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Clerk of the  
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs January 3, 2023

**DORA BANNOR v. PHILIP BANNOR**

**Appeal from the Circuit Court for Hamilton County  
No. 17D2061 Ward Jeffrey Hollingsworth, Judge**

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**No. E2022-00507-COA-R3-CV**

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This appeal arises from a divorce case. The wife filed a complaint for divorce alleging irreconcilable differences and inappropriate marital conduct. The trial court granted a divorce to the wife on the ground of inappropriate marital conduct, divided the marital estate, awarded alimony, and entered a judgment for unpaid child support. The husband appeals. We affirm in part, vacate in part, and remand for further proceedings consistent with this opinion.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed in Part, Vacated in Part, and Remanded**

CARMA DENNIS MCGEE, J., delivered the opinion of the court, in which JOHN W. MCCLARTY and W. NEAL MCBRAYER, JJ., joined.

Robert N. Meeks, Chattanooga, Tennessee, for the appellant, Philip Bannor.

Dora Bannor, Knoxville, Tennessee, pro se appellee.

**OPINION**

**I. FACTS & PROCEDURAL HISTORY**

In June 1998, Philip Bannor (“Husband”) and Dora Bannor (“Wife”) were married in Ghana.<sup>1</sup> The parties had three children, two of whom had reached the age of majority at the time the complaint for divorce was filed in this case. The remaining minor child

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<sup>1</sup> The parties were both born in Ghana but met each other in the United States. According to Wife, the parties chose to have a traditional marriage in Ghana and then returned to the United States to register their marriage.

reached the age of majority during the pendency of this case. Husband was a medical doctor who had run his own medical clinic in Tennessee since 2005. Wife had a high school education but did not have a college degree; however, she had worked at several different places during the parties' marriage. The parties both agreed that their marriage began to break down because of intimacy issues. They eventually separated in September 2017. Since the parties' separation, Husband had resided in Ghana for the majority of the time.

In September 2017, Wife filed a complaint for divorce against Husband alleging irreconcilable differences, or, in the alternative, inappropriate marital conduct.<sup>2</sup> Husband filed an answer, in which he admitted the parties had irreconcilable differences but denied he was guilty of inappropriate marital conduct. Wife then filed motions for interim attorney's fees, an emergency injunction and order, child support, and alimony. She stated that Husband had left the United States and traveled to Ghana. She alleged that he had threatened to close his medical clinic in Tennessee and to never return to the United States and that he was transferring funds and trying to hide or dissipate marital assets. In January 2018, the trial court entered an order addressing Wife's motions. The court noted that Husband was out of the country at the time of the hearing and prohibited Husband from traveling to Ghana until further order of the court. The court also prohibited Husband from transferring money or assets unless such transfer was directly related to paying current living expenses and from making cash withdrawals other than what was directly related to paying current living expenses. Additionally, the court ordered Husband to pay the following: \$1,000 to Wife's attorney for interim attorney's fees; \$1,343 per month to Wife for child support; \$1,000 per month to Wife for alimony; and the mortgages and/or indebtedness related to the marital residence.

Husband subsequently filed a motion to lift the travel restrictions imposed on him by the court. He explained that he had additional employment in Ghana which enabled him to pay his obligations, such as the child support, the alimony, and the mortgage on the marital residence. As a result, the court entered an order in March 2018 modifying its previous order to lift the travel restrictions to Ghana imposed on Husband. The court found that said travel was necessary for Husband to maintain both his medical clinic in Tennessee and his employment in Ghana, noting that Husband made an additional income of \$2,222 per month in Ghana. In doing so, however, the court also modified Husband's child support obligation to reflect his additional income from his employment in Ghana. In the meantime, Wife filed a second motion for interim attorney's fees and a motion to allocate payment of marital debt, which were granted by the court. The court ordered Husband to

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<sup>2</sup> This divorce action was originally filed in Division III of the Hamilton County Circuit Court. However, one of the parties had previously filed a complaint for legal separation in Division II, and a final decree was entered in that action which provided in part for the care and custody of the minor children at the time. One of the parties had also previously filed a divorce action in Division III, which was ultimately dismissed upon reconciliation. Therefore, this divorce action was transferred to Division II in November 2017.

continue to pay Wife's attorney \$250 every other week as alimony in solido, to procure health insurance for Wife and their minor child, and to pay to get Wife's life insurance policy reinstated. Additionally, the court ordered Husband to keep payment current and timely on all marital debts.

In October 2018, Husband filed a motion to sell the marital residence in Tennessee and one of the parties' residences in Ghana. Wife then filed another motion for interim attorney's fees. She alleged that Husband had attempted to conceal assets in Ghana and had made himself intentionally underemployed in order to avoid paying expenses associated with the divorce action. She also filed a motion for civil contempt stating that Husband had refused to pay the mortgage on the marital residence and that she had received notification that the marital residence would be going into foreclosure. She alleged again that Husband continued to be underemployed and sought to rely on his underemployment as justification for making her homeless.

Thereafter, Wife filed a motion in January 2019 to reduce Husband's arrears from alimony, child support, attorney's fees, and the mortgage payments to a judgment. She stated that Husband had not paid the mortgage and that it was now eight months in arrears. She explained that the marital residence was previously put into foreclosure but Husband submitted an application to the bank to reinstate the loan and forestall the sale. However, Husband had not made a payment on the reinstated loan. As such, she said that the marital residence would be foreclosed on if it was not sold soon. Based upon an agreement between the parties, the trial court ultimately entered an order for the parties to sell the marital residence. The court ordered that any funds realized from the sale of marital residence would be deposited into the trust account of counsel for Wife.

In May 2019, Wife filed a petition for contempt and injunctive relief alleging, among other things, that Husband had withdrawn at least \$360,202.18 in cash since the complaint for divorce was filed. She asserted eight counts of willful contempt against Husband.<sup>3</sup> She also filed a motion to increase alimony due to Husband's failure to pay the mortgage on the marital residence, which required her to rent another home and increased her monthly expenses. Husband filed motions to modify child support and alimony, explaining that his income had become significantly lower since the court ordered him to pay support. Wife then filed a motion for contempt and for sanctions for Husband's failure to pay support and to pay tutor fees for the parties' minor child. In November 2019, the trial court entered an order denying Husband's motions to modify child support and

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<sup>3</sup> Wife alleged that Husband was in willful contempt for the following: (1) failing to pay the mortgage on the home; (2) failing to pay the school tuition payments for their minor child; (3) transferring money not related to current living expenses; (4) transferring money from the United States to Ghana not related to current living expenses; (5) withdrawing money without the purpose of paying reasonable daily living expenses; (6) making investments in Ghana with marital funds and not disclosing the same in response to discovery requests; (7) moving money to accounts and not disclosing the same; and (8) failing to consistently pay interim attorney's fees to Wife's attorney.

alimony. However, the court granted Wife's motion for contempt and sanctions. The court also found Husband to be in willful contempt and ordered him to pay Wife's attorney's fees related to the motion.<sup>4</sup> Additionally, the court prohibited Husband from withdrawing further monies from certain bank accounts, from transferring further funds or properties from the United States, and from being paid by his medical clinic in Tennessee. Any alimony or child support payments owed by Husband were to be paid directly to Wife by the medical clinic beginning in November 2019. Afterward, Wife filed another motion for criminal/civil contempt. She asserted, among other things, that Husband willfully failed and refused to pay the mortgage related to the marital residence. As a result, she said that the marital residence went into foreclosure and that she and the minor child were forced to find other housing.

