

2019 IL App (2d) 180303-U  
No. 2-18-0303  
Order filed March 28, 2019

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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<i>In re</i> MARRIAGE OF	)	Appeal from the Circuit Court
KRISTIN D. HARDY, f/k/a Kristin D. Jury,	)	of Kane County.
	)	
Petitioner-Appellant,	)	
	)	
and	)	No. 06-DK-1283
	)	
KEITH R. JURY,	)	Honorable
	)	Kevin T. Busch,
Respondent-Appellee.	)	Judge, Presiding.

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JUSTICE ZENOFF delivered the judgment of the court.  
Justices Burke and Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* The judgment awarding Kristin permanent maintenance in the amount of \$5000 per month was affirmed where the record reflected that this amount would meet Kristin's reduced needs in light of the lifestyle that she enjoyed during the marriage.

¶ 2 Petitioner, Kristin D. Hardy, f/k/a Kristin D. Jury, appeals an order of the circuit court of Kane County entered on March 21, 2018, following a remand from this court (see *In re Marriage of Hardy & Jury*, 2017 IL App (2d) 160956-U) (*Jury II*). This is the third appeal in which we consider the issue of maintenance. In *In re Marriage of Hardy & Jury*, 2016 IL App (2d)

151272-U (*Jury I*), we vacated an order converting periodic maintenance to maintenance in gross and reducing the award from \$9700 per month to \$4000. We remanded with instructions to the court to consider all of the factors enumerated in sections 504(a) and 510(a)(5) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/504(a), 510(a)(5) (West 2014)). We also specifically directed the court to balance Kristin’s ability to attain self-sufficiency against the likelihood that she would be able to support herself in some approximation of the standard of living established during the marriage. *Jury I*, 2016 IL App (2d) 151272-U, ¶ 23. On remand, the trial court again converted the award of periodic maintenance to one of maintenance in gross and reduced the amount to \$4700 per month for 48 months, retroactive to March 20, 2015. In *Jury II*, this court reversed, holding that Kristin was entitled to permanent maintenance because she will never be able to earn a salary that is commensurate with the lifestyle that she enjoyed during the marriage. *Jury II*, 2017 IL App (2d) 160956-U, ¶ 33, 37. We remanded for the trial court to calculate a just award of permanent maintenance. *Jury II*, 2017 IL App (2d) 160956-U, ¶ 35. We again instructed the trial court to “explicitly, and on the record, balance Kristin’s ability to become self-sufficient against the likelihood that she will be able to support herself in some reasonable approximation of the standard of living established during the marriage, as evidenced by the parties’ stipulations, exhibits, and testimony.” *Jury II*, 2017 IL App (2d) 160956-U, ¶ 35. On March 21, 2018, the court entered a written order awarding Kristin \$5000 per month in permanent maintenance retroactive to March 20, 2015.<sup>1</sup> Kristin appeals that order. We affirm.

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<sup>1</sup> The order contains a scrivener’s error, making the award of maintenance retroactive to “March 20, 2018.” We hereby correct the order to reflect the true date of March 20, 2015.

¶ 3

## I. BACKGROUND

¶ 4 Kristin and respondent, Keith R. Jury, were married on September 24, 1988. The marriage was legally dissolved on April 24, 2008. The judgment of dissolution of marriage (JDOM), entered by Judge Brewster, required Keith to pay Kristin \$9700 per month as maintenance until their daughter, Morgan, graduated from high school. Upon that event, maintenance was reviewable. The JDOM further provided that Kristin would have the burden of proving her good-faith efforts to attain self-sufficiency and her continuing need for maintenance.

¶ 5 On May 23, 2014, Keith filed a motion to terminate child support and maintenance. On May 27, 2014, the court (Judge Busch) terminated child support but continued the motion with respect to termination of maintenance. Also on May 27, 2014, Kristin filed a motion to review and extend maintenance. She sought permanent maintenance in the amount of \$9700 per month. On March 19 and 20, 2015, the court conducted an evidentiary hearing on both parties' motions.

