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Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-002151-MR
AND
NO. 2010-CA-002202-MR

STEPHEN D. NURRE APPELLANT/CROSS-APPELLEE

v.

APPEAL AND CROSS-APPEAL FROM KENTON CIRCUIT COURT
HONORABLE CHRISTOPHER MEHLING,[1] JUDGE
ACTION NO. 02-CI-00306

LORI A. NURRE APPELLEE/CROSS-APPELLANT

OPINION
AFFIRMING IN PART, REVERSING IN PART AND REMANDING

** ** ** ** **

[1] This case was assigned to Judge Patricia M. Summe of the Kenton Circuit Court in 2002. She entered the decree of dissolution on December 10, 2004, and the custody decree on March 23, 2007, in addition to numerous other orders. On May 26, 2009, she certified the need for a special judge because, "[t]he Court no longer has the time to complete this Family Court matter." On June 10, 2009, the case was assigned to Judge Steven R. Jaeger as a Senior Status Special Judge. Judge Jaeger entered the judgment and supplemental decree that is being challenged in both the appeal and cross-appeal. When Judge Jaeger completed his service as a senior judge, the case was assigned to Judge Linda R. Bramlage of the Boone Circuit Court sitting as a special judge. Judge Bramlage issued the order resolving the competing motions to alter, amend or vacate the judgment and supplemental decree that is also challenged in the appeal and cross-appeal. The case has now been assigned to Judge Christopher Mehling.

BEFORE: NICKELL, TAYLOR AND VANMETER, JUDGES.

NICKELL, JUDGE: In this protracted and highly contentious dissolution case, Stephen D. Nurre appeals the Findings of Fact, Conclusions of Law, Orders and Judgment entered by the Kenton Circuit Court on September 8, 2010, as well as an order entered by the same court on November 2, 2010, overruling the bulk of his motion to alter, amend or vacate judgment. His former wife, Lori A. Nurre, has filed a cross-appeal challenging the same judgment and order. Having reviewed the record, the briefs and the law, we affirm the supplemental decree in part, reverse in part and remand for further proceedings consistent with this Opinion.

FACTS AND PROCEDURAL BACKGROUND

Stephen and Lori married in 1996. Three children were born to their union. On February 5, 2002, Lori petitioned the Kenton Circuit Court to dissolve the marriage. At that time, the children were five, three and two years of age. On April 15, 2003, a seven-page agreed order regarding temporary arrangements was entered. It was agreed (in part) that: Lori would be the children's temporary residential custodian and Stephen would have reasonable visitation; the parents and children would participate in counseling; a health care professional would determine the necessity of a custody evaluation; Stephen would pay child support of $532.84 each week beginning April 1, 2003; "both parties hereto wish for their children to receive a private catholic education and as such the cost of such education shall be shared on a pro-rata basis by the parties and is included in the above child support"; Stephen would provide health insurance for the children;

Lori would remain in the marital home; and, Stephen would purchase a home with court-approved non-marital funds to which Lori would waive any dower rights so long as no marital funds were used for the purchase. On July 3, 2003, another agreed order was entered appointing a guardian *ad litem* (GAL) for the children and directing Dr. Ed Connor to conduct a custody evaluation.

In 2004, the parties experienced financial difficulties. Stephen lost his job as a traveling medical supplies salesman in August of 2004. Lori changed jobs. It was a struggle, but the children remained in private school.

The marriage was dissolved by order of the Kenton Circuit Court on December 10, 2004; all issues regarding the division of marital debts and assets, custody and visitation were reserved. In March 2007, a decree was entered giving sole custody of the three minor children to Lori and creating an elaborate parenting schedule for the family. The decree specified the children could remain in private school "if [Stephen] chooses to continue to pay the tuition therefor. Such payments are not considered a part of child support but rather are considered a gift from the payor parent to the children."

After a two-day trial, findings of fact and conclusions of law were incorporated into a supplemental decree entered on September 8, 2010. Both parties moved the court to alter, amend or vacate the supplemental decree. In November 2010, an order was entered denying Lori's motion in full and granting one of Stephen's thirty-four requested changes. In this appeal and cross-appeal, Stephen and Lori both challenge provisions of the September 2010 supplemental

decree as well as the order resolving the motions to alter, amend or vacate the supplemental decree. Additional facts will be developed as warranted.