The trial in this case was originally set for April 2020. However, the first day of trial did not occur until in December 2020 and was then continued pursuant to an agreed order entered by the court. Afterward, the former counsel for Husband filed a motion to withdraw, which the trial court granted. As a consequence, the second and third days of trial did not occur until July 2021. The final day of trial occurred in October 2021. Therefore, the timeline of the four-day trial in this case was somewhat unusual in that it occurred over the course of a ten-month period, and there were certain things the parties testified to on the first day of trial that had changed at the time of the final day of trial.

In January 2022, the trial court entered a memorandum order and final decree of divorce. The court began by noting that it had found Husband had no credibility in its previous orders and that its finding had not changed. The court granted the divorce in favor of Wife based on Husband's inappropriate marital conduct, which included Husband abandoning her and their children when he moved to Ghana. The court described Husband's actions as "absconding with a major portion of the parties' marital assets" and likened his actions to "theft." The court addressed the issue of whether Husband still owed any unpaid child support and found that Husband had failed to pay the two months of unpaid child support from September and October 2019. Therefore, the court entered a judgment against Husband for unpaid child support and the attorney's fees related to the contempt proceeding.

The trial court then divided the marital property and allocated the marital debt. The court first addressed the property located on Shallowford Road in Chattanooga. Husband had owned the Shallowford Road property, which was the previous location of his medical clinic. The medical clinic was relocated from this property at some point after falling behind on the mortgage payments. Husband had filed a motion to sell the Shallowford Road property, which the trial court granted in June 2020. After an agreement was reached for the sale of the property, the court entered an order in August 2020 authorizing the sale

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<sup>4</sup> After counsel for Wife filed an affidavit of attorney's fees related to the motion for contempt, the trial court entered an order awarding \$4,378 for Wife's attorney fees.

and ordered that any net proceeds from the sale should be deposited in the registry of the court after payment of the mortgage indebtedness, the real estate commission, and any closing costs. However, the court noted in its final decree that it appeared “there was no equity in the property and no money is on deposit.”

The trial court awarded Husband’s Vanguard IRA and 401(k) account to Wife, which the court valued at approximately \$185,000. The court also awarded Wife any net proceeds from Husband’s medical clinic and any remaining funds in Husband’s bank accounts at Synovus Bank and Pinnacle Bank. Additionally, the court awarded Wife all of the parties’ property in Ghana and entered a judgment of \$915,000 in her favor representing the total value of the parties’ property in Ghana. At trial, Husband proposed that he would take on all of the debt, all of which he said was in his name. Therefore, the trial court allocated all of the debt to Husband, which the court found to be a total of \$837,955. After dividing the marital property and allocating the marital debt, the trial court summarized its ruling as follows:

- 1) The divorce be Granted to [Wife] based on the inappropriate conduct of [Husband].
- 2) Judgment in the amount of \$2,686.00 is entered in favor of [Wife] and against [Husband] for back due child support.
- 3) Judgment in the amount of \$4,378.00 is entered in favor of [Wife] and against [Husband] [for attorney fees].
- 4) All marital property in the United States is awarded to [Wife].
- 5) All marital liabilities are the responsibility of [Husband].
- 6) A judgment in the amount of \$915,000 is awarded to [Wife] and against [Husband], representing the value of the real estate he purchased in Ghana with marital assets.
- 7) If the Menzgold “investment” is ever liquidated, those funds will be divided equally between the parties.
- 8) All other marital property is awarded to the party who has possession of it.
- 9) Alimony in futuro of \$1,000/month is awarded to [Wife]. That alimony is to be paid to [Wife] by the medical clinic owned by [Husband] in Hamilton County, Tennessee.

The court also ruled that each party would keep whatever household furnishings and vehicles were in their possession. Husband filed a motion for a new trial. In March 2022, the trial court, own its own motion, entered an order amending the memorandum order and final decree to correct oversights and omissions. The court also entered an order denying Husband’s motion for a new trial. Thereafter, Husband timely filed an appeal.

## **II. ISSUES PRESENTED**

Husband presents the following issues for review on appeal, which we have slightly restated:

1. Whether the trial court abused its discretion in granting Wife a divorce;
2. Whether the trial court abused its discretion in putting on improper weight on evidence introduced by Wife;
3. Whether the trial court abused its discretion when it failed to allow Husband's rebuttal witness to testify;
4. Whether the trial court abused its discretion in awarding Wife a majority of the marital assets and assigning all marital debt to Husband; and
5. Whether the trial court abused its discretion when it awarded Wife alimony.

For the following reasons, we affirm in part, vacate in part, and remand for further proceedings consistent with this opinion.

### III. STANDARD OF REVIEW

We review the trial court's findings of fact de novo with a presumption of correctness and must honor those findings unless they are contrary to the preponderance of the evidence. *Blackburn v. Blackburn*, 270 S.W.3d 42, 47 (Tenn. 2008) (citing Tenn. R. App. P. 13(d); *Union Carbide Corp. v. Huddleston*, 854 S.W.2d 87, 91 (Tenn. 1993)). However, we review the trial court's conclusions of law de novo with no presumption of correctness. *Id.* (citing *Langschmidt v. Langschmidt*, 81 S.W.3d 741, 744-45 (Tenn. 2002)).

