

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-016

AUGUST TERM, 2004

	}	APPEALED FROM:
	}	
	}	Rutland Family
	}	
Diane Wyman	}	
	}	
v.	}	DOCKET NO. F245-5-02 Rcdmd
	}	
Richard Wyman	}	Trial Judge: William D. Cohen
	}	
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Husband appeals pro se from a final order of divorce, challenging the family court's property distribution as inequitable. Husband has not demonstrated reversible error, and we therefore affirm.

The parties were married in 1973 and separated in May 2002. At the time of their separation, both parties were 48 years old and were in relatively good health. They owned a residence in Rutland together, and husband owned a 35-acre parcel in Cavendish, which he inherited from his father. The Rutland residence was valued at \$90,000 by the time of the final hearing. Debt of approximately \$25,000 was secured by the residence. The Cavendish parcel had a value of \$17,500. The court found that husband "is involved with antiques and collectibles," but could not assign a value to husband's collection because it found his evidence unreliable. The family court found that wife earned approximately \$50,000 annually as a teacher, and that husband, who also has a college degree and had worked as a teacher, earned an annual income of undetermined amount. Again, the court was unable to credit husband's evidence of his annual earnings, but noted that husband claimed to earn approximately \$14,000 per year. The court found that wife paid for most of the couple's housing expenses while the parties were married.

The court awarded wife the marital home, plus all associated debts, her vehicle and personal property, and her pensions worth approximately \$33,000. Husband received the Cavendish property, his antique collection, other personalty, his vehicle, and \$6,000 (more or less) of IRA savings. Following the court's entry of judgment, husband appealed.

On appeal, husband asserts that the family court inequitably divided the parties' property. We review husband's claim with deference to the family court, viewing the facts in the light most favorable to wife, the prevailing party for purposes of this appeal. Gilbert v. Davis, 144 Vt. 459, 461 (1984). We defer to the family court's evidentiary weight and credibility determinations, and will affirm the court's findings if they have evidentiary support. Id. The court's legal conclusions will stand on appeal if they are supported by the findings. Id. We will not disturb the court's property division absent a showing that the court abused the substantial discretion it enjoys when fashioning an equitable property award. Weaver v. Weaver, 173 Vt. 512, 513 (2001).

Husband makes several claims about the court's property division. He claims that the court (1) failed to consider the length of time the parties co-owned the Rutland residence; (2) failed to give him a share of the parties' equity in the marital home; (3) did not consider the contribution each party made to the upkeep of the property;(4) failed to give husband a monetary settlement he contends is necessary to allow him to begin anew and resume his prior lifestyle; and (5) did not equitably divide the parties' pensions. We disagree with the premise of husband's first three claims on appeal. The family court's order reflects that the court considered the parties' joint purchase of the Rutland home as well

as the home' s equity. The court likewise noted that wife bore the bulk of the parties' housing expenses. To the extent that the court' s findings do not reflect husband' s contributions to the upkeep and maintenance of the marital home, the order shows that the court could not credit husband' s evidence because it found the evidence was not reliable or credible. That credibility determination is one that may not be disturbed on appeal. See Gilbert, 144 Vt. at 461.

Husband also claims that he was entitled to spousal maintenance so that he can resume the standard of living he enjoyed while the parties were married. The family court rejected husband' s claim for maintenance, finding that his lifestyle will not substantially change as a result of the divorce. It found that husband' s income, property, and employability would allow him to meet his reasonable needs in the absence of spousal maintenance. Husband' s appellate brief fails to demonstrate any error in the court' s findings and conclusions on this point.

Similarly, we find no basis to disturb the court' s decision to give wife the full benefit of her pensions. The court' s obligation is to equitably divide all of the marital property. 15 V.S.A. § 751(a). The family court is not required to divide each individual piece of property between the parties as husband' s argument implies. Thus, to prevail on this claim, husband must show that the court abused its discretion in allocating the pensions to wife. Weaver, 173 Vt. at 513. Husband has not met that burden, and the family court' s decision must, therefore, stand.

Affirmed.

BY THE COURT:

John A. Dooley, Associate Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice