

**STATE OF INDIANA
COURT OF APPEALS**



STACI SWINDLER

Appellant(s),

Cause No. 24A-DN-00071

v.

SHAUN SWINDLER

Appellee(s).

CERTIFICATION

STATE OF INDIANA)
) SS:
Court of Appeals)

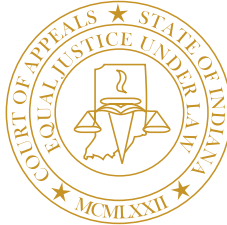
I, Gregory R. Pachmayr, Clerk of the Supreme Court, Court of Appeals and Tax Court of the State of Indiana, certify the above and foregoing to be a true and complete copy of the Opinion of said Court in the above entitled case.

IN WITNESS WHEREOF, I hereto set my hand and affix the seal of THE CLERK of said Court, at the City of Indianapolis, this on this the 27th day of December, 2024.

Gregory R. Pachmayr,
Clerk of the Supreme Court

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



IN THE Court of Appeals of Indiana

Staci Swindler,
Appellant-Respondent

v.

Shaun Swindler,
Appellee-Petitioner

August 6, 2024

Court of Appeals Case No.
24A-DN-71

Appeal from the Hamilton Superior Court

The Honorable Michael A. Casati, Judge

Trial Court Cause No.
29D01-2112-DN-8736

Memorandum Decision by Judge Tavitas
Judges Crone and Bradford concur.

Tavitas, Judge.

Case Summary

- [1] The trial court entered a dissolution decree dissolving the marriage of Staci Swindler (“Wife”) and Shaun Swindler (“Husband”) and dividing the marital estate between the parties. Wife appeals and claims that the trial court abused its discretion by: (1) denying her motion to continue; (2) declining to award Wife spousal maintenance; and (3) declining to include in the marital estate potential future income from Husband’s partial ownership in a surgery center. We conclude that the trial court did not abuse its discretion and, accordingly, affirm.

Issues

- [2] Wife presents three issues, which we restate as:
- I. Whether the trial court abused its discretion by denying Wife’s motion to continue the dissolution hearing.
 - II. Whether the trial court abused its discretion by denying Wife’s request for rehabilitative spousal maintenance.
 - III. Whether the trial court abused its discretion by failing to include in the marital estate potential future income from Husband’s partial ownership of a surgery center.

Facts

- [3] Husband and Wife were married in October 2016 and had no children together. Wife is a Canadian citizen who moved to the United States six months prior to the parties' marriage. Wife became a lawful, permanent resident of the United States in 2018. Wife has a bachelor's degree in psychology and an advanced diploma in social services, which she earned prior to her marriage to Husband. While in Canada, Wife worked for that nation's Department of Veteran Affairs. Wife, however, was not gainfully employed in the United States during much of the marriage; she worked for a brief time as a personal trainer at a fitness gym, where she earned \$500 every two weeks. Wife also obtained online sponsorships for her social media accounts. Husband is a medical doctor and ophthalmologist. After the marriage, Husband became a partner in the practice where he worked.
- [4] In 2020, the parties agreed that Husband would purchase a fractional share of the Kokomo Center for Outpatient Surgery ("Kokomo Surgery Center").¹ Husband took out a loan for \$110,000 to purchase his share of the Kokomo Surgery Center. A "proforma" projected Husband's eventual income from his shares of the Kokomo Surgery Center at \$110,000 per year.² Tr. Vol. II p. 193. Husband, however, has yet to realize any income from his ownership of the

¹ Husband testified that he paid \$110,000 for a 3.26 percent share of the Kokomo Surgery Center. Husband already owned an interest in Clearview Surgery Center, which was included in the marital estate.

² Husband testified that "the proforma that they ran based upon all the surgical volume that was already preexisting at Ascension Health at their current surgery center was going to be basically reflective of the amount of your buy-in for a yearly dividend." Tr. Vol. II p. 193.

Kokomo Surgery Center. Husband was, by far, the primary income earner in the marriage. His salary in 2021 was over \$500,000 but decreased to \$380,000 in 2021 because Husband's practice slowed when he underwent arm surgery.

