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

ENTRY ORDER

SUPREME COURT DOCKET NO. 2009-460

JUNE TERM, 2010

Robin Blouin	}	APPEALED FROM:
	}	
v.	}	Franklin Family Court
	}	
Peter Clayton Blouin	}	DOCKET NO. 177-6-08 Frdm
		Trial Judges: Mark J. Keller, A. Gregory Rainville

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

Husband appeals pro se from a divorce judgment and relief-from-abuse order of the Franklin Family Court. He raises a number of claims relating to the fairness of the divorce proceeding and the property division, as well as the duration of the abuse-prevention order. We affirm.

Following a hearing in July 2009 before the family court (Keller, J., presiding), the court issued a final divorce judgment based upon the agreement of the parties and the evidence presented. The parties' principal asset was the marital home, which they ultimately agreed to sell and evenly divide the proceeds. In the same hearing, the court granted wife's motion to extend an existing relief-from-abuse order. Husband was represented by counsel throughout the divorce proceeding; wife was pro se. In August 2009, husband dismissed his attorney and moved to recuse Judge Keller and reconsider the divorce judgment predicated upon a claim that Judge Keller used threats to compel husband's agreement. Judge Keller granted the motion to recuse, and Judge Rainville subsequently held a hearing on the motion to reconsider, ultimately finding no merit to the claim. This appeal followed.

Husband renews his claim that Judge Keller was biased and used "threats" to compel him to accede the property settlement. The trial court is "accorded a presumption of honesty and integrity, with the burden on the moving party to show otherwise in the circumstances of the case." Luce v. Cushing, 2004 VT 117, ¶ 18, 177 Vt. 600 (mem.) (quotation omitted). The record here discloses that Judge Keller initially declined to sign the parties' settlement agreement because husband had interlineated "all rights reserved," explaining that if husband had concerns he should consult with his attorney or reject the settlement. Husband consulted with his lawyer and, upon returning, indicated to the court that he had signed without reservations and had no questions. Judge Rainville, after reviewing the record, found nothing to suggest that husband, who was assisted by counsel throughout the divorce proceeding, signed the agreement under threat or duress. "The burden is on the plaintiff to produce a record which supports his position on the issues raised on appeal." Condosta v. Condosta, 142 Vt. 117, 121 (1982). The record here entirely fails to support husband's claim of judicial bias or duress. To the extent that husband contends the alleged threats were somehow "omitted" from the record, his remedy was to pursue the procedures set forth in Vermont Rule of Appellate Procedure 10(e) to correct or supplement the record. Failing that, we discern no basis to disturb the judgment.

Husband also claims that the property settlement awarding wife half of the value of the marital home violated his constitutional and contract rights because he owned the home for four years prior to

the marriage. The trial court in a divorce proceeding has broad discretion to distribute the marital assets "in whatever manner it finds just and equitable, regardless of the [asset's] prior owner." Milligan v. Milligan, 158 Vt. 436, 440 (1992) (quotation omitted). We have held, moreover, that it violates no constitutional or other right to equitably distribute marital assets held individually; otherwise it "would render meaningless the court's power to distribute the marital assets in whatever manner it finds just and equitable, regardless of the prior owner." Condosta, 142 Vt. at 123. Thus, husband's constitutional and contract claims lack merit. Moreover, in light of the parties' lengthy twenty-year marriage and relatively equal income and assets, we find no abuse of discretion in the trial court's decision to equally divide the value of the home.

Husband also claims that the property division was improper because wife had abandoned the home and caused substantial damage to the pipes, well, and septic system. There is no evidence in the record to support the claims, however, and therefore no basis to disturb the court's findings or conclusions. See Wade v. Wade, 2005 VT 72, ¶ 9, 178 Vt. 189 (court's findings concerning property division will be upheld if supported by any credible evidence, and its conclusions if reasonably supported by the findings).

Finally, husband contends the trial court erred in granting wife's motion to extend the existing relief-from-abuse order against husband an additional two years, to July 2014, when the child turns eighteen.[*] The court is empowered to "extend any [relief-from-abuse] order . . . for such additional time as it deems necessary to protect the plaintiff, the children, or both, from abuse." 15 V.S.A. § 1103(e). We review the court's decision only for abuse of discretion, upholding its findings if reasonably supported by the evidence and its conclusions if supported by the findings. Raynes v. Rogers, 2008 VT 52, ¶ 9, 183 Vt. 513. Wife testified here that husband had threatened to burn down the parties' marital home with her and the child inside if she ever left him; that she feared for her safety and that of the child; and that she had recently moved out of Vermont because husband had been stalking her at her residence. We have upheld relief-from-abuse orders for fixed terms of equal or greater length as that presented here when the evidence demonstrates that it was reasonable under the circumstances. See, e.g., Thibodeau v. Thibodeau, 2005 VT 14, ¶ 10, 178 Vt. 457 (mem.) (affirming modification of relief-from-abuse order to provide that it would expire in six years, "to coincide with [the] time when the younger child will reach the age of majority"); Benson v. Muscari, 172 Vt. 1, 9-10 (2001) (upholding relief order of five years duration where underlying conduct was violent and ongoing). In light of wife's testimony and the lack of any countervailing evidence, we find no basis to conclude that the trial court's order protecting wife and the minor child until he reached the age of majority was unreasonable. Accordingly, we discern no basis to disturb the judgment.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice

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[*] Although there was some issue as to the timeliness of husband's appeal from the abuse-prevention order, we address the claim on the merits.