

Affirmed and Memorandum Opinion filed February 25, 2010.



In The

Fourteenth Court of Appeals

NO. 14-09-00038-CV

WAYMOND BAROS, Appellant

V.

MELISSA BAROS, Appellee

**On Appeal from the County Court at Law No. 1
Montgomery County, Texas
Trial Court Cause No. 08-05-04577-CV**

MEMORANDUM OPINION

In this divorce action, appellant Waymond Baros challenges the trial court's failure to award him certain property he owned prior to the marriage. We affirm.

Background

Appellant and appellee were married on December 13, 2005. Appellant was subsequently incarcerated and appellee sought a divorce. On November 24, 2008, the trial court held a hearing at which appellee appeared and appellant's mother appeared on

his behalf. Appellee testified that the parties owned no community property and that any property they owned was acquired before the marriage. She testified that she delivered some of appellant's clothes, paperwork, court files, and "other collectible stuff" to a relative's house and placed the remainder in a storage facility. Appellee failed to pay the fees for the storage facility and forfeited the property as a result of the failure to pay.

The trial court entered a divorce decree in which it determined that no children were born of the marriage and there was no community property to divide between the parties. Appellant filed an appeal in which he maintains that appellee failed to prove that the items were forfeited from the storage unit.

Standard of Review

In a divorce decree, the trial court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage. Tex. Fam. Code Ann. § 7.001 (Vernon 2006). The phrase "estate of the parties" means the parties' community property. *Wilson v. Wilson*, 44 S.W.3d 597, 600 (Tex. App.—Fort Worth 2001, no pet.) (citing *Cameron v. Cameron*, 641 S.W.2d 210, 214–15 (Tex. 1982)). The trial court has broad discretion in dividing the community estate of the parties, and we will not disturb its decision unless the trial court has clearly abused its discretion. *Smith v. Smith*, 22 S.W.3d 140, 143 (Tex. App.—Houston [14th Dist.] 2000, no pet.).

Property Division

Here, appellant and appellee did not acquire any community assets. The trial court found that there was no "estate of the parties" to be divided, and appellant does not challenge that finding. Appellant's complaint centers around the fact that appellee forfeited his separate property that was in the storage facility. Appellee testified under

oath that she gave some of appellant's possessions to his relative and that she forfeited some of them when she failed to pay the fee for the storage facility. Neither appellant, nor his mother, presented any evidence to contradict appellee's testimony. In granting the divorce and finding that no community property existed, the trial court did not abuse its discretion.

The judgment of the trial court is affirmed.

PER CURIAM

Panel consists of Justices Yates, Seymore, and Brown.