An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-47

Filed: 7 August 2018

Forsyth County, No. 15 CVD 5916

BRIAN CARTER BEASLEY, Plaintiff,

v.

KATHERINE LEIGH BEASLEY, Defendant.

Appeal by Plaintiff from judgment entered 15 June 2017 by Judge Gordon A. Miller in Forsyth County District Court. Heard in the Court of Appeals 6 June 2018.

Jones Law PLLC, by Brian E. Jones, for plaintiff-appellant.

Jackson Family Law, by Jill Schnabel Jackson, for defendant-appellee.

HUNTER, JR., Robert N., Judge.

Brian Beasley ("Plaintiff") appeals from an equitable distribution judgment. On appeal, he contends the trial court erred in assigning value of $190,000 to sports memorabilia when Katherine Beasley ("Defendant"), his ex-wife, offered no competent evidence of the memorabilia's fair market value. We affirm.

I. Factual and Procedural Background

Plaintiff and Defendant married on 17 July 1999. The couple had one child during the marriage, and they separated on 2 September 2015.

On 25 September 2015, Plaintiff filed a complaint for child custody, child support, and attorney's fees. On 23 November 2015, Defendant filed her answer and asserted counterclaims for child custody, child support, post separation support, alimony, equitable distribution, interim distribution, and attorney's fees. On or about 1 February 2016, Plaintiff filed a motion in the cause for equitable distribution.[1]

On 8 February 2017, Defendant filed a Motion to Appoint Expert and to Show Cause to value, *inter alia*, sports memorabilia.[2] Defendant contended after the parties separated, certain items of sports memorabilia stayed in Plaintiff's possession, certain items of sports memorabilia stayed in Defendant's possession, and it is not known what happened to the rest. Defendant believed Plaintiff sold the missing sports memorabilia or Plaintiff otherwise disposed of it, following the parties' separation. Defendant asserted appointment of an expert was necessary to value the sports memorabilia.

On 2 March 2017, the trial court held a hearing on various pending motions, including the parties' motions for equitable distribution. Plaintiff did not attend the

---

[1] The file stamp on the motion in the record in undiscernible; however, the record indicates Plaintiff served this motion on Defendant on 1 February 2016.

[2] From February 2016 to February 2017, the parties filed numerous motions, resulting in various orders and contentious litigation.

hearing. Prior to testimony from Defendant, the court handled several pre-trial matters. Defendant's counsel submitted a proposed pre-trial order for signature, which the court and counsel discussed. Schedule I of the pre-trial order contained information regarding a post office box, and Schedule A covered the items Defendant asserted were marital property. As to the post office box, Defendant and her counsel[3] believed Plaintiff shipped purchased sports memorabilia to the post office box. They also believed Plaintiff used a Bank of America credit card to purchase the majority of the sports memorabilia. Plaintiff rented a storage unit where Defendant and her counsel believed he housed the sports memorabilia following the parties' separation. Since Plaintiff prevented Defendant from having an expert value the items by not appearing, Defendant and her counsel contended Defendant had to value the items herself. Defendant subpoenaed eBay for Plaintiff's purchase history and found over the course of the marriage, Defendant spent "approximately $61,000" on the site. The court conducted *voir dire* of Defendant, ensuring her understanding of the pre-trial order. Defendant signed the pre-trial order.

Then, the matter proceeded, and Defendant testified on her own behalf and explained the value of sports memorabilia included in Schedule A of the pre-trial order.

[3] This portion of the facts section is taken from Defendant's counsel's argument to the court, in which he asserted Defendant's beliefs.

On or about 25 August 2015, Defendant sent Plaintiff a spoliation letter through a private investigator. After receipt of the letter, Plaintiff left work and "immediately went to the marital residence and immediately started going to the basement and unloading the sports items." Thus, Defendant possessed only the items left after Plaintiff "unload[ed]" some items. She valued the items assigned to her, in her possession, at $5,000.

