

¶ 4 Petitioner and respondent had been married for 23 years, and had three children together, ages 17, 13, and 10. They subsequently filed for dissolution of marriage. One issue at trial was whether petitioner should be awarded maintenance. Petitioner testified that respondent moved out of the marital home in July of 2012. Petitioner still resided there with the children and had the primary responsibility of raising the children. Respondent had visitation two nights a week and every other weekend.

¶ 5 Petitioner and respondent purchased the marital home in 1999. They moved from Bolingbrook to Roseville “to be close to [respondent’s] mom and dad, as her dad was aging. And they appeared to [petitioner] to be people who needed help and people who [he] wanted [his] kids to grow up around and be there.” They bought the house next door to respondent’s parents. The house mortgage was paid off by money petitioner received as an inheritance from his mother.

¶ 6 Petitioner had an undergraduate degree in “Advance of Social Sciences, Psychology, and Secondary Education, [with] an Art minor” and had been working toward a master’s degree in counseling. He stopped working on his master’s degree when his first child was born to focus on the children. He intended to complete the degree, but had not done so. Petitioner believed that not having a master’s degree negatively affected his salary. As far as his current job, petitioner stated, “I make less than somebody with a Master’s degree, and I also have less job security because other people have to sign off on my work because I don’t have a Master’s degree, so I have to have another qualified person who has a licensure.” He also felt that it affected his job prospects, stating: “[J]obs with Master degree’s pay a lot more money. I’ve applied in many different kinds of jobs, not just counseling jobs, but many other ones. And quite frankly, I would do anything that paid more money.” Petitioner admitted that his e-mail electronic signature

stated “M.A.” after his name, indicating that he had a masters of arts, though he did not actually have one.

¶ 7 Petitioner said he had been actively looking for a new job since he started at North Central Behavioral Health Systems in August of 2007. Petitioner submitted a list of jobs that he had applied for, but said that it was not comprehensive. He was offered a job in Kewanee, but said that he passed up the job because it was “not a feasible option” based on respondent’s work schedule. He had not looked for work outside a 50 or 60 mile radius of Roseville because “[i]f [he] work[ed] farther away, it would take more time away from [his children].” Prior to moving to Roseville, he had worked in Naperville where he made substantially more than he was making at North Central Behavioral Health Systems, though he was unable to say how much he was making. When they moved from Bolingbrook to Roseville he was able to transfer jobs with the same company to work in Peoria and his salary remained the same when he moved.

¶ 8 Petitioner submitted a financial affidavit dated May 21, 2015, which stated his gross monthly income as \$3,496.39. He also received \$1,533.15 per month in child support from respondent. He listed his monthly living expenses as \$5,421.30, which included: (1) household expenses of \$2825, including a \$500 rent expense if the court ordered the marital home sold; (2) transportation expenses of \$973; (3) personal expenses of \$1,140.31; and (4) expenses of his children of \$482.99. Petitioner stated that he did not include a high enough estimate for health expenses and transportation expenses.

¶ 9 Petitioner had submitted a previous financial affidavit in August of 2014 that listed his gross monthly income as \$2,929.50. The two affidavits listed large discrepancies in expenses. In the August 2014 affidavit, petitioner stated that he spent \$600 in groceries, but in the May 2015 affidavit, the monthly grocery bill was listed as \$1075. The August 2014 affidavit further

listed internet and cable as \$100 a month, while the May 2015 affidavit listed the expense as \$175 a month. In August of 2014, petitioner's affidavit showed total household expenses as \$1678, compared to the \$2825 listed in the May 2015 affidavit. The rest of petitioner's expenses were also listed at a lesser rate in the August 2014 affidavit, including: (1) \$687 for transportation expenses (\$973 in May 2015); (2) \$251 for personal expenses (\$1140 in May 2015); and (3) \$341 for expenses for his children (\$482 in May 2015). The expenses listed in the August 2014 affidavit totaled \$2,954.66 (compared to \$5,421.30 in May 2015). Petitioner stated that he did not accurately consider everything he had spent in the first affidavit because he was not accustomed to keeping track of the finances, even though he and respondent had been separated for two years as of August of 2014. Petitioner stated that as of "tax preparation time" in 2014, respondent was still paying the bills out of their joint account, and they were still "functioning as a married couple with respect to [their] finances."

¶ 10 Respondent's May 2015 financial affidavit listed her gross monthly income as \$6,034.99, with her monthly expenses as \$3,295.21 and a child support payment of \$1,533.15. She also had filed an affidavit in August of 2014. Respondent's mortgage payment decreased slightly from August 2014 to May 2015, but the rest of her expenses remained constant.

¶ 11 The trial court took the matter under advisement and issued a written opinion. In the opinion, the court referenced the two conflicting financial affidavits that petitioner filed, stating, "the Court finds that the [petitioner] lacks credibility in his explanation as to his actual monthly expenses." The court divided the marital property, awarding petitioner, *inter alia*: (1) the marital home; (2) his three automobiles; (3) his retirement accounts and life insurance policy; (4) the joint checking account and his personal checking account; (5) the parties' 2014 tax return; (6) all household goods, furniture, furnishings, and effects, other than a few specifically named pieces;

and (7) \$20,000 to be paid by respondent “to render the allocation and division of marital property fair and equitable.” Respondent was awarded: (1) her van; (2) her retirement accounts and life insurance policy; (3) her checking account; and (4) a few personal items from the marital residence belonging to her grandparents. Respondent was also held responsible for a larger portion of the marital debts. The court raised respondent’s child support obligation to \$1680 per month.