[5] Husband and Wife separated on November 23, 2021. After the separation, Wife withdrew a total of \$66,500 from two joint accounts. Husband filed a petition to dissolve his marriage with Wife on December 3, 2021. Wife filed a counter-petition for dissolution on April 19, 2022, in which she sought provisional spousal maintenance. On June 9, 2022, Husband agreed to pay Wife \$5,000 from the marital assets to cover her insurance costs. The parties later agreed to distribute to Wife \$25,000 as an "advance" on her share of the marital estate. Appellant's App. Vol. II p. 28.

[6] On November 21, 2022, Wife filed an emergency petition for provisional relief in which she claimed that Husband forced her out of the marital residence, threatened her, physically harmed her, withdrew funds from Wife's retirement account, and removed her ability to access the parties' joint bank accounts. She also sought a temporary restraining order to prevent Husband from dissipating marital assets. Then, on February 1, 2023, the parties agreed to distribute \$40,000 to Wife as another advance on her share of the marital assets. In May 2023, Wife filed a motion for temporary and permanent spousal maintenance and for attorney fees. Husband objected to this request based on the large sums

Wife had already received from the marital assets.³ In the meantime, Husband continued to pay for all of the expenses for the marital residence and paid for Wife's health insurance and cell phone bills. On August 16, 2023, the parties entered into an agreed order settling most of the provisional issues.

[7] During the pendency of the case, both parties filed several motions to continue the final hearing. Wife filed her first motion for continuance on February 28, 2023; the trial court granted this motion and reset the hearing for July 19, 2023. On April 12, 2023, Wife filed another motion for continuance, which the trial court granted; a two-day final hearing was set for October 30 and 31, 2023, per the agreement of the parties. On September 13, 2023, Wife filed another motion to continue. Wife's motion stated that her attorney had a five-day jury trial set for the same period in a criminal matter and that Wife still needed to depose certain witnesses. The trial court denied Wife's motion. Undeterred, Wife renewed her motion to continue on September 28, 2023. In this motion, Wife claimed that she had been the victim of an "attempted murder" by her boyfriend in California, was undergoing therapy as a result of the attack, and this delayed her ability to finalize her responses to Husband's requests for discovery. Appellant's App. Vol. II p. 58. She also repeated her claims about discovery and her attorney's scheduling conflict. The trial court denied this motion on October 10, 2023.

³ During the pendency of the dissolution action, Wife received a total of \$115,000 as advanced payment of her share of the marital estate.

[8] The trial court held final hearings on the matter, as scheduled, on October 30 and 31. Wife's attorney obtained a continuance in the criminal matter and represented Wife at the hearings. On January 2, 2024, the trial court entered an order in which it awarded Wife 54% and Husband 46% of the marital estate. Among other things, the trial court awarded to Wife \$124,966 from Husband's retirement account and a one-time payment of \$22,896.71. The trial court awarded the marital residence to Husband. The trial court did not include in the marital estate any of Husband's potential future income from his partial ownership in the Kokomo Surgery Center. With regard to Wife's claim for spousal maintenance, the trial court found:

32. [Wife] was not awarded Preliminary Spousal Maintenance, but requests an Order of Spousal Maintenance in general. She neither elicited an amount of requested maintenance nor a period of time for requesting the same. Her request is generalized and is not specific and/or does not fulfill the statutory requirements. Further, [Wife] is voluntarily unemployed, is receiving no debts [and] substantial cash assets in the division of the marital estate.

* * * * *

34. There was no evidence that [Wife] is physically or mentally incapacitated to the extent that her ability to support herself is materially affected, therefore spousal maintenance is not available under I.C. § 31-15-7-2(1) (incapacity). As the parties did not have children, [Wife] is not entitled to caregiver maintenance. I.C. § 31-15-7-2 (2)(B). This leaves rehabilitative maintenance under subsection (3) as the sole source for an award of spousal support.

* * * * *

38. The evidence at trial established that [Wife] has a Bachelor of Arts Honors in Psychology from Carleton University and a Social Service Work Diploma from Algonquin University. The Court finds no evidence that [Wife] is in need of additional education to equip her to find appropriate employment. Although she voluntarily largely stopped working outside the home when she married [Husband], for the past two (2) years while the case has pended she has not sought employment commensurate with any education, training or past experience. She has voluntarily been out of the workforce for a period of time, but the Court does not know if that is a prohibitive amount of time as [Wife] has failed and refused to attempt to find employment. The evidence does not support [Wife]’s claim that she is entitled to rehabilitative maintenance.

