NOT FOR OFFICIAL PUBLICATION
See Okla.Sup.Ct.R. 1.200 before citing.

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

IN RE THE MARRIAGE OF:

MARK E. MCDOWELL,

Petitioner/Appellee,

vs.

STACY MCDOWELL,

Respondent/Appellant.

Case No. 120,647

APPEAL FROM THE DISTRICT COURT OF
CANADIAN COUNTY, OKLAHOMA

HONORABLE BARBARA HATFIELD, SPECIAL JUDGE

AFFIRMED

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For Respondent/Appellant

OPINION BY GREGORY C. BLACKWELL, JUDGE:

Appellant, Stacy McDowell, appeals various legal rulings of the trial court, including its decision to award her $100,000 in support alimony payable at a rate of $3,000 a month. Upon review, we find that the trial court did not abuse

its discretion in either the alimony award or its other legal rulings and thereby affirm.

BACKGROUND

Stacy and Mark McDowell were married on November 26, 1999. On September 29, 2020, Mark filed his petition for dissolution of marriage. Stacy filed an answer and cross petition on October 21, 2020. After a lengthy discovery period, motions to withdraw and the addition of new counsel for Stacy, extensive motion practice, and the court granting Stacy's first motion to continue on November 17, 2021, trial on the merits finally began on February 23, 2022. Trial lasted six days, spanning over roughly four months. The trial court issued its decree of the dissolution of marriage on July 21, 2022. Stacy now appeals various rulings of the trial court throughout the litigation and the amount of support alimony awarded.

STANDARD OF REVIEW

In a divorce action, the trial court is vested with wide discretion in dividing property and awarding alimony. *McLaughlin v. McLaughlin*, 1999 OK 34, ¶ 12, 979 P.2d 257, 260. On appeal, this Court will not disturb the trial court's judgment regarding property division or alimony absent an abuse of discretion or a finding that the decision is clearly contrary to the weight of the evidence. *Id.* The burden is on the party appealing from a divorce decree to show that the findings and judgment are against the clear weight of the evidence. *Id.*

"A trial court has discretion in deciding whether proffered evidence is relevant and, if so, whether it should be admitted, and a judgment will not be

reversed based on a trial judge's ruling to admit or exclude evidence absent a clear abuse of discretion." *Myers v. Missouri Pac. R.R. Co.*, 2002 OK 60, ¶ 36, 52 P.3d 1014, 1033.

ANALYSIS

Discovery

For her first proposition in error, Stacy argues that the court made a "series of legal and evidentiary errors" that obstructed her ability to identify and acquire critical evidence to support her contention that Mark had hidden money or assets that should have been a part of the marital estate. *Brief-in-Chief*, pg. 31. It appears that Stacy was primarily concerned about Mark withholding documents or evidence requested during discovery. She alleges that the trial court deviated from the Oklahoma Supreme Court's directive to "allow discovery to the fullest extent, to ensure that both sides have all of the facts and information until the eve of trial." *Id.* at 33. However, how the court accomplished such deviation is unclear from the briefing and the record.

For example, Stacy argues that Mark gave inadequate answers in his interrogatories, that Mark failed to produce certain documents requested during discovery, that some records produced by Mark were not given to her with enough time to review them before trial, and that he failed to adequately respond to various records subpoenas. Mark provided initial discovery in February 2021, which he later supplemented at the request of Stacy in November 2021.[1] Mark

[1] Supplemental discovery, submitted some four months before trial, purportedly consisted of 1,799 documents. *See* Tr. (Feb. 23, 2022) pg. 12.

also objected to some of Stacy's requests for production and filed a motion to quash the records subpoena issued to his expert, Ted Blodgett.[2] In order to resolve some of these disputes, the parties scheduled a discovery conference. However, the discovery conference was later cancelled due to a scheduling conflict. The record does not contain any evidence which suggests the conference was rescheduled. Additionally, the record reflects that Stacy never filed a motion to compel.

