

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 26, 2005

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2004AP3006-FT

Cir. Ct. No. 2003FA366

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

WILLIAM E. JENSEN,

PETITIONER-APPELLANT,

v.

SUSAN E. JENSEN,

RESPONDENT-RESPONDENT.

APPEAL from a judgment of the circuit court for Dane County:
STEVEN D. EBERT, Judge. *Affirmed.*

Before Dykman, Vergeront and Higginbotham, JJ.

¶1 PER CURIAM. William Jensen appeals a judgment of divorce. He challenges the maintenance award and the property division. We reject his arguments and affirm.

¶2 William first argues the circuit court made an error in computing Susan's reasonable expenses, which led the court to incorrectly believe Susan needed maintenance to meet her expenses. He bases his claim of error on what he characterizes as inconsistent factual findings. He contends finding of fact number 18 shows the circuit court intended to deduct the mortgage payment of \$594 from Susan's expenses because William would be required to pay the outstanding balance. He argues finding of fact number 24 shows that the court intended to deduct household repairs/maintenance and miscellaneous expenses from Susan's living expenses statement, which together totaled \$1,013, because these expenses were speculative and unsupported by the record. Deducting these items from Susan's proposed budget, she would have approximately \$2,100 per month in expenses. However, in finding of fact number 35, the circuit court stated both parties need \$3,100 to meet their budgets.

¶3 William reads the circuit court's findings of fact too narrowly. The first sentence of finding number 24 indicates two items in Susan's budget, item 2(c) and 2(z), are speculative and unsupported. Those items are Susan's household repairs\maintenance and miscellaneous expenses. Finding number 24 then states

The "Breakdown of Financial Disclosure Statement," which is attached to Exhibit 2, *shows what is reasonable to maintain the standard of living [Susan] enjoyed during the marriage.* Most of the appliances in the home are over 20 years old and may need to be replaced. [Susan] started using an exterminator last year and the home needs some repairs (emphasis added).

In our view, the circuit court's statement that items 2(c) and 2(z) were unsupported and speculative referred only to the fact that they were listed on the expense statement without any detail. Then, however, the court pointed to the sheet that provided a breakdown of expenses, which explained exactly what items 2(c) and 2(z) encompassed, and decided the items shown were reasonable when explained in detail. Therefore, we reject William's argument.

¶4 William next argues the circuit court erroneously exercised its discretion by failing to divide the property equally. We reject this argument because we conclude the circuit court's division was approximately equal. The circuit court determined the stock that William owned was worth at least \$10,800, but also that it might be worth as much as \$80,000. Although Susan received approximately \$373,000, which is slightly more than William's award of approximately \$350,000, William's share of the property included the stock with a \$10,800 valuation. Since the circuit court essentially placed a value range on the stock but then attributed only the lowest possible value to William when dividing the property, we believe the circuit court's property division was essentially equal.

¶5 William also argues the circuit court erred in ruling that William's proposed budget of \$2112 for his mortgage and escrow payments were unreasonable and speculative. He contends this amount was not unreasonable and speculative because his trial testimony supports this figure. We reject this argument because the circuit court was charged with assessing the credibility of the witnesses. *See Siker v. Siker*, 225 Wis. 2d 522, 528, 593 N.W.2d 830 (Ct. App. 1999). Susan testified at trial that homes were available for around the same price as her home, which was valued at approximately \$163,000. The circuit court could reasonably have found Susan's testimony more credible than William's testimony. Therefore, this finding is not clearly erroneous.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE
809.23(1)(b)5.

