

Commonwealth of Kentucky

Court of Appeals

NO. 2015-CA-001045-MR

LARRY DAYTON SKAGGS

APPELLANT

v.

APPEAL FROM ELLIOTT CIRCUIT COURT
HONORABLE JEFFREY L. PRESTON, JUDGE
ACTION NO. 05-CI-00002

DEBORAH ANN SKAGGS (NOW COX)

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: CLAYTON, JONES, AND NICKELL, JUDGES.

CLAYTON, JUDGE: This is the third appeal of the Skaggs' marital dissolution case to this Court. The parties were married for six years but have spent the better part of a decade arguing over their marital and non-marital property. Needless to say, their litigation history is lengthy and voluminous and is best detailed in the previous opinions of this Court. *Skaggs v. Skaggs*, 2007-CA-1509-MR, 2007-CA-

1510-MR, 2008 WL 4683021 (Ky. App. 2008) (unpublished) (rh'g denied Dec. 18, 2008; disc. rev. denied April 15, 2009); and *Skaggs v. Skaggs*, 2012-CA-832-MR, 2014 WL 3795494 (Ky. App. 2014) (unpublished) (as modified Oct. 17, 2014).

The issue currently before us stems from one issue that was reversed and remanded by this Court at the conclusion of their second appeal. In summary, the parties owned real property that was valued at \$163,000 at the time of the marriage and \$257,000 at the time of divorce. Of the \$94,000 property value increase, \$54,000 was due to market conditions. The remaining \$40,000 increase was due to the addition of two barns on the property. Larry Skaggs spent \$25,000 of non-marital funds to build the barns during the marriage, and the parties spent \$20,700 of marital funds on the same. The trial court erroneously determined Larry Skaggs's \$25,000 contribution was marital. In reversing and remanding, this Court directed the lower court as follows:

Therefore, we are compelled to reverse the trial court's judgment to the contrary and remand for entry of an order designating the \$25,000.00 Phase II funds as Larry's nonmarital asset. On remand, a reapportionment of the marital assets **may be warranted** and such may, **if necessary**, be undertaken by the trial court if reapportionment is deemed just.

Skaggs v. Skaggs, 2014 WL 3795494 at *7 (emphasis added).

On remand, the trial court held a hearing and entered the following order:

This matter is back before the Trial Court pursuant to the Order and Opinion of the Kentucky Court of Appeals dated October 17, 2014. The Court of Appeals directed this Court to enter an Order designating the \$25,000.00 received in ASC funds to be non-marital. The Court of Appeals also stated that if the Trial Court deemed it necessary, a reapportionment of the marital assets could be undertaken.

IT IS THEREFORE THE ORDER of this Court that the \$25,000.00 received in ASC funds shall be deemed the non-marital property of the Respondent Larry Skaggs. All other assets of the Order of the Trial Court which resulted in the Appeal referred to herein shall remain the same as the Court declines to reapportion any of the marital property as was previously set out in that Order.

Larry Skaggs now appeals and claims the trial court abused its discretion by not reapportioning the marital property. We find no abuse occurred. The trial court followed this Court's mandate and the statutory requirement that the non-marital share shall be returned to the party before the marital property is divided "in just proportions[.]" Kentucky Revised Statutes (KRS) 403.190(1). Regarding the marital-share, "a trial court has wide discretion in dividing marital property[.]" *Smith v. Smith*, 235 S.W.3d 1, 6 (Ky. App. 2006). "It is important to bear in mind that a trial court is not obligated to divide the marital property equally." *Id.* (citing *Davis v. Davis*, 777 S.W.2d 230, 233 (Ky. 1989)). Under these standards, we find no abuse of discretion by the trial court. Accordingly, we affirm the order.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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