Here, there is no evidence that the parties rescheduled their discovery conference or otherwise met to confer about discovery. Additionally, Stacy did not file a motion to compel discovery. The filing of a motion to compel followed by failure to obey the resulting order is a prerequisite for sanctions to be imposed under 3237(B). *Barnett v. Simmons,* 2008 OK 100, ¶ 14, 197 P.3d 12. Because Stacy failed to meet and confer with Mark about any purported discovery deficiencies, and because she failed to seek court intervention in discovery, or to compel answers, she cannot now argue that the court failed to sanction Mark by evidentiary rulings or exclusions based on refusing discovery. We find no series of legal and evidentiary errors that obstructed her ability to identify and acquire critical evidence regarding Mark's purportedly undisclosed marital estate. The court appears to have made no discovery rulings preventing Stacy from obtaining discovery. How it actively "obstructed" her discovery is not explained in her brief.

[2] Despite filing the motion to quash, Mark's counsel advised Mr. Blodgett to go ahead and produce the documents requested in the subpoena. *See* (Tr. Feb. 23, 2022) pg. 24.

Motion to Continue

Stacy argues that the trial court erred when it refused to grant her motion to continue the merits trial to allow her to obtain additional discovery necessary to prove additional marital assets. As Mark correctly points out in his brief, Stacy does not cite to any authority in support of this proposition in error; rather, she argues that the court's refusal to grant her third request for a continuance was generally "contrary to precedential law and equitable principles." Assignments of error presented by counsel in the brief, unsupported by convincing authority, will not be considered on appeal when it is not apparent without further research that they are well taken. *Paris Bank of Texas v. Custer*, 1984 OK 5, ¶ 31, 681 P.2d 71, 78.

Even still, upon review, we hold that the court did not abuse its discretion in refusing to grant any motion for a continuance. A granting or denial of a continuance is within the sound discretion of the trial court and a refusal to grant a continuance does not constitute reversible error unless an abuse of discretion is shown. *Oklahoma Gas & Elec. Co. v. Chez*, 1974 OK 99, ¶ 12, 527 P.2d 165, 167 (citing *Teel v. Gates*, 1971 OK 21, 482 P.2d 602). Mark filed his petition for dissolution of marriage in September 2020. He provided his initial responses to discovery in February 2021. Additionally, he supplemented discovery at Stacy's request in November 2021. Trial was originally set for December 9 and 18 of 2021.

However, on October 28, 2021, Stacy filed her first motion to continue which was granted, and trial was set for February 23 and March 9, 2022. Stacy

filed additional motions to continue on January 18, 2022, and February 14, 2022, both of which were denied by the court. It appears that Stacy's requests for continuances were largely centered around needing more time to review and/or locate more documents related to the maritial estate. However, as noted above, by the time the second and third motions were filed she had possessed the majority of Mark's discovery for almost a year and his additional discovery for roughly two months.

In the second motion for continuance, Stacy alleges that Mark was involved in the sale of a company called All Storage, Inc., in November 2021. She also argues that he is involved with many other businesses as president, vice president, and treasurer, he has provided inaccurate or incomplete tax returns, he has created other LLCs, and that he and Jay Schuminsky engaged in a variety of transfers of ownership of business entities between 2011 and 2018. Mark responded that he was not an owner of All Storage, Inc., and that while he may be a vice-president or manager for certain entities, those roles do not equate to having an ownership interest. Further, it is unclear how this evidence was not available to Stacy at the beginning of the case and throughout discovery in 2021. Nonetheless, the court noted when denying the second motion to continue that it could not adequately address the issues raised by Stacy regarding the documents, their accuracy or inaccuracy, the nature of Mark's role in any given company, and therefore, counsel needed to depose Mark and Mr. Schuminsky. Tr. (Jan. 26, 2022) pg. 1.

