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ATTORNEY FOR APPELLANT:

MICHAEL O. BOLINGER
Bolinger & Bolinger
Kokomo, Indiana

ATTORNEY FOR APPELLEE:

CHARLES E. HOSTETTER
JASON P. CLEVELAND
Hostetter & O'Hara
Brownsburg, Indiana

IN THE
COURT OF APPEALS OF INDIANA

CHARLES B. HASKETT,	)	
	)	
Appellant-Respondent,	)	
	)	
vs.	)	No. 32A01-0904-CV-206
	)	
MARLENE HASKETT,	)	
	)	
Appellee-Petitioner.	)	

APPEAL FROM THE HENDRICKS SUPERIOR COURT
The Honorable Robert W. Freese, Judge
Cause No. 32D01-0607-DR-106

July 27, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Charles Haskett ("Charles") appeals the trial court's judgment in favor of Marlene Haskett ("Marlene"). We affirm.

Issues

Charles presents three issues, which we consolidate and restate as follows:

I. Whether sufficient evidence supports the trial court's conclusions that Charles did not return certain property to Marlene and that the value of the un-returned property was $14,300; and

II. Whether the trial court properly concluded that Charles should pay $7,500 of Marlene's attorney fees.

Facts and Procedural History

In September 2007, the trial court issued an order dissolving Charles and Marlene's marriage. As part of the divorce proceedings, Charles and Marlene entered into a property settlement agreement. Under the property settlement agreement, Charles was obligated to return various items of personal property to Marlene. On August 27, 2008, Marlene filed a petition for compliance/contempt in which she alleged that Charles had not complied with the property settlement agreement because he had not returned her property.

On November 3, 2008, the trial court held a hearing on Marlene's petition for compliance/contempt. During the hearing, Marlene introduced into evidence an exhibit that listed twenty items of her personal property that Charles had not returned. Marlene testified that the value of these twenty items was approximately $14,000. She noted that after the petition for compliance/contempt was filed, Charles returned four of the items listed on the exhibit introduced into evidence, but three of these items were broken.

On November 21, 2008, the trial court issued an order that contained the following relevant findings of fact and conclusions thereon:

> 10. [Charles] was ordered on July 25, 2008, and previously, to return to [Marlene] the personal property items listed on Exhibit 107.
>
> 11. [Charles] testified in open Court on August 13, 2008, that he would not return the Exhibit 107 items.
>
> 12. [Charles] thereafter arranged through counsel a return of personal property items whereupon he appeared at the office of [Marlene's] counsel and brought items of personal property to Petitioner [sic].
>
> 13. The attempt to return items was defective in that the items returned were damaged, were incomplete and [sic], in the case of the Barbie collection, and other items were still not turned over.
>
> 14. The value of the Exhibit 107 items was established by [Charles] through his own exhibit which he originally prepared and was $14,300.
>
> 15. [Charles's] failure to return the personal property in tact [sic] and when ordered resulted in a loss to [Marlene] of $14,300.
>
> 16. [Charles] shall pay to [Marlene] $14,300 for the personal property items no later than December 31, 2008.
>
> 17. [Charles] shall pay his attorney fees and $7,500.00 towards [Marlene's] attorney fees. [Marlene's] fees are to be paid no later than December 31, 2008.

Appellant's Br. at 12-13. Thereafter, this appeal ensued.

Discussion and Decision[1]

I. Sufficiency of the Evidence

Where, as here, the trial court enters findings of fact and conclusions thereon pursuant to Indiana Trial Rule 52, we apply a two-tiered standard of review. *Tompa v. Tompa*, 867 N.E.2d 158, 163 (Ind. Ct. App. 2007). First, we determine whether the evidence supports the findings and then whether findings support the judgment. *Id*. "The trial court's findings and conclusions will be set aside only if they are clearly erroneous, that is, if the record contains no facts or inferences supporting them." *Id*. "A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made." *Id*. We will not reweigh the evidence or assess the credibility of witnesses and we will only consider the evidence most favorable to the judgment. *Id*. "We review conclusions of law de novo." *Id*.

Charles argues that there is insufficient evidence in the record to support the trial court's conclusions that he did not return Marlene's personal property and that the value of the un-returned property was $14,300. Charles's arguments ask us to reweigh the evidence, which we will not do. *Id*.