¶ 12 The court declined to award maintenance to petitioner stating:

“The Court has considered all statutory factors, to the extent that they apply in making its determination. The Court has determined that, based upon the substantially disproportionate award of the marital property to [petitioner], together with a compensating payment from [respondent], together with [petitioner’s] apparent ability to support himself and to substantially contribute to the children’s needs, coupled with recognition that some expenses are significantly related to the presence of children in his home and under his care, the [petitioner] will receive substantial child support, and that as the children ‘age out,’ [petitioner’s] expenses will substantially decrease, maintenance is not warranted.”

¶ 13 The court denied petitioner’s motion to reconsider regarding the maintenance determination stating:

“I would have to say that as I stated in my opinion, if there were a transcript here and you could read the transcript of [petitioner’s] testimony, the Court still has serious concerns about the credibility there.

This man, as I understand it, these parties were separated about two years before we had a hearing, and he was operating the household with three children. He's a professional. He has a college degree. The presumption would be that he would be able to manage the finances of his own household and be familiar with them.

In looking at all of the circumstances in considering, as the Court has commented on, the provisions of Section 504 of the [Illinois Marriage and Dissolution of Marriage Act (Act)], the Court determined that this was not a case warranting maintenance. ***

* * *

*** I don't want to leave the impression that the Court in making its determination focused only upon the issue of your client's, what the Court considers the client's credibility, and the differences in the financial circumstances. The Court considered all other factors that are contained in the statute, and not just those to the exclusion of all others.

The Court considered the incomes of the parties, their needs and all the other matters here that come into play.

It wasn't just the situation where the court said, well, let's look at the financial affidavits here, there are two different affidavits you need to explain some of this stuff, or his explanation didn't wash and so that's the end of it—that's not how I approached this case, nor any case. But if you look at all the evidence and make your determination based on all the evidence that is relevant, and the Court attempted to do that.”

ANALYSIS

¶ 14

¶ 15

On appeal, petitioner argues the trial court’s decision that maintenance was not warranted was against the manifest weight of the evidence and the trial court erred by failing to specifically address the maintenance factors outlined in section 504(a) of the Act (750 ILCS 5/504(a) (West 2014)). Because the trial court properly considered the statutory maintenance factors and weighed the parties’ credibility, we cannot say that the trial court’s determination was an abuse of discretion.

¶ 16

“The trial court is allowed broad discretion to determine the propriety, amount and duration of maintenance, and the court’s decision will not be disturbed absent an abuse of discretion.” *In re Marriage of Roberts*, 2015 IL App (3d) 140263, ¶ 20. In determining whether a maintenance award is appropriate, the court must consider all relevant factors listed in section 504(a) of the Act, “but need not make explicit findings as to those factors.” *In re Marriage of Viridi*, 2014 IL App (3d) 130561, ¶ 28 (citing *In re Marriage of Reynard*, 378 Ill. App. 3d 997, 1004 (2008)). “[A] trial court’s determination as to the awarding of maintenance is presumed to be correct.” *In re Marriage of Donovan*, 361 Ill. App. 3d 1059, 1063 (2005). We will not reweigh the statutory factors, and, absent an abuse of discretion, we will not substitute our judgment for that of the trial court. *Viridi*, 2014 IL App (3d) 130561, ¶ 27. A trial court abuses its discretion only where no reasonable person would take the view adopted by the trial court, and the party seeking reversal must demonstrate that abuse of discretion. *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005).

¶ 17

Here, each party submitted two financial affidavits during the course of the litigation. In the nine or so months between the affidavits, petitioner’s expenses increased by \$2,466.64. Though petitioner attempted to explain this discrepancy away by stating that he was not

accustomed to accounting for the finances, the trial court found this story not credible as petitioner and respondent had been separated for two years and petitioner was a learned man. We will not upset this credibility determination as determinations by the trier of fact as to the credibility of the parties are given great deference. *In re Marriage of McHenry*, 292 Ill. App. 3d 634, 641 (1997). Further, this was not the only factor the court considered. Prior to making its determination, the trial court specifically stated that it considered all the statutory factors in deciding whether to award maintenance to petitioner. The court noted that petitioner would be receiving substantial child support to reduce his expenses as they related to his children and that those expenses would further decrease as petitioner's children aged out. The court further attempted to balance any uneven income by apportioning a greater share of the marital property to petitioner, including a \$20,000 payment from respondent, and apportioning a greater share of the marital debt to respondent. The trial court was not required to list all of the statutory factors in making its determination (*Virdi*, 2014 IL App (3d) 130561, ¶ 28), and the record shows that the trial court did consider the applicable factors. We cannot say that the trial court abused its discretion in refusing to award maintenance to petitioner.

¶ 18 In coming to this conclusion, we reject petitioner's argument that he stopped working on his master's degree and abandoned employment opportunities because of moving to Roseville as a result of the marriage. Petitioner believes that this entitles him to maintenance. No one factor is dispositive in awarding maintenance (*In re Marriage of Iqbal and Khan*, 2014 IL App (2d) 131306, ¶ 59), and this one factor is not enough to outweigh the other evidence.

¶ 19 Last, petitioner references the trial judge's own dissolution proceedings which were pending when the judge ruled against petitioner's maintenance request. Petitioner says that he was "forced to speculate" as to whether the judge's case affected his decision in petitioner's case.

As counsel has not cited to any evidence in or outside the record showing that the trial judge's personal matters affected the trial court's decision, we find it curious that petitioner would even raise such an issue here. We refuse to engage in such speculation.

¶ 20

CONCLUSION

¶ 21

The judgment of the circuit court of Warren County is affirmed.

¶ 22

Affirmed.