ANALYSIS

We review a trial court's legal findings in a dissolution action *de novo*. *Hunter v. Hunter*, 127 S.W.3d 656, 659 (Ky. App. 2003); *Carroll v. Meredith*, 59 S.W.3d 484, 489 (Ky. App. 2001). We set aside factual findings only if clearly erroneous, meaning they are unsupported by substantial evidence. We respect the trial court's superior position to judge witness credibility and weigh evidence and will not reverse a decision simply because we may have reached a contrary result. *Moore v. Asente*, 110 S.W.3d 336, 354 (Ky. 2003); *see also* CR[2] 52.01, *Reichle v. Reichle*, 719 S .W.2d 442 (Ky. 1986).

THE APPEAL

Stephen raises six issues on appeal. His first claim is that the trial court erred in ordering him to pay half the cost of private school tuition and books for his children when there was no agreement between him and Lori that the children would remain in parochial school and no evidence public schools were inadequate. We agree and reverse on this point.

The trial court found:

> [t]he parents have agreed that the children's best interests will be served by remaining in private schools. The Court finds that such attendance would continue to provide stability for the children.

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[2] Kentucky Rules of Civil Procedure.

The trial court concluded:

> [i]t is in the best interests[3] of the children that they remain enrolled in private schools. The costs of their elementary and high school education shall be paid equally between the parties. To be clear, each parent is responsible for 50% of the tuition and book costs for each child. Each shall pay the costs timely, and in accordance with the billing practice of each educational institution in which the children are enrolled and attend.

Kentucky has adopted guidelines for the calculation of child support. KRS[4] 403.212. These guidelines are to be followed unless “application would be unjust or inappropriate.” KRS 403.211(2). Any deviation from the guidelines must be “accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.” *Id.*

There is no prohibition on a parent choosing to do more for a child than is legally required. Thus, when a parent knowingly agrees to pay private school tuition, his agreement is an enforceable contract. *Pursley v. Pursley,* 144 S.W.3d 820, 825-26 (Ky. 2004). However, absent an agreement, or proof that public schools are inadequate, a court cannot order a parent to pay private school tuition. *Miller v. Miller,* 459 S.W.2d 81, 83-84 (Ky. 1980).

Stephen “agreed that [his] children’s best interests [would] be served by remaining in private schools,”[5] but he never said he would pay tuition for his

[3] The term “best interests” is a substantive criteria for determining custody. KRS 403.270. As a standard, it is unrelated to the calculation of child support.

[4] Kentucky Revised Statutes.

[5] We have reviewed the video recording of the trial but we have not located the point at which Stephen testified on this topic to hear his words for ourselves. Both parties have mentioned mechanical difficulties were encountered in recording and playback.

children to attend a private school. Thus, there was no agreement for the payment of tuition as found by the trial court. Additionally, there was no proof a public education would not suffice. At most, Stephen stated a preference for his children to receive a parochial school education. In light of the absence of any proof supporting the finding of an agreement by Stephen to pay private school tuition, we reverse the supplemental decree and remand to the trial court for further action. *Wells v. Wells,* 412 S.W.2d 568, 571 (Ky. 1967) (trial court is in best position to weigh evidence, but findings that are against the weight of the evidence are clearly erroneous and must be set aside).

Stephen's second complaint is that the trial court erroneously ordered him to pay extracurricular fees for his children. KRS 403.211 does not specifically provide for payment of expenses associated with extracurricular activities, but it does permit deviation from the guidelines upon a finding of "extraordinary educational needs." KRS 403.211 (3)(b).

Here, the trial court found:

> [t]here have been extensive hearings and disagreements throughout this litigation concerning responsibility for payment of extracurricular and school fees for the children. Each party has made claims for reimbursement from the other. [Lori] claims she is due at least $8400. [Stephen] claims he is due $5505. The Court finds there has been poor record-keeping by the parents, and untimely requests by both for reimbursement despite prior court orders. Each parent should be a parent to the children, and each should be content that their children are participating in various activities. Such participation

> has afforded respite for the children from the animosity between the parties.

The trial court concluded:

> [t]he parties shall split any and all uncovered or unreimbursed medical bills, school related fees other than tuition, and extra curricular (sic) fees for the children in the following percentage: [Lori] shall pay 43% and [Stephen] shall pay 57%. Requests for reimbursement shall be made by e-mail on the 15th day of each month. Failure to do so shall be deemed a waiver of the right to reimbursement. The other party shall remit reimbursement by the 30th day of each month. Absence (sic) good cause, failure to make timely reimbursement will subject the required payor to contempt proceedings.

