

**COURT OF APPEALS
DECISION
DATED AND FILED**

September 11, 2026

Samuel A. Christensen
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. 2025AP1313
STATE OF WISCONSIN**

Cir. Ct. No. 2016FA174

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

MATTHEW BRAAKSMA,

PETITIONER-APPELLANT,

V.

PAMELA ANN BRAAKSMA,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Dodge County:
MARTIN J. DE VRIES, Judge. *Affirmed.*

Before Graham, P.J., Blanchard, and Nashold, JJ.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. Matthew Braaksma appeals a circuit court order directing Matthew to pay maintenance to his former spouse, Pamela Braaksma.¹ Matthew argues that: (1) the court erred by relying on the parties’ “offers of proof” rather than requiring evidence; (2) the court’s factual findings were not supported by the evidence; and (3) the court erroneously exercised its discretion by awarding maintenance. For the reasons explained in this opinion, we reject those contentions. We affirm.

BACKGROUND

¶2 Matthew and Pamela divorced in June 2017. At that time, the parties agreed to hold open the issue of maintenance to Pamela for a period of eight years. In January 2025, Pamela filed a request for maintenance.

¶3 The circuit court held a hearing on the motion on April 23, 2025. At the outset of the hearing, Pamela’s counsel informed the court that there were not “a whole lot of [factual] disputes,” and that the parties were therefore prepared to proceed directly to counsel’s arguments and “offers of proof.” Matthew’s counsel said that he had “no objection” to proceeding in that manner. Counsel agreed that, if a dispute arose as to the facts, the parties could then offer testimony as necessary.

¶4 The circuit court agreed to proceed in that manner, with the caveat that “[i]f either attorney thinks that the other attorney is stating some facts that may not be a hundred percent correct, then speak up, or you will have waived your right to object to that once the hearing is done.” The court reiterated: “So, if you do have

¹ Because the parties share a surname, we refer to them by their first names for clarity.

a problem ... with anything, just say, look that's not really the way we see it. And then we can address whether we have to have testimony on it or not.”

¶5 Pamela's counsel then stated the following facts. Pamela and Matthew were married for 19 years and equally split their property at the time of divorce. Pamela had primary placement of the parties' two minor children, and Matthew had placement every other weekend. Matthew was ordered to pay Pamela approximately \$1,900 a month in child support. Based on the substantial child support award, the parties agreed to hold open maintenance for a period just past when child support would end, allowing Pamela to seek maintenance when the child support ended. At the time of the April 2025 hearing, the child support payments had stopped.

¶6 Pamela continued to live in the marital residence, which was not subject to a mortgage. Both of the parties' children, who were then ages 18 and 22, continued to reside with Pamela, and her budget included expenses for them. The younger child was attending college, and the older child, who is on the autism spectrum, may not be able to live independently. Pamela's monthly expenses, with the parties' two adult children living at home, were \$3,911.99. Matthew's monthly budget was \$10,043.54. Pamela's counsel noted that, according to Matthew's budget, “between his marital residence and a vacation up-north vacant property, he is spending \$3,100 a month to pay for his house.”

¶7 Matthew's current income was \$140,230, and Pamela's was \$43,576. Pamela was currently “at her highest earning capacity” and would never have the capacity to earn near Matthew's income. Pamela's counsel asked the circuit court to award Pamela indefinite maintenance of 50% of the parties' total disposable income, which was \$2,662 per month.

¶8 Matthew's counsel offered the following additional facts. At the time of the divorce, Matthew was earning \$95,000 per year. He started earning \$140,000 per year more recently as the result of new employment. Pamela was working part time at the time of the divorce. She continued to work part time for several years after the divorce, before starting to work full time in 2021.

¶9 Neither counsel disputed the material facts asserted by the other, and neither asked the circuit court to take testimony on any factual issue.²

¶10 The circuit court determined that maintenance was necessary to achieve the goals of support and fairness. The court determined that Pamela was never going to be able to earn close to Matthew's salary and that she had not worked full time until more recently because she had been taking care of the parties' children. The court also reasoned that Pamela, as the primary caretaker for the children, had made sacrifices that limited her earning potential. The court noted the differences in the parties' budgets, including that Pamela had chosen to spend more on the parties' adult children while Matthew spent more on personal expenses. Taking these facts into consideration, the court awarded indefinite maintenance of \$2,500 per month to Pamela.