Similarly, in the third motion for continuance, Stacy alleged that Mark recently acquired new property without a mortgage, that Mark was untruthful about his role as a trustee for the Schuminsky family, and that various other documents or information was not produced during discovery. Again, it is unclear how this information was unavailable to Stacy as early as February 2021. Further, instead of asking for continuances, Stacy could have been filing motions to compel, drafting deficiency letters, deposing witnesses, or attempting to meet and confer with counsel regarding the allegedly recently discovered or unproduced materials. Thus, upon review, it is clear that the court did not abuse its discretion in denying the motions to continue.

Expert Witness Testimony

Stacy's third proposition in error is that the trial court erred when it allowed Mark's expert witness, Mr. Ted Blodgett, to testify over her motion in limine and objections at trial because she alleged Mark failed to comply with ongoing supplementation requirements of discovery. Specifically, Stacy notes that she requested the names of "any and all witnesses" in one of her interrogatories and Mark, in response, only listed himself. *Brief-in-Chief*, pg. 35. She then alleges that Mark's disclosure of Blodgett as his expert on "February 9, 2022, was contrary to both the spirit and letter of the Oklahoma Discovery Code." *Id.* at pg. 36.

The court did not issue a scheduling order specifically governing dates for expert disclosure in this case, and we find no indication that Stacy requested the court to set such a date; however, the parties agreed to exchange initial exhibits

and witness lists on February 7, 2022, and final exhibit and witness lists on the date of pre-trial, which was February 15, 2022.[3] Additionally, on February 2, 2022, counsel for Stacy issued a subpoena to Mr. Blodgett's firm. Neither party disputes that the documents requested in the subpoena were provided to Stacy. *See* Tr. (Feb. 23, 2022) pgs. 7-8, and *Answer Brief*, pg. 30. On February 15, 2022, counsel for Mark offered for Stacy's counsel to depose Mr. Blodgett at their convenience. However, counsel declined to schedule a deposition because she did not want to waive her objection to him as a witness generally. R. 360. Hence, it appears that Stacy either was or should have been aware that Mark would be using Blodgett as his expert at trial as early as January 2022.[4]

Given that the parties complied with their agreed deadlines to disclose witnesses, Stacy's argument is that Mark knew he was going to call Blodgett as an expert *before* the initial exhibits and witness lists were exchanged on February 7, because Blodgett was allegedly retained on September 30, 2021, some four months before he was listed. Thus, she argues that Mark failed to comply with his ongoing obligation to supplement his answer to her interrogatory involving witnesses. Stacy therefore relies on 12 O.S. § 3226(E):

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[3] The initial witness list itself is not in this record on appeal; however, Mark's counsel testified under oath that "on that initial witness list, I listed Mr. Blodgett, along with Jay Schuminsky, along with some others. I detailed what he was going to testify about. I sent Petitioner's income, valuation reports, everything like that." Tr. (Feb. 23, 2022) pg. 25.

[4] Mark argues that he made Stacy aware of an expert in November 2021 at the hearing on her request for suit monies. However, the transcript of that hearing is not in the record and the minute order entered after the hearing does not mention whether Mr. Blodgett was present. R. 118. Thus, while it is possible Stacy knew of Mr. Blodgett's involvement in the case in November 2021, we defer to the later date of January 2022 as the official earliest date which Stacy knew or should have known that Mr. Blodgett would be an expert in the case.

> SUPPLEMENTATION OF RESPONSES. A party who has responded to a request for discovery with a response that was complete when it was made is under no duty to supplement the response to include information thereafter acquired, except as follows:
>
> 1. A party is under a duty seasonably to supplement the response with respect to any question directly addressed to
>
> b. the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony.

Stacy asked via a motion in limine that the court sanction Mark for this alleged discovery violation by excluding Blodgett's testimony.

