she now refers to as a civil-service annuity—is marital property subject to

division upon divorce. In developing this argument in her opening brief, she contends that the circuit court erred in concluding that the FSPA prohibits division of the disability payment. However, she does not address the court's finding that the disability payment was not a "pension" as contemplated by the property-settlement agreement. Where the circuit court based its decision on two independent grounds and an appellant challenges only one on appeal, we will affirm without addressing the merits of either. *Duke v. Shinpaugh*, 375 Ark. 358, 363–64, 290 S.W.3d 591, 595 (2009). Although Ms. Goslee discusses the meaning of "pension" in her reply brief, we do not consider arguments made for the first time in a reply brief. *Rolling Pines Ltd. P'ship v. City of Little Rock*, 73 Ark. App. 97, 106, 40 S.W.3d 828, 835 (2001).

Because Ms. Goslee has left independent grounds unchallenged, we affirm the circuit court's order without delving into the nature and divisibility of Mr. Goslee's monthly payments. Even if we were to agree with the arguments Ms. Goslee makes in her opening brief, the parties would still be bound by the circuit court's finding that the property-settlement agreement did not provide for the division of Mr. Goslee's monthly disability.

Affirmed.

VAUGHT, C.J., and GLADWIN, J., agree.