² After Matthew's counsel said that Matthew's income at the time of the divorce was \$95,000, Pamela's counsel said that was incorrect, and that his income at the time of the divorce was \$99,230. However, the parties did not ask the circuit court to take evidence on that issue, and the court made no factual findings as to Matthew's income at the time of the divorce. The parties do not argue that Matthew's exact income at the time of the divorce was relevant to the court's decision on maintenance or the issues on appeal. We note that, according to Matthew's financial disclosure statement that was filed at the time of the divorce, Matthew's monthly income was \$8,269.24, which comes to \$99,230 annually.

STANDARD OF REVIEW

¶11 We review a circuit court’s maintenance award for an erroneous exercise of discretion. *Weiler v. Boerner*, 2005 WI App 64, ¶11, 280 Wis. 2d 519, 695 N.W.2d 833. We uphold an exercise of discretion as long as the court reached a rational decision by applying the correct legal standards to the facts. *Id.*

¶12 We will uphold the circuit court’s factual findings unless they are clearly erroneous. See *Royster-Clark, Inc. v. Olsen’s Mill, Inc.*, 2006 WI 46, ¶11, 290 Wis. 2d 264, 714 N.W.2d 530. A court’s factual findings are clearly erroneous only if they are unsupported by the record. See *id.* We accept any reasonable inferences that the court draws from the facts. *Winnebago County v. Christopher S.*, 2016 WI 1, ¶50, 366 Wis. 2d 1, 878 N.W.2d 109.

DISCUSSION

¶13 First, Matthew argues that the circuit court erred by relying on the facts as stated by the parties rather than requiring the presentation of evidence. However, Matthew made no objection to the court relying on the undisputed facts as stated by both of the attorneys without taking evidence, and in fact affirmatively approved the court proceeding in that manner. Under the concept of forfeiture (for failing to object) or invited error (for affirmatively approving the court proceeding on the undisputed facts), we conclude that Matthew is precluded from challenging that procedure on appeal. See *State v. Freymiller*, 2007 WI App 6, ¶¶15-17, 298 Wis. 2d 333, 727 N.W.2d 334 (2006) (noting that appellate courts typically decline to review issues on which the appellant has forfeited any objection by failing to object or invited the error by affirmatively approving it in the circuit court).

¶14 Moreover, even if we were to overlook forfeiture and invited error and reach the merits of this argument, we would reject it. Matthew argues that the circuit court erred by relying on the parties’ “offers of proof” as the factual basis for its maintenance determination because an “offer of proof” is not evidence. He argues that, under WIS. STAT. § 901.03(1)(b) (2023-24), an “offer of proof” is merely a means of preserving an issue for appeal when evidence is excluded, but is not itself evidence.³

¶15 Matthew correctly sets forth the statutory definition of “offer of proof” as a means to preserve the issue of whether excluded evidence should have been admitted. Here, however, the circuit court did not exclude any evidence, and the facts presented by counsel were not offered to preserve an appellate argument as to the admissibility of the evidence. Thus, while Pamela’s counsel used the phrase “offer of proof” at the hearing, there was no “offer of proof” by either party under the statutory meaning of the phrase. Rather, counsel for both parties agreed that, because the attorneys came to the hearing in agreement that there was no dispute as to the relevant facts, it would be appropriate for the court to rely on the facts as stated by counsel and proceed to argument, allowing either side to object or offer evidence as warranted. Matthew does not develop any argument that a circuit court may not resolve disputed issues at a maintenance proceeding based on facts that are all agreed to by the parties. Because the court did not actually accept an “offer of proof” on excluded evidence as the facts of the case—but rather accepted the undisputed facts as agreed on by the parties—we reject Matthew’s argument that the court erred by relying on an “offer of proof” for its factual findings.

³ All references to the Wisconsin Statutes are to the 2023-24 version.

¶16 Second, Matthew argues that several of the circuit court’s factual findings were clearly erroneous. He contends that the court’s finding that Pamela had not worked full time until 2021 because she was caring for the children was not supported by any evidence in the record. Similarly, Matthew argues that there was no evidence to support the court’s findings that Pamela made sacrifices as the primary caretaker for the children, while Matthew was free to “go off and do as he ... please[d],” and that Pamela therefore did not have the opportunity to make the same amount of money that Matthew did. We disagree.