After obtaining a court order to inspect Plaintiff's apartment and storage unit, she inventoried and inspected the items in the storage unit and valued the items assigned to Plaintiff at $190,000. She also included the items not in the storage unit which were not left behind at the house, specifically items she did not see at the storage unit "that had been in the house [and] had been removed."

Plaintiff owned thirteen boxes of baseball cards, which held "approximately 3200 a piece." Defendant explained, even if the cards are valued at "a dollar a piece, that's [$]41,600 right there." Plaintiff also owned twenty-four sets of baseball cards, and each had "around 600 cards." At "a dollar a piece" the value "would be [$]14,400." As another example, Defendant explained Plaintiff owned two hundred jerseys, some signed, some not signed. She researched what someone would pay for a retail professional jersey, which amounted to $110 each. Depending on the value of the signature, it could be "anywhere from [$]20,000 to [$]40,000." Plaintiff also owned

"six huge, big tubs of sports items; baseball caps signed; . . . cleats; jerseys; football helmets."

Defendant reviewed Plaintiff's eBay bidding history, which totaled sixty-three pages. The history log covered 1 December 2001 to 26 May 2016, and the total paid during these dates was $61,000. However, Defendant could not definitively say how much of what was in the boxes[4] reflected what Plaintiff spent on eBay.[5] On cross-examination, Defendant stated all the items on the eBay list were directly attributable to sports memorabilia Plaintiff bid on, won, and paid for. With no expert valuation, Defendant "believe[d]" the fair market value of all the sports memorabilia together to be $190,000.[6]

In addition to the items from eBay, Defendant asserted Bank of America statements showed Plaintiff also purchased items off of various sports sites online auctions. Defendant derived the remaining $129,000 separate from the $61,000 spent on eBay from these Bank of America statements and cash purchases.

Additionally, since the date of separation, Plaintiff spent $6,000 on sports memorabilia.

---

[4] The boxes referred to at this portion of Defendant's testimony were the boxes of jerseys and cards Plaintiff owned.

[5] Defendant's counsel asserted this was due to the fact Plaintiff purchased most of the sports memorabilia without Defendant's knowledge.

[6] Defendant recalled how she attempted to get the trial court to order an expert to help her appraise the value of the sports memorabilia. However, Plaintiff did not show up for the hearing, and the trial court did not appoint an expert.

On 15 June 2017, the trial court entered its equitable distribution judgment. In regard to the sports memorabilia, the trial court found:

> 26. The Sports Memorabilia listed as Item No. 8 on Schedule A was purchased during the marriage and is marital property with a value of $195,000. The Court finds the value $195,000 after considering the following:
>
> > a. The inventory compiled during an inspection of Husband's storage unit and apartment.
> >
> > b. Photographs of jerseys, individual baseball cards, boxes of baseball cards, rings, books, bins of sports memorabilia, and other various sports memorabilia[.]
> >
> > c. Husband's eBay Bidding History, subpoenaed by Wife's counsel and received into evidence as Defendant's Exhibit 2, of all items Husband won by bidding on eBay over a period of 15 years producing a total paid of $61,708.24.
> >
> > d. A PayPal report for an account in Husband's sole name, also subpoenaed by Wife's counsel, and also received into evidence as Defendant's Exhibit 2, producing a total purchases equaling $90,165.46.
> >
> > e. Payment for much of the eBay bidding was from a secret PayPal account and a Bank of America credit card account, both obtained without Wife's knowledge. The billing statements and purchases were being sent to Husband's secret Post Office Box.
> >
> > f. Husband's return to the former martial [*sic*] residence within hours of receiving the spoliation letter on August 25, 2015, to systematically move sports memorabilia from the marital residence to other locations, including but not limited to a storage unit Wife did not know Husband had rented.

