

RENDERED: June 20, 1997; 10:00 a.m.
NOT TO BE PUBLISHED

NO. 96-CA-1252-MR

DONALD R. NICHOLS

APPELLANT

v.

APPEAL FROM GREENUP CIRCUIT COURT
HONORABLE LEWIS D. NICHOLLS, JUDGE
ACTION NO. 95-CI-532

LINDA NICHOLS

APPELLEE

OPINION

AFFIRMING

*** *** *** ***

BEFORE: JOHNSON, KNOPE, and MILLER, Judges.

MILLER, JUDGE: Donald R. Nichols brings this appeal from a decree of the Greenup Circuit Court entered April 16, 1996 (amended April 23, 1996). We affirm.

Appellant and appellee Linda Nichols were married on December 25, 1958. They separated in May 1986. A Petition for Dissolution of Marriage was filed in the Greenup Circuit Court on October 10, 1995. The matter was referred to a Domestic Relations Commissioner (commissioner). Following a hearing, the commissioner filed a report on March 11, 1996. Exceptions to the report were

filed by both parties. The court entered an order adopting in part the commissioner's report. Ky. R. Civ. P. 53.06. The court apparently found a mathematical error committed by the commissioner and modified its order accordingly. The court entered a Decree of Dissolution of Marriage and an Amended Decree of Dissolution of Marriage on April 16 and April 23, 1996, respectively. This appeal followed.

Appellant contends that the circuit court did not justly divide the marital property pursuant to KRS 403.190. We disagree. Upon review of the record, we are unable to conclude that the circuit court erred in its division of marital property. Indeed, we view the circuit court's division as being equitable and just. We believe the circuit court properly utilized KRS 403.190 in its division of property, and we further believe there exists substantial evidence to support the court's division of property. Thus, we are of the opinion that the court did not commit reversible error in its division of marital property.

Appellant lastly asserts that the circuit court committed reversible error by awarding attorney fees and costs to appellee. The award of attorney fees and costs is within the sound discretion of the circuit court provided there exist a disparagement in the parties' financial resources. See Lampton v. Lampton, Ky. App., 721 S.W.2d 736 (1986). The record reveals that appellant's gross income was \$26,468.00, while appellee's was \$17,299.00. Upon the whole, we are unable to conclude that the circuit court abused its discretion in awarding appellee attorney fees and costs.

For the foregoing reasons, the judgment of the circuit court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ethyle Noel
Georgetown, KY

BRIEF FOR APPELLEE:

Charles M. Daniels
Greenup, KY