¶ 6 Kristin testified as follows. Kristin was 48 years of age, and she was currently living in Perry, Ohio. The parties' son, Austin, was 24 years old and in the military. Morgan was a university freshman in Tampa, Florida. At the time of the divorce, Kristin's expenses were approximately \$15,000 per month. At the time of trial, her expenses were approximately \$11,000 per month. In 2011, Kristin began work toward an associate's degree in nursing. She obtained that degree in 2013, and she became employed as a hospital floor nurse in 2014. She worked from 7 p.m. to 7 a.m. three nights per week, earning \$25.36 per hour for a 36-hour week. (According to the written trial stipulation entered into by the parties and filed with the court on March 20, 2015, Kristin claimed that she was earning \$25.87 per hour. See ¶ 9 below). Her job benefits included medical and dental insurance and a retirement plan. Kristin testified that her associate's degree would not afford her advancement. According to Kristin, a bachelor's degree

in nursing also would not be beneficial. She would need to obtain a master's degree in nursing to qualify for an administrative position and higher earnings. She testified that she could not continue to work full time and reach her educational goals.

¶ 7 Kristin testified that it would take her longer than normal to achieve those goals because of a learning disability. She studied 10 to 12 hours per day for a class while obtaining her associate's degree, and she received special accommodations. She testified that it takes her longer than normal to learn and retain information, which impacts her career and her ability to take tests.

¶ 8 Kristin testified that, during the marriage, they had a timeshare in Mexico and traveled to Disney World, Washington D.C., and Las Vegas. They took family trips to Ohio. The family automobiles included Hondas, Jeeps, used Suburbans, and a Yukon Denali XL for which they often paid cash. Kristin shopped in local malls and local markets. She testified that the family ate out six or seven days per week. She lived in a 5 bedroom, 6 ½ bath home with a furnished basement, a living room, sun room, eat-in kitchen, office, and family room. For most of the parties' marriage, Kristin stayed home to care for the children. She testified that she was employed outside the home as a secretary earning minimum wage in 1991. She also testified that the family moved frequently to advance Keith's career.

¶ 9 As noted, the parties filed a written stipulation of facts. They stipulated that Keith's W2 income in 2008, the year that they divorced, was \$427,282.31. The parties further stipulated that Keith's income increased after the divorce. The stipulation showed that Kristin had no income in 2005 and 2006; in 2007, she earned \$1430.76; in 2008, she earned \$439.00; she had no income from 2009 through 2013; she earned \$24,175.20 in 2014; and, as of February 14, 2015, her year-to-date earnings were \$7935. The stipulation further showed that Kristin's rate of pay was \$25.87

per hour, but it did not include the number of hours per week that she worked. In addition to the written stipulation, Kristin's actual earnings statement for the period beginning February 1, 2015, which was introduced into evidence, indicates that her hourly rate of pay was \$25.87.

¶ 10 Kristin testified that her lifestyle changed "drastically" after the divorce. Because of economic uncertainties, she moved into a two-bedroom, 2 ½ bath home, with no basement "villa." During the marriage, she did not need to think about money, but now she had to "money mise." She drives to locations rather than flying, and, instead of purchasing airline tickets without regard to cost, she relies on frequent flyer miles. She also relies on family and friends for accommodations. Kristin testified that she needed \$9700 in maintenance per month to meet her current expenses.

¶ 11 Lee Knutson, a vocational counselor, testified that Kristin hired him to identify how she could maximize her earning potential and work toward a less physically demanding nursing job. Knutson opined that Kristin needed to gain work seniority and pursue a bachelor's degree in nursing. He testified that she was currently competing against much younger nurses and ran the risk of injury as a floor nurse. Knutson's advice was to cut her work schedule to one shift per week while she studied for her bachelor's degree, which could take several years. With a bachelor's degree, she could earn between \$66,000 and \$96,000 per year. Those figures represented the national average. According to Knutson, the average in Ohio ranged from \$47,000 to \$78,000.

¶ 12 The report of Lisa F. Naatz, a licensed clinical psychologist, was stipulated into evidence. The report was prepared in 2006 and concluded that Kristin met the criteria for a reading disorder, a mathematics disorder, a disorder of written expression, and developmental dyslexia.

¶ 13 Keith, age 53, testified to his work and earnings history. He was an engineer currently employed as a vice president at Exelon. His earnings had significantly increased since the divorce. Keith's home was valued at approximately \$500,000. He lived with his fiancée, and he paid all of their expenses. He traveled for pleasure. Keith testified that he believed that Kristin had secreted over \$300,000 in assets, because, in his estimation, that amount disappeared from her savings account. Keith based his testimony on a chart that he prepared, which Kristin impeached on cross-examination.