The sports memorabilia in Wife's possession is what was left by Husband, that he did not take from the former marital residence that day. Wife has in her storage unit a couple of storage tubs which contain Husband's collection of bobble-heads, some uniforms that are packaged up, baseball bats, cleats, and wrestling DVDs.

g. The sports memorabilia collection included 13 boxes of baseball cards, with each box holding 3,200 cards and even at a value of $1.00 per card, the total value of the baseball cards equals $41,600.00, and another 24 sets of baseball cards, with each set having 600 cards and even at a value of $1.00 per card the total value of the sets of cards equals $14,400.00.

h. Husband had 2 racks of minor league jerseys and 3 racks of major league jerseys . . . prior to August 25, 2015 totaling at least 200 jerseys, some of which were autographed. . . . Some of the jerseys ranged in price from $300.00 to $400.00, with one jersey being purchased for $1,150.00. The jerseys collectively ranged from $20,000.00 to $40,000.00 in value.

i. Husband had an additional 6 storage tubs of sports memorabilia . . . .

j. Husband made purchases on the secret Bank of America credit card account that were in addition to the eBay bidding. Husband demonstrated a habit of purchasing sports memorabilia whenever and wherever Husband and Wife, or Husband would travel. Upon review of the Bank of America credit card statements, it can be determined that Husband purchased items while the parties and the minor child were attending baseball games and sports events, many purchases were from private auctions held during said events. In addition, the Bank of

> America credit card statements demonstrate Husband's purchases from various sports websites.
>
> Upon questioning of the Court, the Court finds that Wife testified her opinion as to the fair market value of the sports memorabilia in the possession of Husband is $190,000.00 and the sports memorabilia in the possession of Wife is $5,000.00. The Court finds there is sufficient and competent evidence to support Wife's opinion that the sports memorabilia in Husband's possession is worth $190,000.00 and that the sports memorabilia in Wife's possession is worth $5,000.00. The sports memorabilia in Wife's possession shall be distributed to Wife at a value of $5,000.00. The sports memorabilia in Husband's Possession shall be distributed to Husband at a value of $190,000.[7]

The trial court awarded Plaintiff 40% of the marital estate and Defendant 60% of the marital estate. The trial court further concluded Plaintiff had the means available to pay the distributive award of $108,612.14 to Defendant. The trial court based this conclusion on Plaintiff's salary and the value of the sports memorabilia. Plaintiff filed notice of appeal on 30 June 2017.

II. Standard of Review

When reviewing an equitable distribution order, this Court will uphold the trial court's findings of fact as long as they are supported by competent evidence.

[7] The trial court also made several findings of fact regarding different items purchased during the marriage, as well as a few bank accounts, season football tickets, and "Marriot Rewards Points." As explained *infra*, Plaintiff waived any appellate challenge to these findings.

Eason v. Taylor, 245 N.C. App. 16, 20, 784 S.E.2d 200, 203 (2016) (citing *Mugno v. Mugno*, 205 N.C. App. 273, 276, 695 S.E.2d 495, 498 (2010)).[8]

"Equitable distribution is vested in the discretion of the trial court and will not be disturbed absent a clear abuse of that discretion. Only a finding that the judgment was unsupported by reason and could not have been a result of competent inquiry, or a finding that the trial judge failed to comply with the statute, will establish an abuse of discretion." *Wiencek-Adams v. Adams*, 331 N.C. 688, 691, 417 S.E.2d 449, 451 (1992) (internal citations omitted). However, the trial court still must comply with the statutory requirements of N.C. Gen. Stat. § 50-20(c) (2017). *Hill v. Hill*, 229 N.C. App 511, 515, 748 S.E.2d 352, 356 (2013).

III. Analysis

On appeal, Plaintiff contends the trial court erred in assigning value of $190,000 to Plaintiff's sports memorabilia when Defendant offered no competent evidence to support the finding of fact regarding fair market value.[9] We disagree.