We review the correctness of the trial court's imposition of sanctions under the abuse of discretion standard. *TAL Techs., Inc. v. L.D. Rhodes Oil Co.*, 2000 OK 38, ¶ 14, 4 P.3d 1256. To reverse for abuse of discretion we must determine the trial judge made a clearly erroneous conclusion and judgment, against reason and evidence. *Abel v. Tisdale,* 1980 OK 161, 619 P.2d 608, 612. A trial court's ruling on a request for sanctions will not be disturbed unless contrary to the weight of evidence or to a governing principle of law. *Id.* An abused judicial discretion is manifested when discretion is exercised to an end or purpose not justified by, and clearly against, reason and evidence. *Patel v. OMH Medical Center, Inc,* 1999 OK 33,120, 987 P.2d 1185, 1194.

Oklahoma cases involving a failure to supplement under 12 O.S. § 3226(E) are rare, and none appear to state any more specific inquiry or standards a court should use in assessing such a request. *West v. Cajun's Wharf, Inc.*, 1988 OK 92, ¶ 13, 770 P.2d 558, 562, notes, however, that "[s]ince [12 O.S. § 3226] closely tracks Rule 26(e), Federal Rules of Civil Procedure, we find guidance in the

decisions of the federal courts." The Seventh Circuit set out the following Rule 26(e) factors in *David v. Caterpillar, Inc.*, 324 F.3d 851, 857 (7th Cir. 2003). (1) the prejudice or surprise to the party against whom the evidence is offered; (2) the ability of the party to cure the prejudice; (3) the likelihood of disruption to the trial; and (4) the bad faith or willfulness involved in not disclosing the evidence at an earlier date." "The determination of whether a Rule 26(a) violation is justified or harmless is entrusted to the broad discretion of the district court." *Mid–America Tablewares, Inc. v. Mogi Trading Co., Ltd.*, 100 F.3d 1353, 1363 (7th Cir.1996). Further, "[a] district court need not make explicit findings concerning the existence of a substantial justification or the harmlessness of a failure to disclose." *Woodworker's Supply, Inc. v. Principal Mut. Life Ins. Co.*, 170 F.3d 985, 993 (10th Cir.1999).

Stacy evidently argues that the three-to-four-month delay in disclosure[5] inherently prejudiced her to a degree that the court was required to exclude Blodgett's testimony as a sanction. We disagree. Fundamental to any analysis is the degree of prejudice or surprise to the party against whom the evidence is offered, and the ability of the party to cure the prejudice. Part of any "surprise" here was due to the parties' own agreed late date for the disclosure of witnesses. The parties agreed to exchange *initial* exhibits and witness lists on February 7, 2022, only sixteen days before trial. This left very little time for action on any

[5] It appears that Mark had no duty to supplement his responses regarding experts *until* Blodgett was actually retained. Plaintiffs are not required to disclose information on experts informally consulted but not retained. *See Ager v. Jane C. Stormont Hosp. & Training School for Nurses*, 622 F.2d 496, 498 (10th Cir. 1980).

recently retained expert. Further, the major prejudice would appear to be from Stacy having insufficient time to depose Blodgett and prepare to counter his testimony. But, Stacy was offered the opportunity to do so and refused, evidently deciding to seek Blodgett's exclusion as an "all or nothing" strategy. She further did not seek a continuance to add her own counter-expert.

As we previously noted, a trial court's ruling on a request for sanctions will not be disturbed unless the court's discretion was exercised to an end or purpose not justified by, and clearly against, reason and evidence." *Patel v. OMH Medical Center, Inc*, 1999 OK 33,120, 987 P.2d 1185, 1194. We find the court's decision to allow Mr. Blodgett to testify was within its discretion.

Admission of Exhibits

For her fourth proposition in error, Stacy alleges that the court erred when it admitted exhibits and testimony offered by Mark that he did not produce in discovery.[6] Specifically, she alleges that she "produced numerous instances in the above Summary of the Record of Husband's intentional failure to produce banking statements relating to undisclosed business entities; an example is MRC Operating, Inc." *Brief-in-Chief*, pg. 36. However, upon review of Stacy's summary of the record and her argument for the fourth proposition in error, it is unclear which exhibits and testimony she is specifically referring to that were admitted or allowed by the court that she did not have access to in discovery.