Furthermore, the trial court's discretionary decisions are reviewed using the abuse of discretion standard. *Lee Med., Inc. v. Beecher*, 312 S.W.3d 515, 524 (Tenn. 2010). "Under the abuse of discretion standard, a trial court's ruling 'will be upheld so long as reasonable minds can disagree as to propriety of the decision made.'" *Eldridge v. Eldridge*, 42 S.W.3d 82, 85 (Tenn. 2001) (quoting *State v. Scott*, 33 S.W.3d 746, 752 (Tenn. 2000); *State v. Gilliland*, 22 S.W.3d 266, 273 (Tenn. 2000)). The Tennessee Supreme Court has summarized the abuse of discretion standard as follows:

The abuse of discretion standard of review envisions a less rigorous review of the lower court's decision and a decreased likelihood that the decision will be reversed on appeal. It reflects an awareness that the decision being reviewed involved a choice among several acceptable alternatives. Thus, it does not permit reviewing courts to second-guess the court below . . . or to substitute their discretion for the lower court's . . . . The abuse of discretion standard of review does not, however, immunize a lower court's decision from any meaningful appellate scrutiny.

Discretionary decisions must take the applicable law and the relevant facts

into account. An abuse of discretion occurs when a court strays beyond the applicable legal standards or when it fails to properly consider the factors customarily used to guide the particular discretionary decision. A court abuses its discretion when it causes an injustice to the party challenging the decision by (1) applying an incorrect legal standard, (2) reaching an illogical or unreasonable decision, or (3) basing its decision on a clearly erroneous assessment of the evidence.

*Lee Med., Inc.*, 312 S.W.3d at 524 (internal citations omitted). Therefore, we review the trial court's discretionary decisions "to determine (1) whether the factual basis for the decision is properly supported by evidence in the record, (2) whether the . . . court properly identified and applied the most appropriate legal principles applicable to the decision, and (3) whether the . . . court's decision was within the range of acceptable alternative dispositions." *Id.* at 524-25 (citing *Flautt & Mann v. Council of Memphis*, 285 S.W.3d 856, 872-73 (Tenn. Ct. App. 2008)).

#### IV. DISCUSSION

##### A. Divorce

Husband's first issue on appeal is whether the trial court abused its discretion in granting Wife a divorce by failing to consider the testimony concerning the parties' intent to return to Ghana. He specifically argues that the court failed to consider Husband's testimony and his corroborating witness's testimony regarding the parties' long-term plan to return to Ghana and Wife's own testimony that she intended to return to Ghana. As such, he contends that the court's decision to grant Wife a divorce was against logic or reasoning because the parties testified that they would be going back to Ghana.

We begin by noting that "[g]rounds for divorce are governed by statute in Tennessee." *Eldridge v. Eldridge*, 137 S.W.3d 1, 23 (Tenn. Ct. App. 2002) (citing *Chastain v. Chastain*, 559 S.W.2d 933, 934 (Tenn. 1977)). A complaint for divorce must allege the grounds for divorce as enumerated in Tennessee Code Annotated section 36-4-101. Tenn. Code Ann. § 36-4-106(a)(1). Here, Wife's complaint alleged that she should be granted a divorce on the grounds of irreconcilable differences, *id.* § 36-4-101(14), or, in the alternative, inappropriate marital conduct, *id.* § 36-4-101(11). Husband admitted that the parties had irreconcilable differences but denied that he was guilty of inappropriate marital conduct.

This Court has observed that "[w]hen a ground for divorce has been stipulated or proven, the trial court may award a divorce to a party less at fault or declare the parties divorced; such choice is left to the trial court's discretion." *Truman v. Truman*, No. E2009-00237-COA-R3-CV, 2010 WL 323066, at \*6 (Tenn. Ct. App. Jan. 28, 2010) (quoting *Watson v. Watson*, No. W2004-01014-COA-R3-CV, 2005 WL 1882413, at \*4 (Tenn. Ct.

App. Aug. 9, 2005)). The trial court is vested with this discretion by statute:

The court may, upon stipulation to or proof of any ground of divorce pursuant to § 36-4-101, grant a divorce to the party who was less at fault or, if either or both parties are entitled to a divorce or if a divorce is to be granted on the grounds of irreconcilable differences, declare the parties to be divorced, rather than awarding a divorce to either party alone.

Tenn. Code Ann. § 36-4-129(b). Ultimately, the trial court granted Wife a divorce based on Husband's inappropriate marital conduct, finding that Wife had proven Husband abandoned her and their children when he moved to Ghana. The court characterized Husband's actions as "absconding with a major portion of the parties' marital assets." Therefore, the ground at issue in this case is inappropriate marital conduct, which is statutorily defined as "such cruel and inhuman treatment or conduct towards the spouse as renders cohabitation unsafe and improper . . ." Tenn. Code Ann. § 36-4-101(a)(11).

Additionally, the trial court made an express finding of credibility against Husband. The court noted that it had found Husband had no credibility in its previous orders and that its finding had not changed. We have explained that "[w]hether one party or another should be awarded a divorce on grounds of inappropriate marital conduct is often determined by a trial court's credibility assessment." *Chaffin v. Ellis*, 211 S.W.3d 264, 289 (Tenn. Ct. App. 2006) (citing *Eldridge*, 137 S.W.3d at 24). "In a case where the resolution of the issue[ ] depends upon the truthfulness of the witnesses, the trial judge who has the opportunity to observe the witnesses in their manner and demeanor while testifying is in a far better position than this Court to decide those issues." *Id.* (quoting *Fann v. Fann*, W2000-02431-COA-R3-CV, 2001 WL 394858, at \*2 (Tenn. Ct. App. Apr. 18, 2001)). Therefore, "we accord great deference to the trial court's assessment of the parties' credibility." *Id.*

At trial, it was established that the parties had significant ties to Ghana: they were both born there; they acquired and owned several properties there; and most of their relatives lived there. According to Husband, one of the reasons he married Wife was that he wanted someone who would eventually move to Ghana with him later in his life. He explained that it was "always on the drawing board" for the parties to return to Ghana because they discussed it both before and during their marriage. Wife denied that the parties talked about returning to Ghana before their marriage, but she admitted that they discussed the possibility of returning there during their marriage. She explained that her understanding was that they would possibly move to Ghana when they were older and retired. She stated that they had built a house in Ghana, but she now wanted it sold because of the divorce action. Husband's nephew also testified that there were times he overheard the parties' conversing about their intentions to move to Ghana. Additionally, he stated that Wife had personally told him that the parties intended to move to Ghana when their house there was finished.



In accordance with these intentions, Husband testified that he ran an election campaign to be a member of parliament in Ghana prior to the divorce. Although he was unsuccessful in this election campaign, he claimed that Wife supported him by receiving people into their home, entertaining them, and cooking for them. Yet, Wife denied that Husband ever ran for political office. Despite his alleged unsuccessful campaign, Husband's nephew testified that he overheard the parties agree to move to Ghana if the political party Husband supported won power in December 2016. After that political party did win power, he began looking for a job in Ghana in the early part of 2017. He maintained that Wife was aware of his attempts to obtain a job there. After ultimately obtaining a job in Ghana, and in light of the marital problems, he testified that he moved to Ghana just prior to the divorce in August 2017. He said that he did not discover that Wife was against moving to Ghana until after she filed for divorce.