Appellant’s App. Vol. II pp. 123-25.⁴ Wife now appeals.

Discussion and Decision

Standard of Review

[9] “‘Appellate deference to the determinations of our trial court judges, especially in domestic relations matters, is warranted because of their unique, direct interactions with the parties face-to-face, often over an extended period of time.’” *Hahn-Weisz v. Johnson*, 189 N.E.3d 1136, 1141 (Ind. Ct. App. 2022) (quoting *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011)). “‘Thus enabled to assess credibility and character through both factual testimony and intuitive

⁴ As a sanction for Wife’s non-compliance with the trial court’s order compelling her to provide documents related to two of her bank accounts, the court ordered Wife to pay \$15,000 of Husband’s attorney fees; this effectively canceled out the trial court’s order that Husband also pay \$15,000 of Wife’s attorney fees.

discernment, our trial judges are in a superior position to ascertain information and apply common sense” *Id.* (quoting *Best*, 941 N.E.2d at 502).

Additionally, there is a well-established preference in Indiana for granting latitude and deference to our trial judges in family law matters. Appellate courts are in a poor position to look at a cold transcript of the record, and conclude that the trial judge, who saw the witnesses, observed their demeanor, and scrutinized their testimony as it came from the witness stand, did not properly understand the significance of the evidence. On appeal it is not enough that the evidence might support some other conclusion, but it must positively require the conclusion contended for by appellant before there is a basis for reversal.

Steele-Giri v. Steele, 51 N.E.3d 119, 124 (Ind. 2016) (citations and internal quotations omitted).

[10] The trial court here issued findings of fact and conclusions thereon pursuant to Indiana Trial Rule 52(A), which prohibits a court on appeal from setting aside the trial court’s judgment unless the judgment is clearly erroneous. *Hoover v. Ferrell*, 224 N.E.3d 968 (Ind. Ct. App. 2023) (citing *Quillen v. Quillen*, 671 N.E.2d 98, 102 (Ind. 1996)). A trial court’s findings of fact are clearly erroneous only when the record contains no facts to support them either directly or by inference. *Id.* A trial court’s judgment is clearly erroneous only if its findings of fact do not support its conclusions of law or its conclusions of law do not support its judgment. *Id.* Wife does not challenge any of the trial court’s factual findings, so we accept them as correct. *See McIntosh v. McIntosh*, 222

N.E.3d 998, 1003 (Ind. Ct. App. 2023) (citing *Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992)).

I. The trial court did not err by denying Wife’s motion for a continuance.

- [11] Wife first claims that the trial court abused its discretion by denying her motions for continuance that she filed on September 13 and 28, 2023. “Generally speaking, a trial court’s decision to grant or deny a motion to continue is subject to abuse of discretion review.” *In re K. W.*, 12 N.E.3d 241, 244 (Ind. 2014). An abuse of discretion may be found in the denial of a motion for a continuance when the moving party has shown good cause for granting the motion; however, no abuse of discretion will be found when the moving party has not demonstrated that he or she was prejudiced by the denial. *Rowlett v. Vanderburgh Cnty. Off. of Fam. & Child.*, 841 N.E.2d 615, 619 (Ind. Ct. App. 2006) (internal citations omitted), *trans. denied*.
- [12] Wife argues that she showed good cause for a continuance because she was unable to complete discovery after being the victim of a violent crime and because her counsel had a scheduling conflict with the final hearing dates.
- [13] Regarding Wife’s claim that she was unable to complete discovery, we note, as did the trial court, that this case had been pending for almost two years at the time of Wife’s September 2023 motions to continue. Although Wife claimed that she needed to depose Husband’s expert witnesses and business partners, she failed to explain what evidence she expected would be produced by these

depositions. *See* Ind. Trial Rule 53.5 (providing that a motion for continuance based on the absence of evidence must show “the materiality of the evidence expected to be obtained,” and that “due diligence has been used to obtain it[.]”). In her September 28 motion, Wife claimed that she was in the process of finalizing her response to Husband’s discovery requests. Again, however, Wife failed to specify how her responses to Husband’s requests would affect her ability to present evidence at the final hearing.