¶ 14 Judge Busch made the following findings in his March 20, 2015, oral ruling. The JDOM ordered rehabilitative maintenance. Judge Busch stated that he would not review "*de novo*" the section 504 factors<sup>2</sup> that Judge Brewe had considered, including the parties' lifestyle during the marriage. Judge Busch remarked that the parties' lifestyle during the marriage was no longer a "primary consideration" and that arguments pertaining to that factor were appropriately addressed only at the original trial on the dissolution petition. Judge Busch also ruled that Keith's "greatly" increased income since the divorce was relevant only to whether he was able to pay maintenance at a rate similar to what he was paying. Kristin could not "reap the benefit" of Keith's increased, nonmarital income.

¶ 15 Judge Busch then looked at Kristin's efforts to become self-sufficient and made the following findings. Kristin did not begin pursuing a career until several years after the divorce. Then she pursued a viable career and established the ability to support herself. She makes over \$55,000 annually. Judge Busch dismissed Kristin's learning disability, because, according to the judge, she has been successful in her occupation despite it. Little weight was placed on Knutson's testimony. However, Judge Busch nevertheless took "at face value" Knutson's

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<sup>2</sup> 750 ILCS 5/504 (West 2014).

testimony that Kristin would be able to earn between \$66,000 and \$90,000 per year in Ohio with a bachelor's degree.<sup>3</sup> In light of Knutson's testimony, the court questioned Kristin's credibility in testifying that a bachelor's degree would do her no good and that a master's would be required for advancement. The court did not know what happened to over \$300,000 in Kristin's bank account, and Kristin did not attempt to explain the missing money. However, Judge Busch also found that Keith's testimony regarding the money was not "compelling" and that it was impeached. A time frame of two to four years for Kristin to obtain a bachelor's degree was not unreasonable. Kristin's needs and expenses had decreased since the divorce. Kristin inflated her expenses on her financial statement filed with the court. While the evidence almost eliminated Kristin's need for maintenance, it nevertheless would be appropriate for Keith to pay some maintenance while Kristin obtained a bachelor's degree.

¶ 16 Judge Busch incorporated his oral findings into a written order of March 30, 2015, reducing maintenance to \$4000 per month for a period of 48 months, after which maintenance would terminate.

¶ 17 As noted, in *Jury I*, we remanded for the court to consider each of the statutory factors applicable to the review of the maintenance award, including the parties' lifestyle during the marriage. After remand, on October 18, 2016, Judge Busch filed his written "Maintenance Review Findings and Order." The court reduced maintenance from \$9700 per month to \$4700 per month for 48 months retroactive to March 20, 2015. The court also changed the maintenance award from periodic maintenance to maintenance in gross, and the court provided that the award of maintenance in gross shall not be subject to termination or review. The court reasoned that

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<sup>3</sup> Knutson actually testified that Kristin's earning capacity in Ohio would range from \$47,000 to \$78,000. See ¶ 11 above.

Kristin needed maintenance only for as long as it would take her to secure a bachelor's degree in nursing. The court also found that Kristin was able to increase her cash reserves from \$172,000 to over \$300,000 "while traveling to exotic locations around the world." The court expressed skepticism over Kristin's stated needs, in light of the "disappearance" of approximately \$300,000 in cash from her account. The court further found that "equity is best served if Keith has the ability to see the end of his obligation, and Kristin has the ability to fulfill her goal of obtaining her degree in nursing and becoming self-dependent." The court opined that maintenance "is not intended to be an ongoing transfer of one party's assets to another regardless of need." Kristin appealed that judgment.

¶ 18 In reversing that order in *Jury II*, this court noted that, despite our instruction to the trial court in *Jury I* to consider Kristin's ability to support herself in some approximation to the standard of living that she enjoyed during the marriage, the court "focused exclusively on Kristin's ability to become self-sustaining." *Jury II*, 2017 IL App (2d) 160956-U, ¶ 28. We held that the court's finding that Keith's income was around \$250,000 was against the manifest weight of the evidence, where the parties stipulated that his income in 2008 was \$427,282.31, which was consistent with his income in 2006 and 2007. *Jury II*, 2017 IL App (2d) 160956-U, ¶ 30. We further noted that, even if Kristin could earn over \$90,000 (using the trial court's finding), that would not approximate the lifestyle that the parties established during the marriage. *Jury II*, 2017 IL App (2d) 160956-U, ¶ 31.<sup>4</sup> Consequently, we held that Kristin is entitled to

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<sup>4</sup> We used the trial court's finding, even though Knutson testified to a lower figure for Ohio, to illustrate that, even should Kristin someday earn as high as \$90,000, that sum would not approximate her lifestyle during the marriage, making an award of permanent maintenance proper.



permanent maintenance. *Jury II*, 2017 IL App (2d) 160956-U, ¶ 35. This court again remanded, directing the trial court to “explicitly, and on the record, balance Kristin’s ability to become self-sufficient against the likelihood that she will be able to support herself in some reasonable approximation of the standard of living established during the marriage, as evidenced by the parties’ stipulations, exhibits, and testimony.” *Jury II*, 2017 IL App (2d) 160956-U, ¶ 35.