Contrary to Husband's testimony, Wife testified that she did not become aware of Husband's attempts to obtain a job in Ghana until the divorce. She said that Husband was still in the United States when she filed for divorce and had yet to move all of his belongings to Ghana, but he was traveling there periodically. She believed that Husband moved to Ghana because of the divorce, asserting that he did so to "run away and cheat," make her "penniless," and take a job beneath him so that he could make as little money as possible and not give her and their children anything. Husband's former brother-in-law also testified that Husband intentionally moved to Ghana to leave Wife and create hardship on her.

In Ghana, Husband began working as a regional director of health for the National Health Insurance Authority. He later obtained a job as a regulator of healthcare facilities in Ghana and was still working there at the time of trial. Additionally, his medical clinic in Tennessee was still operating, but it was struggling because he was not there to ensure it was running properly. After moving to Ghana, he had traveled to the United States periodically to ensure the clinic was running properly, but he had been unable to return since the COVID-19 pandemic began because of a travel ban that was in place. Despite his employment in Ghana and the continued operation of his medical clinic in Tennessee, he failed to maintain the mortgage payments on the parties' marital residence, and the marital residence went into foreclosure. He admitted that Wife and their minor child had to move out of the marital residence as a result of the foreclosure. He also admitted that he failed to pay Wife's attorney as ordered by the court. He stated that he did not intend to remain in Ghana indefinitely. He explained that he missed his children and that he was now a grandfather too. He further explained that he would return to the United States if his children needed him because that would be a compelling reason to return. Wife testified that the last time she was aware that Husband came to the United States was in 2018. According to Husband, however, the last time he was in the United States was in the fall of 2019. One of Husband's employees at his medical clinic in Tennessee corroborated this testimony, stating that the last time she saw Husband at the medical clinic was in September

2019.

While the point at which the parties intended to move to Ghana was disputed, the testimony demonstrated that the parties had intentions to move there at some point during their marriage. Regardless of these intentions, however, Husband admitted that the parties had intimacy issues for a couple of years prior to the divorce action and that he moved to Ghana because of the marital problems. Additionally, he testified that the parties were not sleeping in the same bed and that they sought marriage counseling. The parties' marriage had clearly been breaking down for some time before Husband moved because the parties were in court prior to this divorce action for both legal separation and divorce. As such, it strains credulity for Husband to suggest that Wife's intentions had not changed and that she was still in agreement to move to Ghana at the time he moved there, which was just prior to this divorce action according to him.

The testimony demonstrated that there were several occasions where Husband withdrew, transferred, or invested large amounts of money after he moved to Ghana and during the pendency of this case. The trial court did not give much weight, if any, to Husband's explanations for these withdrawals, transfers, or investments because it made a credibility finding against him. Again, we note that "[w]hen the resolution of the issues in a case depends upon the truthfulness of witnesses, the trial judge who has the opportunity to observe the witnesses in their manner and demeanor while testifying is in a far better position than this Court to decide those issues." *Riggs v. Riggs*, 250 S.W.3d 453, 456 (Tenn. Ct. App. 2007). Thus, "[t]he weight, faith, and credit to be given to any witness's testimony lies in the first instance with the trier of fact, and the credibility accorded will be given great weight by the appellate court." *Id.* In light of the great deference afforded to the trial court's determinations of credibility, we cannot find that the preponderance of the evidence is contrary to the court's finding that Husband was guilty of inappropriate marital conduct for abandoning Wife and their children when he moved to Ghana.

Furthermore, in accordance with the abuse of discretion standard, we will uphold a trial court's ruling "so long as reasonable minds can disagree as to propriety of the decision made." *Eldridge*, 42 S.W.3d at 85 (quoting *Scott*, 33, S.W.3d at 752; *Gilliland*, 22 S.W.3d at 273). The trial court is vested with the discretion to grant a divorce to the party who was less at fault, and the evidence in the record supports the court's decision to grant Wife a divorce. *Watt v. Watt*, No. M2014-02565-COA-R3-CV, 2016 WL 1730659, at \*5 (Tenn. Ct. App. Apr. 27, 2016); see Tenn. Code Ann. § 36-4-129(b). The court's decision was supported by the evidence and was within the range of acceptable alternative dispositions. *Lee Med., Inc.*, 312 S.W.3d at 524-25 (citing *Flautt & Mann*, 285 S.W.3d at 872-73). We therefore conclude that the court did not abuse its discretion as its decision was not against logic or reasoning, and we affirm its decision granting Wife a divorce.

### ***B. Improper Weight on Evidence***

For his second issue, Husband argues that the trial court abused its discretion in putting improper weight on evidence introduced by Wife. He asserts that the court then used this as a basis to award property when the evidence was not supported by any legitimate documentation.

The evidence at issue was two financial statements Husband submitted to Cohutta Banking Company (“Cohutta”), which was a division of Synovus Bank.<sup>5</sup> The first financial statement was submitted in April 2017 and the second financial statement was submitted in January 2019. After Husband identified them as documents he submitted to Cohutta, the financial statements were admitted into evidence by the court as Exhibit 5 and Exhibit 6. He asserts on appeal that he objected to the admission of the first financial statement, citing to a specific statement in the transcript. The former counsel for Husband stated on the first day of trial, “Well, now, he never identified that.”<sup>6</sup> Yet, upon reviewing the transcript, this objection was made with respect to Exhibit 4, which was the bank statement for Husband’s medical clinic. Therefore, the objection did not concern the financial statements at issue here. On the final day of trial, the current counsel for Husband raised an objection concerning the first financial statement, when he argued that it had come to light that the first financial statement did not bear Husband’s actual signature. After trial, Husband raised an issue regarding the financial statements in his motion for a new trial. He argued that the financial statements should not have been admitted into evidence and that the trial court put improper weight on the financial statements and used them as a basis for the award of property. The trial court ultimately denied his motion for a new trial.