[14] We, therefore, find Wife’s citation to *Smith v. Smith*, 136 N.E.3d 656 (Ind. Ct. App. 2019), to be unavailing. In *Smith*, we reversed the trial court’s denial of the husband’s motion to continue because the trial court did not hold a hearing on the motion, there was no evidence that husband was attempting to delay the proceedings, husband had undergone surgery two weeks prior to the final hearing, husband’s attorney had not yet provided husband with the documents he needed, and husband had recently switched attorneys. *Id.* at 659. Unlike the present case, however, in *Smith*, there had been no prior motions to continue, and the final hearing was scheduled just four months from the filing of the dissolution petition. *Id.* Here, in contrast, the case had been pending for almost two years, and both parties had requested, and received, multiple continuances.⁵

⁵ Wife’s citations to *In re L.C.*, 659 N.E.2d 593, 597 (Ind. 1995), and *In re A.M.*, 189 N.E.3d 619, 626-27 (Ind. Ct. App. 2022), *trans. denied*, are similarly unavailing. In both of those cases, the trial courts’ denials of the motions to continue resulted in the moving party representing themselves without counsel. Here, Wife was represented by counsel. Moreover, in those cases, we affirmed the trial courts’ denials of the moving parties’ motions to continue.

[15] Wife also claims that she showed good cause for a continuance because her counsel had a scheduling conflict with final hearing dates. Specifically, Wife’s counsel had a five-day jury trial set in a criminal case. We note, however, that the October 30 and 31 final hearing dates had already been agreed to by the parties on April 20, 2023. The criminal trial in the other case was not scheduled until June 15, 2023. We also note that Wife’s counsel filed for a continuance in the criminal case, which was granted, and the jury trial in that case was continued until November 1, 2023. *See State v. Ko*, No. 11D01-2112-F2-884, Chronological Case Summary entry for Oct. 10, 2023.⁶ Thus, Wife can show no prejudice from the trial court’s denial of her motion to continue based on this resolved scheduling conflict. We are, therefore, unable to say that the trial court abused its discretion by denying Wife’s motions for a continuance.

II. The trial court did not err by denying Wife’s request for rehabilitative maintenance.

[16] Wife next argues that the trial court abused its discretion by denying her request for rehabilitative maintenance. Our General Assembly has restricted the discretion of trial courts to impose spousal maintenance to three “quite limited” options: (1) incapacity, (2) caregiver, and (3) “rehabilitative (the recipient spouse needs a limited period of support to pursue education or training to

⁶ Husband filed a motion in this Court on May 4, 2024, requesting that we take judicial notice of certain court records in the *State v. Ko* case. Wife has not filed a response. Pursuant to Indiana Evidence Rule 201(a)(2)(C), we may take judicial notice of “records of a court of this state.” A court may take judicial notice “at any stage of the proceeding.” Evid. R. 201(d). And Evidence Rule 201(c)(2) provides that a court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Husband has provided us with the court records of which he requests we take judicial notice. Accordingly, we grant Husband’s motion via an order issued contemporaneously with this opinion.

improve employability).” *Pohl v. Pohl*, 15 N.E.3d 1006, 1009 (Ind. 2014) (quoting *Voigt v. Voigt*, 670 N.E.2d 1271, 1276-77 (Ind. 1996)). Wife claims she was entitled to the third option—rehabilitative maintenance.

[17] The statute governing spousal maintenance provides:

After considering:

(A) the educational level of each spouse at the time of marriage and at the time the action is commenced;

(B) whether an interruption in the education, training, or employment of a spouse who is seeking maintenance occurred during the marriage as a result of homemaking or child care responsibilities, or both;

(C) the earning capacity of each spouse, including educational background, training, employment skills, work experience, and length of presence in or absence from the job market; and

(D) the time and expense necessary to acquire sufficient education or training to enable the spouse who is seeking maintenance to find appropriate employment;

a court **may** find that rehabilitative maintenance for the spouse seeking maintenance is necessary in an amount and for a period of time that the court considers appropriate, but not to exceed three (3) years from the date of the final decree.

Ind. Code § 31-15-7-2(3) (emphasis added).