¶ 19 On remand, the trial court ordered the parties to submit written arguments with respect to a just award of permanent maintenance. Both parties addressed the lifestyle issue as well as the other pertinent factors. Keith asked the court to award Kristin the sum of \$4700 per month, while Kristin argued for an award of \$9700 per month. In a two-page written order entered on March 21, 2018, the court awarded \$5000 per month as permanent maintenance. The court took judicial notice of its prior findings in its October 2016 order that were not inconsistent with this court’s orders, and it took judicial notice of the trial testimony and exhibits. The court found that Kristin was “self-sufficient” in that “she has educated herself and obtained a profession that provides for her basic needs.” The court then balanced that finding against what additional amount of maintenance would be necessary to “allow her to live in *some reasonable approximation of the standard of living established during the marriage.*” (Emphasis in original.) The court found that Kristin had saved over \$300,000 while continuing to take “lavish” vacations. Thus, the court reasoned, Kristin “has been able to live the approximate lifestyle to which she had become accustomed, while saving money.” Next, the court found that Kristin’s expenses were reduced to \$8331.13 per month due to the emancipation of her children and the fact that Keith was responsible for all of Morgan’s educational expenses. The court further reasoned that, given Kristin’s income of “roughly” \$60,000 per year, she needed an additional \$39,970.44 “to meet her annual expenses” of \$99,970.44. The court noted that it would not be fair to award a sum that

merely covered expenses. The court also noted that it would not be fair to award a sum that exceeded Kristin's expenses by \$50,000 annually. The court speculated that an award of \$5000 per month would allow Kristin to save \$20,000. Kristin filed a timely appeal.

¶ 20

## II. ANALYSIS

¶ 21 Kristin contends that the trial court failed to follow this court's mandate to address the parties' lifestyle during the marriage. She also argues that the award of \$5000 per month was an abuse of discretion. Kristin asserts that she requires no less than \$9700 per month in permanent maintenance, the same amount that the court ordered before she obtained a professional salary with increased income potential and before her expenses were reduced as a result of no longer having to support her daughter. As a general rule, a trial court's determination of a maintenance award is presumed to be correct. *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 650 (2008). Because maintenance awards are within the sound discretion of the trial court, they will not be disturbed absent an abuse of discretion. *Heroy*, 385 Ill. App. 3d at 650. Additionally, a trial court's decision to modify maintenance upon conducting a review will not be disturbed absent a clear abuse of discretion. *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009). An abuse of discretion occurs only when no reasonable person would take the view adopted by the trial court. *Heroy*, 385 Ill. App. 3d at 651. It is the burden of the party challenging the trial court's ruling to show an abuse of discretion. *Heroy*, 385 Ill. App. 3d at 651. When a party challenges the court's factual findings regarding a maintenance determination, the reviewing court will not reverse the trial court's findings unless they are against the manifest weight of the evidence. *In re Marriage of Nord*, 402 Ill. App. 3d 288, 294 (2010). Findings are against the manifest weight of the evidence where the opposite conclusion is clearly evident or where the court's findings are unreasonable, arbitrary, and not based on the evidence. *Nord*, 402 Ill. App. 3d at 294. As long as the trial court

considers the required factors and does not abuse its discretion in determining the amount of maintenance, this court can affirm its ruling on any basis appearing in the record, even if it was not the basis relied upon by the trial court. *In re Marriage of Harms & Parker*, 2018 IL App (5th) 160472, ¶ 36.