Regarding the return of Marlene's personal property, the evidence introduced at the November 3, 2008, hearing indicated that pursuant to the property settlement agreement, Charles was obligated to return various items of personal property to Marlene. As of August 2008, Charles had not returned Marlene's property. After Marlene filed her petition for compliance/contempt, Charles returned four of Marlene's possessions, but three of these items

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[1] Initially, we note that Charles has not filed an appendix with his appellant's brief as required by Indiana Appellate Rules 49(A) and 50(A)(2). Based on this, we could affirm the trial court's decision without reaching the merits of Charles's claims. *See Yoquelet v. Marshall County*, 811 N.E.2d 826, 830 (Ind. Ct. App. 2004) (where appellant did not file appendix, appellant did not designate sufficient evidence to permit the court to review the trial court's decision and failed to prove that the trial court erred). Here, however, a volume of trial exhibits

were broken. Although four items had been returned, Marlene testified that Charles still had possession of sixteen other items. The trial court found that Charles had made a defective effort to return Marlene's property. It noted that many of Marlene's possessions had not been returned and that the items that were returned were damaged or incomplete. The evidence presented was sufficient to support the trial court's findings.

The trial court valued Marlene's un-returned personal property at $14,300.

> A trial court has broad discretion in valuing marital assets, and its valuation will only be disturbed for an abuse of that discretion. A trial court does not abuse its discretion as long as sufficient evidence and reasonable inferences exist to support the valuation. If the trial court's valuation is within the scope of the evidence, the result is not clearly against the logic and effect of the facts and reasonable inferences before the court.

Webb v. Schleutker, 891 N.E.2d 1144, 1151 (Ind. Ct. App. 2008) (citations omitted).

Here, Marlene testified that the value of her twenty items of personal property that Charles was obligated to return to her under the property settlement agreement was approximately $14,000. Additionally, as the trial court noted in its November 21, 2008, order, an exhibit introduced by Charles at an earlier hearing valued eight of the twenty items of personal property at $14,300. Given that Charles himself has assigned Marlene's personal property a value of at least $14,300, the trial court's valuation of the un-returned personal property was not an abuse of discretion and is supported by the evidence presented at the November 3, 2008, hearing.

II. Attorney Fees

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and an appellee's appendix were filed. Additionally, Charles attached some exhibits to his appellant's brief. These three sources provide sufficient designated evidence to allow us to review the trial court's decision.

Charles argues that the trial court erred in requiring him to pay $7,500 of Marlene's attorney fees. We review a trial court's decision to award attorney fees for an abuse of discretion. *Bigley v. MSD of Wayne Twp. Sch.*, 881 N.E.2d 77, 81 (Ind. Ct. App. 2008). In the absence of an affirmative showing of error or abuse of discretion, we must affirm the trial court. *Id*.

Charles's entire argument with regard to the award of attorney fees reads as follows: "[Charles] finally contends that the Court abused it's [sic] discretion in ordering [Charles] to pay a portion of [Marlene's] attorney fees in the amount of $7,500, presumably for having failed to return the personal items listed on Exhibit 225." Appellant's Br. at 6. Charles fails to support his position with any further argument or citations to authority. Charles's bare allegation that the trial court abused its discretion in awarding attorney fees is insufficient to carry his burden of making an affirmative showing of error on the trial court's part. As such, Charles has failed to show that the trial court's award of attorney fees was an abuse of discretion.[2]

Affirmed.

MAY, J., and BROWN, J., concur.

[2] Additionally, we note that on June 4, 2009, Marlene filed a motion for request for damages pursuant to Indiana Appellate Rule 66(E). In a separate order issued on this date, we have denied this motion. Although we have denied Marlene's motion, we note that Charles's appellant's brief has several defects. First, Charles's brief is missing a table of authorities, which is required by Indiana Appellate Rule 46(A)(2). Contrary to Indiana Appellate Rule 46(A)(8)(b), Charles's brief does not contain the applicable standard of review. Additionally, Charles's contentions are not supported by citations to authority or statutes, which is required by Indiana Appellate Rule 46(A)(8)(a).