---

[8] In his brief, Plaintiff attempts to liken the judgment at issue to the judgment in *Eason*. However, in *Eason*, the parties presented evidence of items of marital or separate property and debts, but the trial court concluded "classification, valuation, and distribution is not warranted." 245 N.C. App. at 20-21, 784 S.E.2d at 203. Our Court held this was error. Here, the issue Plaintiff actually presents on appeal is whether the finding was supported by competent evidence—whether Plaintiff's testimony regarding the value of memorabilia was sufficient to support the finding regarding value—not whether the court wholly failed to classify, value, or distribute certain property.

[9] In the index and issues presented portions of his brief, Plaintiff states the trial court erred in making findings of fact number 26 to number 37. However, Plaintiff only brought forth substantive argument regarding finding of fact number 26. Plaintiff's arguments regarding finding of fact number 27 to number 37 are abandoned. N.C. R. App. P. 28(a) (2017).

Equitable distribution is a three-step process. The trial court must: (1) classify property as either marital, divisible, or separate property; (2) calculate the net value of the property; and (3) distribute the property in an equitable manner. *Beightol v. Beightol*, 90 N.C. App. 58, 63, 367 S.E.2d 347, 350 (1988) (citing *Cable v .Cable*, 76 N.C. App. 134, 331 S.E.2d 765 (1985)).

For the second step, the trial court is to determine the net fair market value of the property based on evidence offered by the parties. *Fitzgerald v. Fitzgerald*, 161 N.C. App. 414, 419, 588 S.E.2d 517, 521 (2003) (citing *Walter v .Walter*, 149 N.C. App. 723, 733, 561 S.E.2d 571, 577 (2002)). An owner of property is competent to testify as to the value of his own property even though his knowledge on the subject would not qualify him as a witness were he not the owner. *N.C. State Highway Comm'n v. Helderman*, 285 N.C. 645, 652, 207 S.E.2d 720, 725 (1974). Indeed, an owner is entitled to testify as to the value of his property unless "it affirmatively appears that the owner does not know the value[.]" *Responsible Citizens v. City of Asheville*, 308 N.C. 255, 271, 302 S.E.2d 204, 214 (1983) (internal quotation marks and citation omitted).

However, our Supreme Court recently held merely asserting an unsubstantiated opinion regarding a foreclosed property's value is insufficient. *United Cmty. Bank (Georgia) v. Wolfe*, 369 N.C. 555, 560, 799 S.E.2d 269, 273 (2017). Though the Supreme Court issued this holding in the context of a summary judgment

motion concerning application of the North Carolina Anti-Deficiency statute, the principle holds true concerning the value of property in the context of an equitable distribution hearing.

Here, the trial court based its finding on Defendant's testimony on the value of certain sports memorabilia. Defendant based her opinion and testimony on Plaintiff's eBay bidding history, his Bank of America credit card statements, a PayPal report in Plaintiff's name, inventory taken from the sports memorabilia in his storage unit, and her own valuations of certain items. Defendant testified as to how she calculated the values for certain sports memorabilia. She further stated she spent "hundreds of hours" researching the values of items and going through the aforementioned documents.

We conclude Defendant did not proffer an unsubstantiated opinion, but instead offered an opinion substantiated by supporting facts. While Plaintiff contends Defendant "seem[ed] to be assigning values to items at random with no idea of their fair market value[,]" Defendant spent considerable time and effort collecting documents and conducting inventory to assign value to the sports memorabilia, as

evidenced by her extensive testimony. We, therefore, hold there is competent evidence to support the finding and Plaintiff's argument is without merit.[10, 11]

IV. Conclusion

For the foregoing reasons, we affirm the equitable distribution judgment.

AFFIRMED.

Judges ELMORE and ZACHARY concur.

Report per Rule 30(e).

---

[10] In his brief, Plaintiff references the trial court's determination to decide the memorabilia was marital property, but "the debt incurred in purchasing that property is separate and attributable only to" him. However, Plaintiff did not challenge any findings or conclusions regarding the classification of the debt, and any argument to that effect is not properly before this Court.

[11] Since we uphold the finding of fact on fair net market value, conclusion of law number 10 is supporting by the finding.