¶ 22 We apply the law as it existed at the time of the judgment being appealed. *In re Marriage of Smith*, 162 Ill. App. 3d 792, 797 (1987). Here, the original judgment was entered in June 2015. Section 504(a) of the Act (750 ILCS 5/504(a) (West 2014)) provided that the court can grant temporary or permanent maintenance in amounts and for periods of time as the court deems just, without regard to marital misconduct, in gross or for fixed or indefinite periods of time, after considering the following factors: (1) the income and property of each party; (2) the respective needs of the parties; (3) the present and future earning capacity of the parties; (4) any impairment to the parties' present or future earning capacity resulting from domestic duties or delayed education or employment opportunities due to the marriage; (5) the time necessary for the party seeking maintenance to acquire the necessary education or training; (6) the standard of living during the marriage; (7) the duration of the marriage; (8) the age, physical, and emotional condition of the parties; (9) the tax consequences of the property division; (10) the contributions of the party seeking maintenance to the education and career of the other spouse; (11) the valid agreement of the parties; and (12) any other factor that the court expressly finds to be just and equitable. *In re Marriage of Patel & Sines-Patel*, 2013 IL App (1st) 112571, ¶ 83.

¶ 23 Section 510 of the Act provided for modification and termination of awards of maintenance, support, educational expenses, and property disposition. 750 ILCS 5/510 (West 2014). A judgment regarding maintenance can be modified only upon a showing of a substantial change in circumstances. 750 ILCS 5/510(a-5) (West 2014). In proceedings to modify, review,

or terminate maintenance, the court must consider the factors enumerated in section 504(a), as well as those additional factors enumerated in section 510(a-5). 750 ILCS 5/510(a-5) (West 2014). The following factors were enumerated in section 510(a-5): (1) any change in the employment status of either party and whether the change has been made in good faith; (2) the efforts, if any, made by the maintenance recipient to become self-supporting; (3) any impairment of the present and future earning capacity of either party; (4) the tax consequences of the maintenance payments upon the respective circumstances of the parties; (5) the duration of maintenance payments relative to the length of the marriage; (6) the property, including retirement benefits, awarded to each party in the divorce; (7) the parties' increase or decrease in income since the divorce; (8) the property acquired and currently owned by each party after the divorce; and (9) any other factor that the court expressly finds to be just and equitable. No one factor is determinative. *Sines-Patel*, 2013 IL App (1st) 112571, ¶ 84. Nor is the trial court required to give equal weight to each factor, so long as the court's balancing of the factors is reasonable. *Sines-Patel*, 2013 IL App (1st) 112571, ¶ 84.

¶ 24 We first reject Kristin's argument that the trial court failed to follow our mandate. The court explicitly acknowledged our instruction to balance Kristin's ability to become self-sufficient against the likelihood that she will be able to support herself in some reasonable approximation of the standard of living that was established during the marriage. The court also made its ruling on the record as well as in writing, as we suggested would be appropriate. Kristin complains that the court did not discuss the parties' marital lifestyle, but the court explicitly adopted and incorporated its findings from October 18, 2016, into its order. Specifically, the court found that the parties' lifestyle was "comfortable but not extravagant."

¶ 25 Maintenance is intended to be rehabilitative in nature to allow a dependent spouse to become financially independent. *In re Marriage of Samardzija*, 365 Ill. App. 3d 702, 708 (2006). However, permanent maintenance is appropriate if a spouse is employable only at an income that is substantially lower than the previous standard of living. *Samardzija*, 365 Ill. App. 3d at 708.

¶ 26 Having determined in *Jury II* that Kristin is entitled to permanent maintenance, we must now consider whether the court abused its discretion in awarding her \$5000 per month. She argues that the court's factual findings are against the manifest weight of the evidence. The court first found that Kristin is self-sufficient, meaning that "[Kristin] has educated herself and obtained a profession that provides for her basic needs." The record supports this finding.

¶ 27 Next, the court found that Kristin's lifestyle approximated that which she enjoyed during the marriage where (1) she had saved \$300,000 and (2) she had continued to take "lavish" vacations. Kristin asserts that there is no basis in the record for finding that she saved \$300,000. After trial, the court speculated that Kristin may have secreted \$300,000 in cash, and it remarked that the evidence raised "the question" of whether she was concealing assets. *Jury I*, 2016 IL App (2d) 151272-U, ¶ 30. The court said: "I don't know." The court itself found that Keith's testimony in that regard was impeached and was not compelling. In *Jury I*, we held that the evidence was insufficient to support an inference that Kristin had hidden \$300,000. *Jury I*, 2016 IL App (2d) 151272-U, ¶ 30. Therefore, the trial court's finding that she saved \$300,000 is against the manifest weight of the evidence. However, in Kristin's 2008 financial affidavit, she listed a monthly expense of \$562.47 for vacations and \$250 per month for clothing. In her March 2015 financial statement, Kristin increased both of these monthly expenses, claiming \$700 for vacations and \$517 for clothing. Similarly, in 2008, Kristin's monthly entertainment expense

was \$271.06 while her 2015 monthly entertainment expense was \$550. Thus, despite erroneously believing that Kristin had saved \$300,000 after the divorce, the trial court's overall finding that Kristin's lifestyle in 2015 was commensurate with that during the marriage is not against the manifest weight of the evidence. While Kristin's total expenses were less in 2015 than in 2008, she increased her spending on personal lifestyle choices.