We have explained that “[a]s a general rule, the failure to ‘make a timely, specific objection in the trial court prevents a litigant from challenging the introduction of inadmissible evidence for the first time on appeal.’” *Pearson v. Ross*, No. W2011-00321-COA-R3-CV, 2011 WL 6916194, at \*4 (Tenn. Ct. App. Dec. 28, 2011) (quoting *Wright v. United States Auto. Ass’n*, 789 S.W.2d 911, 914 (Tenn. Ct. App. 1990)). We determine, as an initial matter, that Husband failed to make a contemporaneous objection to the admission of these financial statements. See *Buckley v. Elephant Sanctuary in Tennessee, Inc.*, 639 S.W.3d 38, 51 (Tenn. Ct. App. 2021) (“Generally, objections to the admission of evidence are waived in the absence of a ‘contemporaneous’ objection.”); Tenn. R. Evid. 103(a)(1) (stating that error may not be predicated on the admission of evidence unless “a timely objection or motion to strike appears of record, stating the specific ground of objection if the specific ground was not apparent from the context[.]”). On appeal, however, Husband does not make any argument regarding the admission of the financial statements; rather, he only argues that the trial court put improper weight on the financial statements.

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<sup>5</sup> Cohutta is also sometimes referred to as Synovus or Synovus Bank in the testimony.

<sup>6</sup> We note again that the former counsel for Husband filed a motion to withdraw after the first day of trial, which the trial court granted. Husband then obtained new counsel, who is the current counsel on appeal.

The financial statements listed the values of certain assets and liabilities of Husband, such as the marital residence and the mortgage balance. Husband maintained that much of the information contained in the financial statements was inaccurate. However, he admitted to signing both of the financial statements, which included language that he was certifying and warranting the information contained in the financial statements was true and correct. He stated, however, that he did not review the financial statements carefully when he signed them. He said, “I made the mistake by signing it, but the information is not accurate” and “I’m sorry I didn’t look at it carefully. It was sent for me to sign, and I signed.”

Again, Husband failed to make a contemporaneous objection to the admissibility of the financial statements. We have explained that when a party fails to object to the admissibility of evidence, “the evidence becomes admissible notwithstanding any other Rule of Evidence to the contrary, and the [trier of fact] may consider that evidence for its ‘natural probative effects as if it were in law admissible.’” *Pearson*, 2011 WL 6916194, at \*4 (quoting *Dixon v. Cobb*, No. M2006-00850-COA-R3-CV, 2007 WL 2089748, at \*8 (Tenn. Ct. App. July 12, 2007)). Therefore, in the absence of such objection, the trial court was within its discretion to consider and rely on the financial statements. *Id.* Furthermore, we reiterate that we accord great deference to the trial court’s decision because of its credibility finding against Husband. The resolution of this issue depended on the truthfulness of Husband’s testimony regarding the financial statements, and the trial court who had the opportunity to observe him was in a far better position to decide this issue. *Riggs*, 250 S.W.3d at 456.

Accordingly, we find that the trial court’s decision was supported by the evidence in the record and was within the range of acceptable alternative dispositions. *Lee Med., Inc.*, 312 S.W.3d at 524-25 (citing *Flautt & Mann*, 285 S.W.3d at 872-73). The court was within its discretion to rely on the financial statements, and we conclude that the it did not abuse its discretion in giving them weight.

### ***C. Rebuttal Witness***

For his third issue, Husband argues that the trial court abused its discretion when it failed to allow Husband’s rebuttal witness to testify. Husband admits that no offer of proof was made. He argues, however, that the substance of the rebuttal witness’s testimony was apparent from the context and that the court’s denial of the rebuttal witness seriously affected the fairness of the trial.

The first day of trial in this case occurred on December 11, 2020. The second day of trial, which occurred on July 2, 2021, began with counsel for Wife objecting to the four additional witnesses listed in Husband’s amended witness list that had been filed a day prior. Counsel for Husband asked the court for latitude, but the court ultimately ruled that

it would not allow the additional witnesses to testify. Counsel for Husband then asked if he would be able to qualify them as rebuttal witnesses, to which the court responded that they would deal with the rebuttal issue if it came up later in trial. When that time came, counsel for Husband attempted to call one of the additional witnesses to rebut Wife's testimony. However, counsel for Wife objected and stated as follows:

This witness was first disclosed to us yesterday afternoon. And even though he's a rebuttal witness, [the local rule] provides that witness lists must disclose all witnesses, including rebuttal witnesses. Again, Your Honor, it's been seven months almost since we've been in court previously. They've had seven months to deal with this, seven months to disclose this, seven months to anticipate these witnesses. And under the circumstance of this particular case, we believe that's unfair to proceed.

As I mentioned earlier, at the beginning of trial today, had the witness been local, had we been able, perhaps, to compile information on this witness, maybe that's one thing, but we're talking about someone in Ghana that we've never heard of until yesterday afternoon. We haven't had the ability to adequately prepare for this witness. Obviously, it's in violation of the local rules.

Counsel for Husband again asked the court for latitude, but the court did not allow the additional witness to testify as a rebuttal witness. Counsel for Husband informed the court that it would like to put on an offer of proof for the record on appeal. The court stated that Husband was entitled to do so and that he could put on the offer of proof at the end of the day. Yet, no offer of proof was made.

The fourth day of trial, which occurred on October 26, 2021, began with counsel for Wife objecting to Husband's second amended witness list, which re-designated the additional witness. Counsel for Husband stated that the additional witness would be called to rebut allegations made by Wife. The court ruled as follows:

It was not filed ten business days before the trial and there was an objection filed. I'm going to exclude him. I think with the late filing and the objection being filed and what we had done previously, I'm going to exclude that witness's testimony under Rule 8.02 of the local rule of practice.

The local rule mentioned above, Rule 8.02(c) of the Eleventh Judicial District Local Rules of Practice, provides in pertinent part that "[a]t least ten (10) business days before trial, each party shall file and serve by facsimile or by hand: 1) a Witness List, including names, addresses, and, if known, telephone numbers of all witness, including rebuttal witnesses[.]"

It is well-established that "trial courts are accorded a wide degree of latitude in their

determination of whether to admit or exclude evidence, even if such evidence would be relevant.” *Creger v. Creger*, No. M2022-00558-COA-R3-CV, 2023 WL 2533213, at \*12 (Tenn. Ct. App. Mar. 16, 2023) (quoting *Dickey v. McCord*, 63 S.W.3d 714, 723 (Tenn. Ct. App. 2001)); see *Pennington v. Pennington*, No. M2007-00181-COA-R3-CV, 2008 WL 1991117, at \*3 (Tenn. Ct. App. May 7, 2008) (“Trial courts have broad discretion with respect to the admission or exclusion of evidence and the enforcement of local rules.”). Husband argues that the trial court abused its discretion in excluding his rebuttal witness. However, his argument is impacted by his failure to make an offer of proof at trial. See Tenn. R. Evid. 103(a) (“Error may not be predicated upon a ruling which . . . excludes evidence unless a substantial right of the party is affected, and . . . the substance of the evidence and the specific evidentiary basis supporting admission were made known to the court by offer or were apparent from the context.”). “This failure ordinarily renders the issue waived.” *Creger*, 2023 WL 2533213, at \*12. This Court has explained that:

The Tennessee Rules of Evidence provide that a trial court’s error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and when the ruling excludes evidence, the substance of the evidence and the specific evidentiary basis supporting admission were made known to the court by offer or were apparent from the context. As the rule of evidence provides, the burden was on Mother to preserve the substance of the evidence [the excluded witness] was expected to present so that this court may determine whether a substantial right has been affected. Unfortunately, once the trial court excluded [the witness], Mother did not make an offer of proof.

