



Aaron D. Wilson (“Aaron”) appeals the trial court’s decree of dissolution of his marriage to Amber N. Wilson (“Amber”), raising one issue that we restate as: whether the trial court abused its discretion in dividing the marital estate.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

Aaron and Amber were married on June 10, 2006 and lived together for four years prior to their marriage. Aaron earned approximately \$30,000.00 annually, and Amber earned approximately \$15,000.00 per year. In addition, they received approximately \$1,436.00 per month from rental properties that they owned. In 2007, they purchased a home for \$110,000.00 financed with a gift from Aaron’s mother representing the proceeds of his father’s death settlement in the amount of \$61,000.00, and the balance was financed with a \$50,000.00 loan in Aaron’s name. For the more than two years the parties were separated, Aaron received all of the income from the properties.

Aaron filed a petition for dissolution of marriage in 2008. The trial court found the value of the marital property was \$196,892.19, and the marital debts totaled \$108,154.86, giving the parties a net marital estate of \$88,737.<sup>1</sup> In the trial court’s property division, Aaron received \$51,868.66 and Amber received \$36,868.67 of the marital property. Aaron now appeals.

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<sup>1</sup> This amount includes an automobile worth \$15,000.00, which was set aside to Aaron as his separate property.

## DISCUSSION AND DECISION

Aaron asserts that the trial court abused its discretion in the manner in which it divided the marital estate. Specifically, Aaron argues that the money given to him by his mother, which the couple used to purchase a house, should not have been considered part of the marital pot. We disagree.

The division of marital assets lies within the sound discretion of the trial court, and we will reverse only for an abuse of discretion. *Galloway v. Galloway*, 855 N.E.2d 302, 304 (Ind. Ct. App. 2006) (citing *DeSalle v. Gentry*, 818 N.E.2d 40, 44 (Ind. Ct. App. 2004)). When a party challenges the trial court's division of marital property, he must overcome a strong presumption that the court considered and complied with the applicable statute, and that presumption is one of the strongest presumptions applicable to our consideration on appeal. *Id.* We will not reweigh the evidence or assess the credibility of the witnesses, and we will consider only the evidence most favorable to the trial court's disposition of the marital property. *Id.* Although the facts and reasonable inferences might allow for a different conclusion, we will not substitute our judgment for that of the trial court. *Id.*

Indiana law presumes that an equal division of the marital property between the parties is just and reasonable; however, that presumption may be rebutted by relevant evidence that an equal division would not be just and reasonable. Ind. Code § 31-15-7-5. The factors a court may consider include: the contribution of each spouse to the acquisition of the property; the extent to which the property was acquired by each spouse before the marriage; the economic circumstances of each spouse at the time of disposition; the conduct

of the parties as it relates to the disposition or dissipation of their property; and the earnings or earning ability of each spouse. *Id.*; *In re Marriage of Nickels*, 834 N.E.2d 1091, 1098 (Ind. Ct. App. 2005). If the trial court deviates from this presumption, it must state why it did so. *Galloway*, 855 N.E.2d at 305 (citing *Thompson v. Thompson*, 811 N.E.2d 888, 912-13 (Ind. Ct. App. 2007), *trans. denied* (2005)).

Aaron is incorrect in stating that the assets were equally divided. The trial court set aside an automobile worth nearly 17% of the net marital estate to him as separate property and equally divided the remainder of the property. Looking at the entire marital estate, the trial court awarded Amber 41.5% and Aaron 58.5%. Aaron has failed to show that such a division was an abuse of discretion. Although Aaron received certain property included in the marital estate through gift or inheritance, he also had greater earnings and earning ability. Similarly, although their marriage was of short duration, their relationship was considerably longer, and each party contributed to the accumulation of property throughout their relationship. Finally, and as the trial court found, Aaron had the benefit of the entirety of the income from rental property in the marital estate during the pendency of the action. Were this sum (approximately \$34,000) considered part of the marital estate, Aaron's share of that estate as divided by the trial court would be 70% of the total estate. Accordingly, the trial court's division of marital property was not an abuse of its discretion.

Affirmed.

CRONE, J., and BRADFORD, J., concur.