[18] “[T]he trial court’s power to award spousal maintenance is not mandatory; it is wholly within the trial court’s discretion.” *Clokey v. Bosley Clokey*, 956 N.E.2d 714, 718 (Ind. Ct. App. 2011), *clarified on reh’g*, 957 N.E.2d 1288; *accord Barton*

v. Barton, 47 N.E.3d 368, 375 (Ind. Ct. App. 2015), *trans. denied*. The presumption that the trial court correctly applied the law in making a decision to award or deny spousal maintenance is one of the strongest presumptions applicable to our consideration of a case on appeal. *Barton*, 47 N.E.3d at 375. Accordingly, we will reverse a trial court's decision to award or deny spousal maintenance only when the decision is clearly against the logic and effect of the facts and circumstances of the case. *Id.* Here, the trial court considered the appropriate statutory factors, and we cannot say that its decision to deny Wife rehabilitative maintenance was an abuse of discretion.

[19] First, although Husband is an ophthalmologist, Wife has a bachelor's degree in psychology and an advanced diploma in social services. Wife also obtained a personal training certificate during the marriage and was studying for a realtor's exam in California at the time of the final hearing. Wife, thus, has sufficient education to allow her to be gainfully employed. *See* I.C. § 31-15-7-2(3)(A).

[20] The trial court also considered that Wife stopped working outside the home in 2018. Wife claims this was done so that she could be a homemaker, but Husband disputed this and claimed that he pleaded with Wife to get a job. We will not reweigh the evidence or second-guess the trial court's credibility determinations. *Steele-Giri*, 51 N.E.3d at 124. And although Wife claimed she applied for dozens of jobs, she only applied for one position in 2022 and none in 2023. Thus, the trial court's finding that Wife had not sought employment commensurate to her education, training and experience for the prior two years

and had “failed and refused to attempt to find employment,” Appellant’s App. Vol. II p. 119, is supported by the evidence. *See* I.C. § 31-15-7-2(3)(B).

[21] The next statutory factor the trial court was required to consider is the earning capacity of each spouse. It is undeniable that Husband has a greater earning capacity. There was evidence that Wife’s unemployment, however, was her choice—a choice that continued after the separation and the filing of the dissolution petition. Still, Wife has an advanced education and, at the time of the final hearing, was studying to become a licensed realtor in California. Thus, she has the capacity to earn a meaningful income. *See* I.C. § 31-15-7-2(3)(C).

[22] Wife also received over \$100,000 as “advances” of her share of the marital estate during the pendency of the dissolution. In this time, however, she had only one job interview, applied for only one position in 2022, and applied for no positions in 2023. Instead, Wife studied to become a realtor in California—a potentially lucrative vocation. Thus, she had the time and money to “acquire sufficient education or training to enable [her] to find appropriate employment.” *See* I.C. § 31-15-7-2(3)(D). In short, ample evidence supports the trial court’s decision to deny Wife’s request for rehabilitative maintenance. The trial court did not abuse its discretion.

III. The trial court did not err by failing to include future income from the Kokomo Surgery Center in the marital estate.

[23] Lastly, Wife claims that the trial court abused its discretion by failing to include in the marital estate Husband's future income from the Kokomo Surgery Center. "It is well settled that in a dissolution action, all marital property goes into the marital pot for division, whether it was owned by either spouse before the marriage, acquired by either spouse after the marriage and before final separation of the parties, or acquired by their joint efforts.'" *Meyer v. East*, 205 N.E.3d 1066, 1071 (Ind. Ct. App. 2023) (quoting *Falatovics v. Falatovics*, 15 N.E.3d 108, 110 (Ind. Ct. App. 2014)). Specifically, Indiana Code Section 31-15-7-4(a) provides:

In an action for dissolution of marriage under IC 31-15-2-2, the court shall divide the property of the parties, whether:

- (1) owned by either spouse before the marriage;
- (2) acquired by either spouse in his or her own right:
 - (A) after the marriage; and
 - (B) before final separation of the parties; or
- (3) acquired by their joint efforts.

[24] For purposes of dissolution, the term "property" means "all the assets of either party or both parties." Ind. Code § 31-9-2-98. "Marital property includes both assets and liabilities.'" *Meyer*, 205 N.E.3d at 1072 (quoting *McCord v. McCord*, 852 N.E.2d 35, 45 (Ind. Ct. App. 2006)). However, "[r]emote and speculative interests are excluded from the marital estate." *Bringle v. Bringle*, 150 N.E.3d

1060, 1071 (Ind. Ct. App. 2020). When dividing marital property, “the court considers the value of the property owned by either spouse before marriage, acquired by either spouse in his or her own right before final separation, or acquired by the spouses’ joint efforts, but **not** the future income the marital property will produce after the dissolution.” *Smith v. Smith*, 854 N.E.2d 1, 6 (Ind. Ct. App. 2006) (emphasis added).