The due process right to a full hearing before a court includes the right to introduce evidence and have judicial findings based upon such evidence. An erroneous exclusion of evidence, however, does not require reversal unless we can determine the evidence would have affected the outcome of the trial had it been admitted. The appellate courts cannot make such a determination without knowing what the excluded evidence would have been. It is for these reasons that the burden is on the party challenging the exclusion of evidence to make an offer of proof to enable the appellate court to determine whether the exclusion of proffered evidence was reversible error.

An offer of proof should contain the substance of the evidence excluded and the evidentiary basis supporting the admission of the evidence. These requirements may be satisfied by presenting the actual testimony, stipulating the content of the excluded evidence, or presenting a summary, oral or written, of the excluded evidence. Generally, the appellate courts will not consider issues relating to the exclusion of evidence when this tender of proof has not been made.

Our courts have recognized two exceptions to the rule requiring an offer of proof. The first is contained in the rule itself and applies when the substance of the evidence and the specific evidentiary basis supporting admission is apparent from the context of the questions. The second has been fashioned by the courts and applies when exclusion of the evidence seriously affects the fairness of the trial. Neither of these exceptions is in play here.

The record does not provide sufficient information for us to determine the substance of [the witness's] testimony. Accordingly, we are not able to determine whether her testimony would have affected the outcome of the trial. We therefore find no error with the trial court's decision to exclude the testimony of [the witness].

*Hill v. Hill*, No. M2006-01792-COA-R3-CV, 2008 WL 110101, at \*5-6 (Tenn. Ct. App. Jan. 9, 2008) (internal citations and quotations marks omitted).

Likewise, in this case, we are unable to determine whether Husband's excluded rebuttal witness would have affected the outcome of the trial due to Husband's failure to make an offer of proof. We also determine that the substance of the rebuttal witness's testimony was not apparent from the context. Husband asserts on appeal that his counsel attempted to call the rebuttal witness to rebut Wife's testimony that she had not been arrested. However, this was not apparent from the context at trial. The only indication of the substance of the rebuttal witness's testimony was counsel's statement that the witness was an "officer" and would be called to rebut allegations made by Wife, which would go toward her credibility. As such, we conclude that Husband has waived this issue.

#### ***D. Division of Marital Property and Allocation of Marital Debt***

For his fourth issue, Husband argues that the trial court abused its discretion in awarding Wife a majority of the marital assets and assigning all of the marital debt to Husband. This Court has explained that "[t]he division of the marital estate includes both the division of the marital property and the allocation of the marital debt." *Owens v. Owens*, 241 S.W.3d 478, 490 (Tenn. Ct. App. 2007).

##### *i. Allocation of Marital Debt*

We will first address the trial court's allocation of the marital debt. "[W]hen allocating marital debts, the following factors are to be taken into account: '(1) the debt's purpose; (2) which party incurred the debt; (3) which party benefitted from incurring the debt; and (4) which party is best able to repay the debt.'" <sup>7</sup> *Perkins v. Perkins*, No. W2021-

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<sup>7</sup> We note that Tennessee Code Annotated section 36-4-121 was amended to include these factors, which went into effect on March 31, 2022. See 2022 Tenn. Pub. Acts, Ch. 762, § 5 (S.B. 2385).

01246-COA-R3-CV, 2023 WL 2446807, at \*3 (Tenn. Ct. App. Mar. 10, 2023) (quoting *Alford v. Alford*, 120 S.W.3d 810, 814 (Tenn. 2003)).

At trial, Husband proposed that he would to take on all of the debt. Therefore, taking Husband’s testimony into account, the trial court allocated all of the debt to Husband, specifically stating that Husband was “responsible for paying all debts in his name or in the name of both parties.” In its amended order, the court made findings relevant to the factors mentioned above. The court found that the the debts incurred were mainly for the benefit of Husband and his medical clinic and that Husband was the only party with any ability to pay the debts. The debts the court allocated are summarized in the table below.

**Marital Debt**

<b>Debt</b>	<b>Court’s Value</b>	<b>Wife</b>	<b>Husband</b>
Synovus Bank Mortgage Loan	Did Not Find	\$0.00	\$255,106.00
Common Area Maintenance Charges to Matheny Stees & Associates	Did Not Find	\$0.00	\$21,726.00
SunTrust Bank Judgment Lien	Did Not Find	\$0.00	\$90,231.00
SunTrust Mortgage Deficiency	Did Not Find	\$0.00	\$238,955.00
SunTrust Bank Three Lines of Credit	Did Not Find	\$0.00	\$53,155.00
BB&T Line of Credit	Did Not Find	\$0.00	\$37,261.00
Pinnacle Bank Account for CareStar Health Associates, LLC and New Covenant Medical Associates, PLLC <sup>8</sup>	Did Not Find	\$0.00	\$110,802.00
Bankers Healthcare Group	Did Not Find	\$0.00	\$126,733.00

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<sup>8</sup> The trial court listed this debt as two separate debts, which was enumerated in its order as number six, “Pinnacle Bank,” and number seven, “Cure [sic] Star Health Associates, PLLC – account # 174006.” Besides the misspelling of Carestar, there are two errors we must make note of. The first appears to have been the result of an understandable mistake. The two debts that the court lists are actually one, but one might have mistaken that they were separate due to a page break in the statement of assets and liabilities filed by Husband. In the statement of assets and liabilities, “Pinnacle Bank” and “CareStar Health Associates, LLC and New Covenant Medical Associates PLLC; Acct # 3060” were on separate pages due to the page break. Additionally, the total amount due for this debt included the pre-accrued-interest value on one page and the accrued interest and the post-accrued-interest value on the other page. The correct value of this debt was the post-accrued-interest value, which was \$110,802. Counsel for Husband, who was not counsel when the statement of assets and liabilities was filed by Husband, makes the same error on appeal in his table of property and debts by listing this debt as two separate debts. The second error is that the court referenced the wrong account number for this debt. The correct account number for this debt was 3060. The court listed 174006 as the account number, which was the account number for the next debt listed on the statement of assets and liabilities, Bankers Healthcare Group. In doing so, it appears this led the court to leave out Bankers Healthcare Group in its list of the marital debt.



