

IN THE UTAH COURT OF APPEALS

----ooOoo----

Michael J. Boggess,	)	PER CURIAM DECISION
	)	
Petitioner and Appellant,	)	Case No. 20100507-CA
	)	
v.	)	FILED
	)	(March 17, 2011)
Tina A. Boggess,	)	
	)	
Respondent and Appellee.	)	2011 UT App 84

-----

Third District, Salt Lake Department, 064905394  
The Honorable L.A. Dever

Attorneys: Michael J. Boggess, Sandy, Appellant Pro Se  
Tina A. Boggess, White City, Appellee Pro Se

-----

Before Judges Orme, Voros, and Roth.

¶1 Michael J. Boggess (Husband) appeals the trial court’s order dividing a marital debt and awarding attorney fees to Tina A. Boggess (Wife). We affirm.

¶2 The trial court’s division of debts is reviewed for abuse of discretion. *See Connell v. Connell*, 2010 UT App 139, ¶ 8, 233 P.3d 836. Similarly, an appellate court will “review a trial court’s decision regarding attorney fees in a divorce proceeding for an abuse of discretion.” *Id.* ¶ 6 (internal quotation marks omitted).

¶3 It is undisputed that Husband agreed to sign documents that would permit the sale of the marital home and avoid foreclosure, but that he did not do so. The trial court found that his refusal was unreasonable and contributed to the foreclosure. Accordingly, because Husband’s own actions permitted the foreclosure to proceed, the

trial court determined that the deficiency was the responsibility of both parties. Husband has shown no abuse of discretion in the division of the debt arising from the foreclosure of the marital home.

¶4 “Both the decision to award attorney fees and the amount of such fees are within the trial court’s sound discretion.” *Id.* ¶ 27 (internal quotation marks omitted). In awarding fees, the trial court must consider the receiving spouse’s financial need, the payor spouse’s ability to pay, and the reasonableness of the requested fees. *See id.* The trial court found that Wife was in need, that Husband had the ability to pay, and that the fee request was reasonable. The court considered the required factors. Contrary to Husband’s assertions, the fees were not attached to specific hearings but were within the court’s discretion to award as part of the divorce proceedings. *See Utah Code Ann. § 30-3-3(1)* (Supp. 2010). Husband has shown no abuse of discretion in the award of fees.

¶5 Affirmed.

---

Gregory K. Orme, Judge

---

J. Frederic Voros Jr., Judge

---

Stephen L. Roth, Judge