[25] Here, during the marriage, the parties agreed that Husband would purchase partial ownership of the Kokomo Surgery Center for \$110,000. This purchase was paid for via a loan for that amount. The initial “proforma” performed regarding the Kokomo Surgery Center projected that Husband’s annual income from an investment in the Center would be equivalent to the purchase price of the investment, i.e. \$110,000. Tr. Vol. II p. 193. The trial court included the loan liability in the marital estate and assigned the debt to Husband, but it did not include any potential income from Husband’s ownership in the marital estate. Wife argues that “the trial court abused its discretion by failing to include the projected income of the [Kokomo Surgery Center] in the marital estate.” Appellant’s Br. Vol. 22. We disagree.

[26] “It has long been the law in this State that future earnings are not considered part of the marital estate for purposes of property division.” *Beckley v. Beckley*, 822 N.E.2d 158, 160 (Ind. 2005). Future earnings, however, may be considered in determining the distribution of the marital estate and may be awarded as a form of maintenance if the spouse qualifies for maintenance. *Roberts v. Roberts*, 670 N.E.2d 72, 76 (Ind. Ct. App. 1996), *trans. denied*. Here, as we held above,

the trial court did not abuse its discretion by denying Wife's request for spousal maintenance. Thus, although the trial court could consider Husband's future income—including any income he may earn from the Kokomo Surgery Center—in determining the distribution of the marital estate, Husband's future income is not part of the marital estate. Accordingly, Wife's claim that she is entitled to a share of Husband's future income from the Kokomo Surgery Center is unavailing.

[27] Wife cites *Loeb v. Loeb*, 261 Ind. 193, 301 N.E.2d 349 (1973), and *Fiste v. Fiste*, 627 N.E.2d 1368 (Ind. Ct. App. 1994), in support of her argument. In *Loeb*, our Supreme Court held that the husband's conditional vested interest in a trust, which was subject to complete defeasance if he predeceased the settlor, was too speculative to be included in the estate because he did not possess any present economic interest in the trust that could be subject to division. 261 Ind. at 199, 301 N.E.2d at 353. In *Fiste*, this Court held that the husband's future interest in real estate, contingent upon him surviving his mother, and on the sequential life estates of his step-grandmother and mother, was too speculative to be considered marital property. 627 N.E.2d at 1372.

[28] Wife's citation to these cases is unavailing. Here, Wife is not asking for a share of Husband's interest in the Kokomo Surgery Center; she is instead asking that his future **income** from the Center be included in the marital estate. *See* Appellant's Br. p. 22. Although a spouse's earning potential may be considered in determining the distribution of marital assets, a spouse's future earnings are

not part of the marital estate. *Buckley*, 822 N.E.2d at 160; *Roberts*, 670 N.E.2d at 76.⁷ Wife’s argument, accordingly, fails.

Conclusion

[29] The trial court did not abuse its discretion by denying Wife’s motion to continue, nor did the court abuse its discretion by denying Wife’s request for rehabilitative spousal maintenance. Lastly, the trial court did not abuse its discretion by failing to include in the marital estate the future income Husband may receive from the Kokomo Surgery Center. Accordingly, we affirm the trial court’s judgment.

[30] Affirmed.

Crone, J., and Bradford, J., concur.

ATTORNEYS FOR APPELLANT

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⁷ To the extent that Wife claims that the trial court should have included the value of Husband’s interest in the Kokomo Surgery Center in the marital estate, we also disagree. Husband presented evidence that, although he initially expected that his investment in the Kokomo Surgery Center would produce \$110,000 annually, this had not yet come to fruition. Husband had yet to make any money from his ownership. The Center had only been incorporated as an LLC in 2021, and, at the time of the final hearing in 2023, had not yet been accredited and was not yet operational. Husband was unsure when he would realize income from the Center. Thus, Husband presented evidence that his interest in the Kokomo Surgery Center effectively had no present value other than the debt Husband incurred to purchase his interest—a debt the trial court assigned to Husband in its division of marital assets. Wife presented no evidence to counter Husband’s claims. Accordingly, we cannot say that the trial court abused its discretion when valuing Husband’s ownership interest in the Kokomo Surgery Center.

Carmel, Indiana

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