To give a sense of history to this argument, we note that three years before the supplemental decree was entered by Judge Jaeger in September 2010, Judge Summe wrote in the 2007 custody decree:

> [w]hile the Court recognizes that the children's ability to participate in activities has been curtailed by the financial conflict of their parents, the Court agrees that until the children have resumed therapy and the professionals have been paid for, that [Lori] will not enroll the children in any extra-curricular activities that require an (sic) expenditures of money in fees. [Lori] may enroll each child in one sport per season and one cultural/non-sport activity at a time if it meets the criteria outlined above.

Hence, the children's involvement in organized activities has been a long-standing point of contention. According to Stephen's brief, one child plays soccer while another is a member of a rowing team. Stephen argues the supplemental decree contains no findings about the extracurricular activities in which the children are

currently engaged, yet he failed to request additional findings[6] to correct that flaw as required by CR 52.04. Because Stephen failed to request additional findings, we are without authority to reverse the trial court. *Id.*

In *Smith v. Smith*, 845 S.W.2d 25, 26 (Ky. App. 1992), we held it improper for a circuit court to include payment for a child's music lessons in a child support order because the mention of "extraordinary educational needs" in KRS 403.211(3)(b) is a reference to:

> things not ordinarily necessary to the acquisition of a common school education but which become necessary because of the special needs of a particular student.

Here, the trial court characterized the relationship between Lori and Stephen as "full of acrimony, rancor and chaos." We agree with the trial court's assessment of the environment created by the parents and affirm its finding that the children's participation in extracurricular activities has given them "respite" from their parents[7] and should continue at the shared expense of the parents. Under the facts

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[6] In his motion to alter, amend or vacate, Stephen did ask the trial court to modify its language dealing with extracurricular fees. He asked that the costs be split equally rather than pursuant to the 42.6% (Lori):57.4% (Stephen) child support ratio, and that he and Lori agree in writing that a child would participate in a certain activity before the child was enrolled rather than Lori making such decisions alone. Stephen did not object to paying a portion of the extracurricular fees as he asserts on this appeal.

[7] To put the parents' actions in context, we quote part of the 2007 custody decree:

> [t]he parties presented the expert testimony from Dr. Ed Connor, the evaluator; Dr. Jean Deters, the parenting coordinator, and Dr. Aaron Everhard, [Stephen's] counselor. The Court will not recite the testimony but will repeat some (of) the statements the children have made to the experts about the situation. The children think it's "funny" that their parents believe they need to be at all their activities. The children think some of the things their parents had them to do, for example going downstairs without lights on to talk about the court case, are "creepy" and "weird". At least one of the

of this case, participation in extracurricular activities constitutes an "extraordinary educational need." Discerning no abuse of trial court discretion, *McKinney v. McKinney*, 257 S.W.3d 130, 133 (Ky. App. 2008), we affirm the inclusion of fees and costs associated with extracurricular activities in Stephen's child support obligation.

Stephen's third complaint is that the trial court erroneously ordered him to repay nearly $8,000.00 to the children. The trial court found:

> marital money was used to establish three accounts for the three minor children of the marriage. The accounts were held by [Stephen], and he was also not forthcoming about information regarding these accounts. The Court finds from the evidence that the account of Erin (#x3217) had a balance of $3076 in June, 2004; the account of Jacob (x0603) had a balance of $4662.59 in March 2003; and the account of Emma (x6032) had a balance of $253.23 in March 2003. The balances have been almost,

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children is now showing physical signs of the interstabilization of the parent's conflict. The most striking examples of the parties' dysfunction include:

1. [Stephen's] constant taping the children's conversations with [Lori], even after the children requested him to stop;
2. A physical altercation between the parties in the audio and visual range of the children;
3. [Stephen] following [Lori], the children, and the maternal grandparents to the zoo and then approaching [Lori] in the parking lot to discuss a pick-up time;
4. The children living like a nomadic tribe out of their backpacks. Apparently, each parent adds items to the children's bags that they believe are essential to the child, and they can't seem to manage a return of an item if it is left behind. The children walk around with pounds of their things and this is unnecessary and inappropriate. The appearance is that the parents each have a home but that the children live somewhere in-between.

The taped record is upsetting, replete with evidence of the struggles in the relationship of the parents caused between themselves which swirled around the everyday lives of their children.