PayPal Working Capital Loan Agreement	Did Not Find	\$0.00	\$60,668.00
Cohutta/Synovus Bank Line of Credit	Did Not Find	\$0.00	\$275,000.00
Citi Bank Credit Card	Did Not Find	\$0.00	\$12,219.00
Chase Credit Card	Did Not Find	\$0.00	\$15,000.00
AMEX Credit Card	Did Not Find	\$0.00	\$18,000.00
Grant, Konvalinka & Harrison Attorney's Fees	Did Not Find	\$0.00	\$91,663.00
Harpeth Financial Services, LLC d/b/a Advance Financial	Did Not Find	\$0.00	\$1,143.00
Pinnacle Bank d/b/a Apex Cardmember Services	Did Not Find	\$0.00	\$31,163.00
Silverdale Baptist Academy	Did Not Find	\$0.00	\$9,153.00
Lynn Davenport	Did Not Find	\$0.00	\$32,000.00
<b>Total</b>	<b>\$837,955.00</b>	<b>\$0.00</b>	<b>\$1,479,978.00</b>

In its order, the court did not list the BB&T Line of Credit debt or the Bankers Healthcare Group debt shown in the table above, but the court stated that the debts Husband was responsible for were “not limited to” the debts included in its list. The court also did not value any of the debt that it *did* list. Instead, the court stated that \$837,955 was the total amount of the debt relying on the total amount according to the statement of assets and liabilities filed by Husband.<sup>9</sup>

However, this total amount was incorrect. In his statement of assets and liabilities, Husband listed the Synovus Bank Mortgage Loan debt, the Common Area Maintenance Charges to Matheny Stees & Associates debt, and the SunTrust Bank Judgment Lien debt, but, for whatever reason, he stated that these debts were “[n]ot included in [the] total.” Even accounting for the omission of these debts in the total amount, the remaining debts added up to \$1,112,915 and not \$837,955. It is unclear to this Court how Husband reached the total amount of \$837,955 in his statement of assets and liabilities. As set forth in the table above, the total amount of debts listed in his statement of assets and liabilities, with the addition of the Synovus Bank Mortgage Loan debt, the Common Area Maintenance Charges to Matheny Stees & Associates debt, and the SunTrust Bank Judgment Lien debt, was \$1,479,978. Still, this total amount does not factor in debts such as the other debts listed in Wife’s statement of assets and liabilities. It is unclear whether these debts were allocated to Husband given that the trial court failed to classify, value, or even mention them in its order.

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<sup>9</sup> We assume that the trial court did this because counsel for Wife suggested at trial, for the sake of time, that Husband’s statement of assets and liabilities spoke for itself, thereby agreeing to the values set forth in Husband’s statement.

On appeal, Husband acknowledges his testimony where he stated that he was willing to take on all of debt, and he does not present any argument specifically concerning the allocation of the debt. Therefore, the court’s ultimate allocation of debt is not at issue here. However, as further explained below, the correct valuation of these debts is necessary for the division of marital property.

*ii. Division of Marital Property*

When dividing the marital estate, the trial court should begin “with the systematic identification of all of the parties’ property interests.” *Owens*, 241 S.W.3d at 485 (citing 19 W. Walton Garret, *Tennessee Practice: Tennessee Divorce, Alimony and Child Custody* § 15:2, at 321 (rev. ed. 2004) (Tennessee Divorce)). “The second step is to classify each of these property interests as either separate or marital property.” *Id.* (citing *Flannary v. Flannary*, 121 S.W.3d 647, 650 (Tenn. 2003); *Conley v. Conley*, 181 S.W.3d 692, 700 (Tenn. Ct. App. 2005); *Anderton v. Anderton*, 988 S.W.2d 675, 679 (Tenn. Ct. App. 1998)). “After a trial court has classified the parties’ property as either marital or separate, it should place a reasonable value on each piece of property subject to division.” *Id.* at 486 (citing *Davidson v. Davidson*, No. M2003-01839-COA-R3-CV, 2005 WL 2860270, at \*2 (Tenn. Ct. App. .Oct. 31, 2005)).

The court’s valuation and division of the marital property are summarized in the table below.

**Marital Property**

<b>Property</b>	<b>Court’s Value</b>	<b>Wife</b>	<b>Husband</b>
Shallowford Road Property	\$0.00	\$0.00	\$0.00
Vanguard Account	\$185,000.00	\$185,000.00	\$0.00
Husband’s Medical Clinic	Did Not Find	Net Income	\$0.00
Synovus Bank	Did Not Find	Remaining Funds	\$0.00
Pinnacle Bank	Did Not Find	Remaining Funds	\$0.00
Kwaning Chateau in East Legon, Ghana <sup>10</sup>	\$600,000.00	\$600,000.00	\$0.00
Pokuase House in Accra, Ghana	\$150,000.00	\$150,000.00	\$0.00
Kumasi/Medoma House in Ghana	\$75,000.00	\$75,000.00	\$0.00
Two Developed Building Plots in Trassaco, Accra, Ghana	\$75,000.00	\$75,000.00	\$0.00

<sup>10</sup> The parties also refer to Kwaning Chateau as the Buidarf House. According to Wife, this is where Husband was living at the time of the first hearing in December 2020. She said that they finished paying off this house in 2015, so there was no debt related to this property.

Four Undeveloped Building Lots in Prampram, Ghana	\$5,000.00	\$5,000.00	\$0.00
Ten Undeveloped Building Lots in Kumama, Ghana	\$10,000.00	\$10,000.00	\$0.00
Cash Invested in Menzgold Ghana Limited	\$300,000.00	\$150,000.00	\$150,000.00
<b>Total</b>	<b>\$1,400,000.00</b>	<b>\$1,250,000.00</b>	<b>\$150,000.00</b>

The court also ruled that each party would keep whatever household furnishings and vehicles were in their possession, but it failed to value any of these items.