¶ 28 The court next found that Kristin's salary is "roughly" \$60,000 per year. Kristin disagrees and argues that, at most, her total earnings would be a little over \$50,000. She points to her paystub for the period February 1, 2015, to February 14, 2015, which reflects that she earned \$2202.64 during that period. Her W2 statement for June through December 2015 reflects earnings of \$25,422.97 for that period. Kristin listed her monthly income on her financial statement of March 2, 2015, as \$3417.93. Keith points to Kristin's Exhibit No. 9, an earnings statement for the period February 1 to February 14, 2015, which reflects year-to-date wages of \$7935. That, he argues, would translate to \$1322.50 per week, or \$68,770 per year. In addition to that exhibit, Kristin stipulated to those earnings in a trial stipulation. She also stipulated that her hourly rate was \$25.87, but she did not include how many hours per week that she worked.<sup>5</sup> As the documents contain only fragments of information necessary to accurately determine Kristin's income, both sides extrapolate yearly earnings and those calculations vary. Because at least one calculation reflects yearly income of over \$60,000, the court's finding that Kristin's annual salary is "roughly" \$60,000 is not against the manifest weight of the evidence. Further, this finding is not inconsistent with the court's 2015 finding that Kristin's salary was "over \$55,000" and its 2016 finding that her salary was between \$47,500 and \$63,000. We understand that

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<sup>5</sup> While the stipulation did not include the number of hours that Kristin worked, Kristin testified that she worked 36 hours per week, as noted above.

Kristin's employment was recent as of the time of the hearing, but her evidence as to her income was spotty at best, as it lacked sufficient consistent detail.

¶ 29 The court subtracted \$2669.13 per month related to Morgan's care that Kristin included on her March 2, 2015, financial statement from her total claimed expenses of approximately \$11,000 and arrived at monthly expenses of \$8331.13, or \$99,970.44 annually. The record supports this subtraction, as Morgan was emancipated and Keith had assumed responsibility for all of Morgan's college expenses. At oral argument, Kristin agreed that the court's findings regarding her expenses were correct. Under those circumstances, a reduction of a maintenance award is proper. *In re Marriage of Zeman*, 198 Ill. App. 3d 722, 734 (1990).

¶ 30 Next, Kristin argues that the court intended to award her a net gain of \$20,000 over her expenses of \$99,970.44 but that it failed to take into account that taxes would reduce the award to less than \$20,000. It is clear that the court intended to award \$5000 per month in maintenance upon its consideration of all of the statutory factors. In discussing its reasoning, the court envisaged that an award of \$5000 per month would allow Kristin to save \$20,000. The court's reasoning is unclear. However, even if the reasoning were incorrect, we do not believe that it renders the maintenance award an abuse of discretion where the court considered the required factors. See *Harms & Parker*, 2018 IL App (5th) 160472, ¶ 36 (as long as the trial court considers the required factors and does not abuse its discretion in determining the amount and duration of maintenance, the appellate court may affirm the ruling). In *Harms & Parker*, the trial court improperly used the presently amended statutory guidelines to set the maintenance amount. *Harms & Parker*, 2018 IL App (5th) 160472, ¶ 35. Nevertheless, the appellate court affirmed the award, because the trial court had considered the required section 504(a) and 510(a-5) factors. *Harms & Parker*, 2018 IL App (5th) 160472, ¶ 36. Here, as noted, the court considered the

required factors, including Kristin's increased earning potential with a bachelor's degree. Also, we need not reverse a trial court's judgment, even if its reasoning was erroneous, where the judgment was correct. *Carnes v. Carnes*, 333 Ill. App. 316, 320 (1948). Moreover, the tax consequences of the court's award are unknown. The only evidence in the record is Kristin's March 2015 financial affidavit in which she computed her taxes based on approximately \$157,000 of income. Those figures are not applicable to the present situation. Where a party asserts an abuse of discretion in awarding or denying maintenance, the burden of showing such an abuse rests with the claiming party. *In re Marriage of Donovan*, 361 Ill. App. 3d 1059, 1062 (2005).