> if not entirely, depleted by [Stephen]. The children are entitled to their money.

Stephen was given 90 days from entry of the supplemental decree to restore $7,991.82 to the children's accounts and to provide all account information to Lori.

Stephen acknowledges being named on each account, but alleges the accounts were used primarily for marital purposes—as additional savings accounts for the parents, and were not used to benefit the children nor were they intended to be gifts to the children. Stephen cites us to three points in the video recording of the trial. The first citation is to Lori's testimony that a savings account was opened for each child using marital funds; when Lori asked Stephen to produce bank statements for these three accounts, he provided information through 2003, but nothing about the value of the accounts near the date of dissolution; and, she introduced Exhibit 42, a trio of bank statements—one for each account—showing in mid-2003, the combined balance in all three accounts was a total of $7,991.82. The other two citations refer to Stephen's testimony wherein he states: in December 2004, the combined value of the three accounts was less than $100.00; a tax return was deposited into Jacob's account and used to pay monthly bills; Stephen deposited $3,000.00 into Emma's account which was used to make car payments; and, Stephen withdrew $250.00 from Erin's account and $250.00 from Jacob's account which he admitted he should repay.[8]

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[8] In his motion to alter, amend or vacate, Stephen states there was also testimony that he withdrew $75.00 from Emma's account that he should repay. We did not hear that testimony but freely acknowledge the recording was difficult to decipher.

Based upon this scant information, Stephen urges us to overturn the trial court's decision. We will not. There may be additional support for Stephen's argument, but it is not our job "to scour the record in support of an appellant or cross-appellant's argument." *Dennis v. Fulkerson,* 343 S.W.3d 633, 637 (Ky. App. 2011) (internal citations omitted). The findings stated in the supplemental decree are fully supported by the record—Lori testified the accounts were opened with marital funds; she introduced statements showing a combined balance of $7,991.82 in mid-2003; and Stephen testified he withdrew all but about $100.00 from the three accounts.

> It has long been held that the trier of fact has the right to believe the evidence presented by one litigant in preference to another. *King v. McMillan*, 293 Ky. 399, 169 S.W.2d 10 (1943). The trier of fact may believe any witness in whole or in part. *Webb Transfer Lines, Inc. v. Taylor*, Ky., 439 S.W.2d 88, 95 (1968). The trier of fact may take into consideration all the circumstances of the case, including the credibility of the witness. *Hayes v. Hayes*, Ky., 357 S.W.2d 863, 866 (1962).

Commonwealth v. Anderson, 934 S.W.2d 276, 278 (Ky. 1996). If there was conflicting proof, to which we have not been cited, we would not reverse solely because we might view the evidence differently. *Moore,* 110 S.W.3d at 354. Therefore, we affirm the directive that Stephen restore $7,991.82 to his children.

Stephen's fourth complaint is that the trial court failed to set a date on which judgment interest would begin accruing on his portion of the marital home. He claims an appropriate date is December 10, 2004, the date of dissolution. The supplemental decree determined Stephen had a non-marital interest in the home of

$30,096.72, and Lori and Stephen would ultimately split the home's marital interest of $60,672.28. Lori and the children would continue residing in the home, but Lori was to refinance the existing first mortgage in her name and pay Stephen his portion by August 1, 2013; if the home were not refinanced prior to that date, it was to be listed for sale. If the home remained unsold on January 1, 2014, Stephen could move for an order of judicial sale. Lori argues awarding judgment interest to Stephen will give him a windfall since she also has a marital interest in the property and has been paying the mortgage plus all upkeep and maintenance costs.

We begin our analysis of this issue with a comment on the construction of the "Argument" portion of appellate briefs. CR 76.12(4)(c)(v) requires each argument to begin with "a statement with reference to the record showing whether the issue was properly preserved for review and, if so, in what manner." None of Stephen's six arguments adhere to this rule, which also requires "ample supportive references to the record[.]" While Stephen's brief contains *some* references to the record, mostly to the supplemental decree, we cannot characterize them as ample. Finally, the rule also requires "ample . . . citations of authority pertinent to each issue of law. . . ." On the issue of judgment interest, Stephen has cited no law whatsoever. Nonadherence to the rules of appellate procedure severely hinders our review, and as a result, we could strike Stephen's brief or review his arguments under the manifest injustice standard. CR 76.12(8)(a); *Elwell v. Stone*, 799 S.W.2d 46, 48 (Ky. App. 1990).