The trial court has broad discretion when dividing the marital property. *Id.* at 490 (citing *Jolly v. Jolly*, 130 S.W.3d 783, 785 (Tenn. 2004); *Fisher v. Fisher*, 648 S.W.2d 244, 246 (Tenn. 1983)). Therefore, we “must accord great weight to a trial court’s division of marital property.” *Id.* (citing *Wilson v. Moore*, 929 S.W.2d 367, 372 (Tenn. Ct. App. 1996); *Batson v. Batson*, 769 S.W.2d 849, 859 (Tenn. Ct. App. 1988)). On appeal, “our role is to determine whether the trial court applied the correct legal standards, whether the manner in which the trial court weighed the factors in Tenn. Code Ann. § 36-4-121(c) is consistent with logic and reason, and whether the trial court’s division of the marital property is equitable.” *Id.* (citing *Jolly*, 130 S.W.3d at 785-86; *Gratton v. Gratton*, No. M2004-01964-COA-R3-CV, 2006 WL 794883, at \*7 (Tenn. Ct. App. Mar. 28, 2006); *Kinard v. Kinard*, 986 S.W.2d 220, 231 (Tenn. Ct. App. 1998)).

Upon reviewing the table provided by Husband on appeal, which was particularly helpful in our review, it is apparent that the trial court failed to value or award much of the parties’ marital property and/or debt. The court also did not make any findings regarding the parties’ separate property, other than noting that Husband had no separate property of which it was aware. We have explained that:

In the absence of appropriate findings and conclusions under Rule 52.01 regarding the classification and valuation of all property at issue, the basis for the trial court’s division of the marital estate is not “readily ascertainable,” . . . and we cannot make a meaningful review of the trial court’s ultimate decision.

*Artry v. Artry*, No. W2020-00224-COA-R3-CV, 2022 WL 4372775, at \*5 (Tenn. Ct. App. Sept. 22, 2022) (internal citation omitted). As such, we are unable to carry out our role on appeal.

Moreover, Husband argues that the trial court failed to examine each of the statutory factors to be considered in the division of marital property found in Tennessee Code Annotated section 36-4-121(c). We agree. The Tennessee Supreme Court has held that the trial court shall consider all relevant factors in section 36-4-121(c). *Larsen-Ball v. Ball*,

301 S.W.3d 228, 234 (Tenn. 2010). Here, the court failed to consider and weigh the statutory factors in section 36-4-121(c). As an example, we observe the first two factors listed in section 36-4-121(c). The court failed to make any finding as to the first factor, which considers the duration of the parties' marriage. Tenn. Code Ann. § 36-4-121(c)(1). Additionally, since the court failed to place the correct value on the total debt (which was allocated to Husband), it was not possible for the court to make a proper finding as to factor two, which requires consideration of the financial liabilities of the parties. Tenn. Code Ann. § 36-4-121(c)(2). It appears the court attempted to correct its lack of findings by entering an order amending its memorandum order and final decree and addressing why it was holding Husband responsible for the marital debts. In its amended order, the court also made findings as to the parties' education, earning capacity, and standard of living. However, these findings were made as a part of the court's consideration of alimony. Thus, the court was actually considering the factors in section 36-5-121(i) relevant to alimony and not the factors in section 36-4-121(c) relevant to the equitable division of the marital estate.

We find that the court failed to make sufficient findings with respect to the parties' property in this case. Accordingly, we vacate and remand to the trial court for additional findings as to the parties' property and debt, both separate and marital; the valuation thereof; and for the necessary findings regarding the division of marital property required by section 36-4-121(c). On remand, the trial court may exercise its discretion to consider additional evidence related to these issues.<sup>11</sup>

### ***E. Child Support***

Under the previous issue, Husband also argued that he did not owe any unpaid child support in the amount of \$2,686 and that the trial court failed to consider the testimony proving that he paid this amount. However, we observe that “[a]ppellate review is generally limited to the issues that have been presented for review.” *Hodge v. Craig*, 382 S.W.3d 325, 334 (Tenn. 2012) (citing Tenn. R. App. P. 13(b); *State v. Bledsoe*, 226 S.W.3d 349, 353 (Tenn. 2007)). While Husband's appellate brief contains argument for this issue, he does not designate it as an issue in his statement of the issues presented for review. On appeal, “[t]he issues should be framed as specifically as the nature of the error will permit in order to avoid any potential risk of waiver.” *Id.* at 335 (citing *Fahey v. Eldridge*, 46 S.W.3d 138, 143-44 (Tenn. 2001); *State v. Williams*, 914 S.W.2d 940, 948 (Tenn. Crim.

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<sup>11</sup> “The parties themselves must come forward with competent valuation evidence.” *Owens*, 241 S.W.3d at 486 (citing *Kinard*, 986 S.W.2d at 231; *Wallace v. Wallace*, 733 S.W.2d 102, 107 (Tenn. Ct. App. 1987)). If the evidence presented by the parties is conflicting, “the court may place a value on the property that is within the range of the values represented by all the relevant valuation evidence.” *Id.* (citing *Watters v. Watters*, 959 S.W.2d 585, 589 (Tenn. Ct. App. 1997); *Brock v. Brock*, 941 S.W.2d 896, 902 (Tenn. Ct. App. 1996)). “The value placed on marital property should, as near as possible, reflect the value of the property on the date that it is divided.” *Green v. Green*, No. W2019-01416-COA-R3-CV, 2021 WL 1343569, at \*4 (Tenn. Ct. App. Apr. 12, 2021) (quoting *Owens*, 241 S.W.3d at 487).

App. 1995)). “[A]n issue may be deemed waived when it is argued in the brief but is not designated as an issue in accordance with Tenn. R. App. P. 27(a)(4).” *Id.* Given that Husband failed to present this as an issue in his statement of the issues, we deem this issue waived.

### ***F. Alimony***

For his final issue, Husband argues that the trial court abused its discretion when it awarded Wife alimony. A trial court’s decision concerning spousal support “is factually driven and involves the careful balancing of many factors.” *Gonsewski v. Gonsewski*, 350 S.W.3d 99, 105 (Tenn. 2011) (citing *Kinard*, 986 S.W.2d at 235). One of those factors the trial court considers is “[t]he provisions made with regard to the marital property, as defined in § 36-4-121[.]” Tenn. Code Ann. § 36-5-121(i)(8). Therefore, having vacated the trial court’s division of marital property, we conclude that we must also vacate its decision on alimony. *Artry*, 2022 WL 4372775, at \*6. Again, the court is not precluded on remand from reopening the proof on the question of alimony.

## **V. CONCLUSION**

For the aforementioned reasons, we affirm the trial court’s decision granting Wife a divorce. However, we vacate the court’s decisions regarding the division of marital property and the award of alimony. The case is remanded for further proceedings consistent with this opinion. Costs of this appeal are taxed equally between the parties, for which execution may issue if necessary.

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CARMA DENNIS MCGEE, JUDGE