¶ 31 Kristin's argument at page 5 of her reply brief, that her needs are based on her lifestyle during the marriage, seems to posit that the amount of permanent maintenance should be based solely on that lifestyle and Keith's ability to pay for it regardless of her subsequent professional attainments. This argument suggests that, in a permanent maintenance case, it should be presumed that the recipient cannot become self-sufficient. This proposition was presented to our supreme court in *In re Marriage of Heroy*, 2017 IL 120205, ¶ 27. The supreme court held that it need not address the duty, if any, of permanent maintenance recipients to become self-sufficient, because the recipient in *Heroy* had made sufficient efforts toward that goal. *Heroy*, 2017 IL 120205, ¶ 28. Consequently, the court held that the trial court properly took into account the recipient's ability to earn a certain income when calculating the maintenance amount. *Heroy*, 2017 IL 120205, ¶ 28. Therefore, we must take into account that Kristin earns approximately \$60,000 per year. Her income added to the award of \$60,000 per year in maintenance gives her \$120,000. This is more income than the \$116,400 that she was awarded after the divorce. *Jury I*,



2016 IL App (2d) 151272-U, ¶ 4 (Kristin was awarded \$9700 per month in maintenance until Morgan graduated from high school).

¶ 32 Kristin maintains that the court did not consider that Keith has the ability to pay \$9700 per month. Keith does not dispute his ability to pay. Rather, Keith argues that Kristin's needs have decreased. Based on Kristin's current needs, Keith argues, the court did not abuse its discretion in setting maintenance at \$5000 per month, especially in light of her choice to take expensive vacations. The trial court should consider whether a recipient's expenses are necessary or are incurred by choice. *In re Marriage of Reynard*, 378 Ill. App. 3d 997, 1007 (2008). Despite acknowledging case law to the contrary, Kristin seems to argue that she is entitled to match the home, vehicles, dinners out, and travel that Keith's salary provided during the marriage. We disagree. The court is not required to equalize incomes. *In re Marriage of Reynard*, 344 Ill. App. 3d 785, 791 (2003). Furthermore, where the recipient's needs have decreased, the obligor is not required to pay more in maintenance merely because he has the ability to do so while maintaining a reasonable standard of living for himself. *In re Marriage of S.D. & N.D.*, 2012 IL App (1st) 101876, ¶ 44.

¶ 33 Kristin's sole focus on being maintained in the precise standard of living that she had during the marriage is misplaced for two reasons. First, the law requires only that a former spouse be supported in "some approximation" of the standard of living that she enjoyed during the marriage. *In re Marriage of Lenkner*, 241 Ill. App. 3d 15, 25 (1993). Second, we cannot exalt the standard-of-living factor over all others. No single factor is determinative in considering the duration and amount of maintenance. *In re Marriage of Foster*, 2014 IL App (1st) 123078, ¶ 119. Here, as noted, other factors support the court's reduction of maintenance. After the divorce and the initial award of maintenance, Kristin's employment and educational circumstances

improved, and she has the possibility of further increasing her income and education. Her expenses were reduced, owing to not having to support Morgan. Moreover, she maintained her lifestyle in taking vacations and in increasing her lifestyle-related expenses. We will not reweigh the trial court's balancing of these factors. Nor can we characterize the court's decision as arbitrary, fanciful, or one that no reasonable person would adopt. See *In re Marriage of Viridi*, 2014 IL App (3d) 130561, ¶ 26 (it is not the appellate court's job to reweigh the statutory factors regarding maintenance, and we will not substitute our judgment for that of the trial court).

¶ 34 Finally, we do not find the cases that Kristin cites instructive, because they do not mirror our facts. They are instructive on whether permanent maintenance, rather than some other form, should be awarded, but we resolved that issue in *Jury II*. Here, where the record demonstrates that Kristin's needs have decreased and she is able to approximate her standard of living during the marriage, we cannot say that the court abused its discretion in decreasing the award of permanent maintenance to \$5000 per month.

¶ 35 III. CONCLUSION

¶ 36 For the foregoing reasons, the judgment of the circuit court of Kane County is affirmed.

¶ 37 Affirmed.