[6] We reiterate that any issues related to discovery should have been addressed before trial via a motion to compel, deficiency letter, or other avenues.

For example, when Mark called Mr. Blodgett as his first witness, Stacy's counsel requested that the trial court acknowledge her standing objection because she filed a motion to strike Mr. Blodgett.[7] In reviewing her summary of the record, it appears Stacy objected to the admission of several different exhibits introduced by Mr. Blodgett. However, upon review, it also appears that most of these objections were merely counsel renewing her standing objection to Mr. Blodgett, not that the material he was testifying about was new to her or had not previously been disclosed in discovery.[8] Both parties had acknowledged that many documents had been produced as a result of the records subpoena issued to Mr. Blodgett's firm. Thus, it appears that most of the objections regarding the admission of the exhibits were not because Stacy had never seen them before, but because she generally objected to Mr. Blodgett being able to testify as an expert witness in this case.

However, Stacy does note a few instances where her counsel objected to the admission of an exhibit on the basis that it was not provided to her in discovery. For example, at trial, Stacy's counsel asked Mark why he did not provide a particular limited partnership agreement in discovery, to which he

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[7] Stacy's counsel stated, "your honor, a matter of housekeeping. As you know, I filed a motion to strike. And rather than make an objection every single time, could the record just show that I have a standing objection?" Tr. (Feb. 23, 2022) pg. 69. The court responded stating, "We will let the record reflect." *Id.*

[8] For example, when asking if counsel had any objection to a valuation report prepared by Mr. Blodgett her response was "just the standing your honor." *Id.* at 79. When asked if counsel had any objection to admission of documents regarding a limited partnership agreement and its amendments, counsel again responded, "just the standing objection." *Id.* at 84. Counsel stated she had the "same response" when asked if she had any objection to exhibit 48, which was the organizational documents for Mark E. McDowell, CPA, Inc. *Id.* at 98.

responded, "I don't know." Tr. (March 9, 2022), pg. 105. Mark's counsel objected, maintaining that the limited partnership agreement was disclosed in discovery. *Id.* Specifically, counsel objected, "We sent thousands of documents that I thought included a bunch of MRC material, and, B, they got it when they subpoenaed Ted Blodgett. So they've been provided. This wasn't something they just saw today." *Id.* After some back and forth between the attorneys, the court stated that "this document has already been admitted. You can ask your question to Mr. McDowell. And let's move along, or we're never going to get done." *Id.* at 108. Review of the trial transcript from the prior trial date, February 28, 2022, reveals that the limited partnership exhibit was admitted via Ted Blodgett and Stacy's counsel did not object that she had never been provided with that document in discovery. Rather, she made her "standing objection" to Ted Blodgett's ability to testify generally. Tr. (February 23, 2022) pg. 84.

We find Stacy's claim that the court abused its discretion in admitting this exhibit because it was not produced unavailing. Mark's counsel directly disputed her claim that a copy the MRC partnership agreement was never provided during discovery. Stacy did not provide this Court with what she was given in discovery to compare with what she was purportedly surprised with at trial. Also, she did not object that she had never seen the partnership agreement when the exhibit was first admitted with Mr. Blodgett. Instead, she did not raise the issue until a later trial date weeks after. Questions involving the "relevance and admission of evidence are matters addressed to the sound discretion of the Court, whose rulings thereon will not be disturbed absent a showing of abuse of discretion."