It is not our job to flesh out an issue for a litigant by finding support for his position in the record and the law. *Dennis,* 343 S.W.3d at 637. To do so would be unfair to the other party. Stephen has not shown us where and how (or even if) he asked the trial court to award him judgment interest on his portion of the marital home. As an appellate court, absent palpable error, we are not authorized to review issues that have not been presented to and decided by the trial court. *Baumia v. Commonwealth*, 402 S.W.3d 530, 546 (Ky. 2013).

In reviewing the proposed findings of fact and conclusions of law Stephen filed on August 20, 2010, we saw no mention of judgment interest. On our own, we uncovered a sentence in Stephen's motion to alter, amend or vacate wherein he states, "the Court's Judgment is unclear as to the date from which [Stephen] shall be entitled to judgment interest on this amount." As noted earlier, Judge Jaeger signed the supplemental decree but Judge Bramlage ruled on the motions to alter, amend or vacate the supplemental decree.

Post-judgment interest is customarily awarded under KRS 360.040 which reads in part, "[a] judgment shall bear twelve percent (12%) interest compounded annually from its date." However, interest may be denied upon a finding of inequity. *See* *Young v. Young*, 479 S.W.2d 20, 22 (Ky. 1972); *Guthrie v. Guthrie*, 429 S.W.2d 32, 37 (Ky. 1968); *Hoskins v. Hoskins*, 15 S.W.3d 733, 734 (Ky. App. 2000); and *Courtenay v. Wilhoit*, 655 S.W.2d 41, 42-43 (Ky. App. 1983). We see no finding of inequity in the supplemental decree nor in the order overruling that portion of Stephen's motion to alter, amend or vacate. Because we

are already reversing and remanding the matter for further proceedings, we direct the trial court to determine whether an award of interest is appropriate and if it is, to specify the date on which judgment interest will begin accruing. Normally, interest does not begin accruing until a judgment is due. *Courtenay*, 655 S.W.2d at 42. Because Lori had until August 1, 2013, to either refinance the home or list it for sale, it would seem Stephen's suggestion that interest begin accruing on the date of dissolution in December 2004 would be unwarranted, but we leave that for the trial court to determine.

Stephen's fifth complaint is that the trial court miscalculated division of a JANUS account with both retirement and non-retirement components. We agree. We have listened to the testimony about the JANUS account several times and poured over the account statements. The trial court stated the value of the JANUS account was either $70,215.85 on September 30, 2004, as established by Lori's reliance on an account statement of that date, or $62,316.86, as testified to by Stephen. The trial court stated it would select one of those figures and subtract from it the undisputed value of Stephen's non-marital portion of the account which was $12,573.00. For some reason, unexplained in the supplemental decree, the trial court valued the JANUS account at $96,638.87, a number for which we heard no testimony and saw no exhibit. No manipulation of numbers yields the value used by the trial court. Because the trial court's finding is unsupported by any evidence, it is clearly erroneous, and must be set aside. Therefore, we reverse on this issue and remand for further proceedings consistent with this Opinion.

Stephen's sixth and final complaint is that the trial court erroneously ordered the sale of Lori's engagement and wedding rings. He claims they should have been awarded to him because Lori's attorney said, "he can have them." Lori argues Stephen has misrepresented her attorney's statement which was that Stephen could have the rings at the combined value of $8,145.00 as established in an appraisal dated March 4, 2002.

We have reviewed the record and Lori's version appears closest to the truth. After Lori was cross-examined about the value of the rings to which she had previously testified,[9] Stephen's attorney read into the record the results of an appraisal conducted in 2002 valuing the engagement ring at $6,980.00 and the wedding ring at $1,165.00. After tendering the appraisal to the trial court, the following exchange occurred:

> Lori's Attorney: Judge, that's fine, if Mr. Nurre wants it back, he can have them, if we're talking about these values, Mrs. Nurre will be glad to let him have those as part of his assets in this case.
>
> Stephen's Attorney: I don't think he would refuse that, but I haven't seen 'em.

Our review of the record supports the trial court's findings and conclusion. Furthermore, Stephen has not cited any stipulation by Lori or her attorney that he could have the rings outright. Thus, once appraised (as ordered in the supplemental decree), Stephen may purchase the rings if he so desires.

[9] We have not been cited to Lori's direct testimony on this topic but we found it on our own. She placed the value of the rings at about $2,500.00.

