

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Barry Neary,
Appellant-Petitioner

v.

Kathy Neary,
Appellee-Respondent



March 1, 2024

Court of Appeals Case No.
23A-DR-2801

Appeal from the Hamilton Superior Court
The Honorable Jonathan Brown, Judge

Trial Court Cause No.
29D02-2308-DN-7281

Memorandum Decision by Judge Bradford
Chief Judge Altice and Judge Felix concur.

Bradford, Judge.

Case Summary

- [1] Barry Neary (“Husband”) and Kathy Neary (“Wife”) were married in 2009, and, after Husband filed for dissolution of the marriage, the parties executed a mediated settlement agreement (“the Mediated Settlement”) regarding division of the marital estate. The trial court approved the Mediated Settlement and entered its dissolution decree. Husband contends that he was coerced into signing the Settlement Agreement. Because there is no evidence to support Husband’s claim, we affirm.

Facts and Procedural History

- [2] Husband and Wife were married in 2009, and Husband petitioned for dissolution of the marriage in 2023. The only contested issues in the dissolution proceeding were related to the division of the marital estate. On November 8, 2023, the parties executed the Mediated Settlement, pursuant to which they agreed to a division of the marital estate and which included the following:

Section 3.12 Fully Advised. Each of the parties hereto has made such independent inquiry and investigation with respect to all of the same as they deemed necessary to be fully informed. Each party acknowledges that he or she has consulted with and sought the advice of legal counsel and other professional persons, such as, but not limited to, accountants and other counselors, as he or she desires, and with the advice of such professionals, each party has made his or her own determinations as to the valuation of all assets and liabilities.

Section 3.13 Voluntary Execution. Each party hereby acknowledges that this Agreement is being entered into

voluntarily; that it is not the result of any duress or undue influence; and, there have been no material changes in the supplied information and data since the time of their being provided.

Appellee's App. Vol. II p. 23. Both parties and their respective attorneys signed the Mediated Settlement, and the parties both initialed each page. The same day, the parties filed the Mediated Settlement, a waiver of final hearing signed by both parties, and a proposed dissolution decree. On November 13, 2023, the trial court approved the Mediated Settlement and entered the dissolution decree.

Discussion and Decision

[3] Husband argues that that he was confused, intimidated, and coerced into signing the Mediated Settlement under duress and would, presumably, have us remand with instructions to vacate the trial court's dissolution decree. We have noted in this context that "[u]nless the record demonstrates some unfairness, unreasonableness, manifest inequity in the terms of the agreement, or that the execution of the agreement was procured through fraud, misrepresentation, coercion, duress, or lack of full disclosure, the court should not second-guess the parties, particularly where both are represented by counsel." *Stockton v. Stockton*, 435 N.E.2d 586, 589 (Ind. Ct. App. 1982).

[4] We cannot, however, address Husband's claim that he was coerced into signing the Mediated Settlement on its merits because there is no evidence in the record to support it. Because Husband did not challenge the trial court's acceptance of the Mediated Settlement below, there has been no evidentiary hearing on the

matter and, therefore, no record. “The appellant bears the burden of presenting a record that is complete with respect to the issues raised on appeal[,]” *Graddick v. Graddick*, 779 N.E.2d 1209, 1210 (Ind. Ct. App. 2002), and Husband has not carried this burden. We need not address Husband’s claim further.

[5] The judgment of the trial court is affirmed.

Altice, C.J., and Felix, J., concur.

APPELLANT *PRO SE*

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