Tull v. Federal Express Corp., 2008 OK CIV APP 105, ¶ 20, 197 P.3d 495, 499, (quoting A*merican Nat'l Bank & Trust Co. of Sapulpa v. BIC Corp.,* 1994 OK CIV APP 70, n. 17, 880 P.2d 420, 424). We note that, trial court's decision to admit the document when it was first introduced was not an abuse of discretion as the court did not even know that the exhibit purportedly was not produced to Stacy. Further, because Stacy did not provide this Court in the record on appeal with what was produced in discovery, we have no way of verifying whether she received the document or not. "It is the duty of the appealing party to procure a record that is sufficient to obtain the corrective relief sought." *Chamberlin v. Chamberlin*, 1986 OK 30, ¶ 7, 720 P.2d 721, 724. Thus, in the absence of the discovery in the record on appeal, Mark's counsel's repeated assertion that the document had been provided in discovery, and Stacy's failure to object when the document was first admitted, we find that the trial court did not abuse its discretion in this instance.

Stacy also claims that she impeached Mark as to his "discovery refusal to produce trust documents asserted as confidential." *Brief-in-chief*, pg. 28. Stacy's counsel inquired about one of Mark's responses for production, in which he objected to the request because it related to confidential trust documentation. Tr. (March 9, 2022), pg. 156. Both Mark and Stacy's counsel acknowledged that a will of Mike Schuminsky was produced in discovery instead. *Id.* at 157-58. Counsel introduced the will and offered it for admission, Mark's counsel objected to relevance. *Id.* at 159. When arguing for the exhibit's admission, Stacy's counsel stated that the will was relevant as it showed that other documentation,

specifically the trust, was withheld from her during discovery. Counsel for Mark responded saying that he did not have to produce the trust because he "objected to the production because of confidentiality purposes. So we didn't withhold anything. If they'd wanted it, they could have filed a motion to compel, but this was specifically objected to .... [T]hey're asking for a trust document, we gave them a will, apparently, and now they're saying we withheld." *Id.* at 161-62. The court then inquired about the relevance of the will and asked if it named Mark, which counsel responded that it did not. *Id.* at 163. The court then asked if he was a beneficiary to the will, which counsel again responded that he was not. It does not appear that the court ever ruled on the objection or admitted the exhibit; rather, it directed Stacy's counsel to ask questions directly about the trust. *Id.*

We find that neither example listed above shows that Stacy was not provided with documentation during discovery. It appears that Stacy believed she could show that she was not given trust documents by introducing a will. Further, it appears that Mark properly objected to the request for production of the trust documents and Stacy failed to file a motion to compel. We cannot find that he was required to produce documents that were objected to and no motion to compel was filed. Further, as the court correctly inquired, the relevance of the trust documents is unclear. Thus, the court did not abuse its discretion in this instance.[9]

[9] While Stacy argues that Mark failed to produce documentation related to "trusts" he was involved in, *brief-in-chief*, pg. 37, Mark clarifies that Stacy's interrogatory no. 5, requested husband describe all trusts in which he is a "donee, grantee, settlor, beneficiary, contingent beneficiary or in which he has a present or future interest." *Answer Brief*, pg. 33. Thus, when Mark responded to that interrogatory that he had no such interest, it was true,

Public Source Online Documents

Next, Stacy argues that the court erred when it refused to admit her copies of public source online documents but admitted the same or similar documents that husband offered through his expert. Stacy's treatment of this fifth proposition in error is cursory at best. She does not identify which specific public source online documents were the same or similar to the ones utilized by husband's expert, nor does she identify their relevance, despite including the definition in her briefing. Stacy argues, and we agree, that evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." 12 O.S. § 2401. However, Stacy fails to identify how these documents made any fact of consequence in this case any more or less probable. As stated above, assignments of error presented by counsel in the brief, unsupported by convincing authority, will not be considered on appeal when it is not apparent without further research that they are well taken. *Paris Bank of Texas v. Custer*, 1984 OK 5, ¶ 31, 681 P.2d 71, 78.