Lori claims the trial court erred in valuing the marital home[10] as of the date of dissolution in 2004 and finding part of the home's down payment[11] to have been Stephen's non-marital property. Specifically, she argues the court should have used the home's value in 2010, the time of trial, and should have deemed the home's entire down payment to be marital, rather than recognizing a non-marital contribution of $11,628.00 from Stephen. Lori maintains using the home's 2004 value was unfair to her due to the downturn in the economy. She argues the trial court's figures are unreasonable and she cannot refinance or sell the property, fully pay Stephen his half of the home's $60,672.28 marital interest, and retain the same amount for herself.

Stephen argues the date of dissolution was used to value all the property in this case, including other real estate, and Lori had no quibble about using the date of dissolution for any of those assets; only when the date of dissolution did not benefit her did she complain. He argues the same valuation

[10] The home was purchased April 30, 1996, for $159,300.00 and was subject to a $143,350.00 mortgage. The appraised value of the home as of the date of dissolution in 2004 was $215,000.00, showing an increase of $55,700.00. At the time of trial in 2010, however, the home's value was just $163,000.00, showing an increase of only $3,700.00. Even though the home had declined in value since the date of dissolution, the trial court found "the relevant date for valuation is the date the marriage was terminated."

[11] The trial court discovered a mathematical inconsistency. A down payment of $16,332.58 was paid at closing. However, after subtracting the mortgage of $143,350.00 from the purchase price of $159,300.00, there was an unexplained balance of $382.58. Despite this inconsistency, the trial court determined the down payment was $15,950.00, and Stephen had paid $11,628.00 of that amount in non-marital funds.

date should be used for all the property and Lori can use other assets received from the property distribution to pay Stephen the amount he is due.

Just as Stephen's brief did not comply with CR 76.12(4)(c)(v), we take Lori to task for the same errors—she has not specified how and where the issue was preserved; cited legal authority establishing a marital home cannot be valued as of the date of dissolution; or cited trial testimony about the home's down payment. As stated previously, it is not the appellate court's responsibility to practice the case for the litigant. *Dennis,* 343 S.W.3d at 637.

Under KRS 403.190(1), a trial court must divide marital property in "just proportions." We, as an appellate court, will upend a trial court's decision only if it is "contrary to the evidence." *Gaskill v. Robbins*, 361 S.W.3d 337, 339 (Ky. App. 2012) (citing *Clark v. Clark*, 782 S.W.2d 56, 58 (Ky. App. 1990)). *Brandenburg v. Brandenburg,* 617 S.W.2d 871, 873 (Ky. App. 1981), which the trial court applied, allows equity in property to be determined as of the date of dissolution. That being how the trial court proceeded in this case, we discern no error in that regard. Lori has cited no authority suggesting *Brandenburg* was inapplicable or should not have been followed.

Lori also argues the trial court erred in finding Stephen had contributed $11,628.00 in non-marital funds toward the home's $15,950.00 down payment. She claims Stephen inadequately traced his contribution[12] from the sale

[12] An underlying current in this case is Stephen's noncompliance with discovery rulings. As a result, portions of some exhibits Stephen offered at trial were not admitted due to his failure to timely disclose requested information. However, Stephen was permitted to testify about the information contained in those documents.

of stock he owned prior to the marriage because he put forth only his own testimony and a handwritten ledger. As the trier of fact, it was the trial court's exclusive province to judge witness credibility and weigh the evidence. *Moore*, 110 S.W.3d at 354. There being proof in the record that Stephen contributed $11,627.64 from stocks he owned prior to the marriage for part of the marital home's down payment, we have no reason to infringe upon the trial court's finding and view of the proof.

WHEREFORE, we affirm the supplemental decree in part, reverse in part and remand for further proceedings. On remand, the trial court shall: vacate the requirement that Stephen pay one-half of the children's private school tuition and books; specify whether an award of judgment interest on the marital home would be inequitable and if not, specify the date on which interest accrual begins; and, correct the value of the JANUS investment account. In all other respects, the supplemental decree and order partially granting Stephen's motion to alter, amend or vacate the supplemental decree are affirmed.

VANMETER, JUDGE, CONCURS.

TAYLOR, JUDGE, CONCURS IN RESULT ONLY.

BRIEFS FOR APPELLANT:	BRIEFS FOR APPELLEE:
M. Erin Wilkins Newport, Kentucky	Lori A. Nurre, *pro se* Ft. Wright, Kentucky