Additionally, Stacy did not attempt to explain their relevance during trial. She produced and attempted to admit a Texas franchise tax public information report that was pulled off the Secretary of State's website. Tr. (March 9, 2022), pg. 80. Mark's counsel objected on the grounds of hearsay and relevance and the court did not ultimately admit the exhibit. *Id.* Stacy then made an offer of

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because Mark is a trustee of a trust, not a beneficiary. Tr. (Feb. 23, 2022) pg. 28. We agree with Mark that these designations are two separate and legal distinctions. While she argues that such omission was intentional, there is no support for that contention in the record.

proof for over 100 additional exhibits on the assumption that they were similar to the one she tried to admit, she knew Mark would object, and the trial court would sustain the objection. *Id.* at 87-88. Even if the first exhibit had been admitted, and even if counsel had attempted to admit all of the other similar exhibits, their relevance is still unclear. The proffer addresses the hearsay arguments, arguing that the documents are self-authenticating, but Stacy does not argue their relevance below, nor does she show how they are relevant now on appeal. The relevance and admission of evidence are matters addressed to the sound discretion of the trial court whose rulings thereon will not be disturbed absent a showing of abuse of discretion. *Joffe v. Vaughn*, 1993 OK CIV APP 169, ¶ 14, 873 P.2d 299. In the absence of any argument regarding their relevance it is clear the trial court did not abuse its discretion in refusing to review the exhibits.

Alimony

Finally, Stacy argues that the court erred in its award of alimony. The parties' divorce decree provides that beginning July 15, 2022, and continuing on the 15th of each month thereafter, Mark shall pay Stacy support alimony in the total amount of $100,000 payable at the rate of $3,000 per month until the amount is satisfied. Stacy argues that she demonstrated a need for $5,000 a month and that Mark had the ability to pay that amount. Additionally, she alleges that the court was required to look at her pre-divorce standard of living as one of the factors for the award. We agree that the court should look at pre-

divorce standard of living; however, that is one factor of many the court must examine when determining support alimony.

> In a divorce action, the trial court is vested with wide discretion in dividing property and awarding alimony. On appeal, this Court will not disturb the trial court's judgment regarding property division or alimony absent an abuse of discretion or a finding that the decision is clearly contrary to the weight of the evidence. The burden is upon the party appealing from a divorce decree to show that the findings and judgment are against the clear weight of the evidence.
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> In awarding alimony, although each case depends on its own facts and circumstances, it must be reasonable. Ability to pay is not the sole criterion for an award of alimony. Support alimony is based upon a consideration of appropriate factors which include: demonstrated need during the post-matrimonial economic readjustment period; the parties' station in life; the length of the marriage and the ages of the parties; the earning capacity of each spouse; the parties' physical condition and financial means; the mode of living to which each spouse has become accustomed during the marriage; and evidence of a spouse's own income-producing capacity and the time necessary to make the transition for self-support.

McLaughlin v. McLaughlin, 1999 OK 34, ¶¶ 12-13, 979 P.2d 257, 260–61.

On appeal, Stacy does not provide any argument as to how the trial court erred in determining a $3,000 a month award. She implies that it did not consider her standard of living and states that husband has the ability to pay $5,000 but does not point to any language in the court's order, testimony at trial, or any other evidence which suggests that the trial court weighed one factor in favor of another. Additionally, as stated above, Mark's ability to pay is not the sole criteria for an award of alimony. Stacy does not show why the $3,000 is insufficient, why she has a need for $2,000 more a month, or argue why the award she was given is an abuse of discretion. The trial court has wide discretion

in dividing property and awarding alimony and we decline to disturb the trial court's decision to award Stacy $100,000 payable at $3,000 a month.

CONCLUSION

Ultimately, the court did not abuse its discretion in denying Stacy's motions to continue, in allowing Mr. Blodgett to testify, in overruling Stacy's various objections to exhibits, or awarding her support alimony of $100,000 payable at $3,000 a month.

AFFIRMED.

HUBER, P.J., and HIXON, J., concur.

September 12, 2024