¶17 The undisputed evidence was that, after the divorce, Pamela had primary placement of the children while Matthew had placement every other weekend. It was reasonable for the circuit court to infer from that placement schedule that Pamela acted as the primary caretaker for the children and limited her work schedule to part time to do so. It was also reasonable for the court to infer that, as the primary caretaker, Pamela made sacrifices that limited her work opportunities in ways that Matthew did not. Matthew does not point to any evidence to the contrary. We accept these reasonable inferences that the court made based on the undisputed facts. See *Christopher S.*, 366 Wis. 2d 1, ¶50.

¶18 Matthew also argues that the circuit court erred by finding that Matthew spends \$3,100 a month on a vacation place. In its discussion, the court said that Matthew “can’t say that [he isn’t] making ends meet when [he is] spending \$3,100 on a vacation place.” Matthew contends that, contrary to the court’s statement, Matthew’s financial disclosure statement indicates that he spends \$541 a month on vacant vacation land that he owns in Door County.

¶19 Pamela agrees that the circuit court “misspoke” when it said that Matthew spent \$3,100 per month on a vacation place. She contends that the parties

agreed that Matthew's total housing expenses were \$3,100, and the court simply used a poor choice of words to describe those expenses.

¶20 Thus, the parties agree that the circuit court incorrectly said that Matthew spends \$3,100 per month on a vacation place. Because that finding was not supported by the record, it was clearly erroneous. However, the court did not base its maintenance award on its erroneous finding that Matthew spends \$3,100 on a vacation home. Rather, the court indicated only that Matthew could not claim he was not making ends meet when he had money to spend on a vacation place every month, which remains true whether the correct amount per month was \$3,100 or \$541. Because the court's erroneous finding that Matthew spent \$3,100 per month on a vacation place did not have any bearing on its maintenance award, the error was harmless. See WIS. STAT. § 805.18(2) (reversal is not warranted unless error complained of has affected the substantial rights of a party); see also **Weborg v. Jenny**, 2012 WI 67, ¶68, 341 Wis. 2d 668, 816 N.W.2d 191 ("In order for an error to affect the substantial rights of a party within the meaning of WIS. STAT. § 805.18(2), 'there must be a reasonable possibility that the error contributed to the outcome of the action or proceeding at issue.'" (quoted source omitted)).

¶21 Third, Matthew argues that the circuit court erroneously exercised its discretion by awarding maintenance. Matthew contends that the court failed to specifically address several statutory factors under WIS. STAT. § 767.56(1c) and failed to explain how its factual findings on the statutory factors supported the support and fairness objectives of maintenance. We conclude that the court properly exercised its discretion.

¶22 Maintenance determinations are governed by WIS. STAT. § 767.56(1c). Section 767.56(1c) sets forth factors for a circuit court to consider in determining whether to award maintenance:

- (a) The length of the marriage.
- (b) The age and physical and emotional health of the parties.
- (c) The division of property made under [WIS. STAT. §] 767.61.
- (d) The educational level of each party at the time of marriage and at the time the action is commenced.
- (e) The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, custodial responsibilities for children and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.
- (f) The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage, and, if so, the length of time necessary to achieve this goal.
- (g) The tax consequences to each party.
- (h) Any mutual agreement made by the parties before or during the marriage, according to the terms of which one party has made financial or service contributions to the other with the expectation of reciprocation or other compensation in the future, if the repayment has not been made, or any mutual agreement made by the parties before or during the marriage concerning any arrangement for the financial support of the parties.
- (i) The contribution by one party to the education, training or increased earning power of the other.
- (j) Such other factors as the court may in each individual case determine to be relevant.

These factors serve as the “touchstone of analysis” for a maintenance determination and are designed to accomplish two distinct objectives: support and fairness. *LaRocque v. LaRocque*, 139 Wis. 2d 23, 32-33, 406 N.W.2d 736 (1987).

¶23 Matthew argues that the circuit court erred by failing to make any findings as to the statutory factors under WIS. STAT. § 767.56(1c)(g) (tax consequences to the parties), § 767.56(1c)(h) (any mutual agreement between the parties related to financial support), and § 767.56(1c)(i) (any contribution by one party to the education or earning capacity of the other). However, in making a maintenance decision, a circuit court “is not obliged to consider all of the statutory factors,” but rather “must consider those factors that are relevant.” *Brin v. Brin*, 2014 WI App 68, ¶11, 354 Wis. 2d 510, 849 N.W.2d 900. Here, Matthew does not argue that the factors under § 767.56(1c)(g), (h), or (i) would have been relevant to the court’s maintenance determination. Accordingly, he has not shown that the court erred by failing to consider those factors.

¶24 Matthew also argues that the circuit court did not make a finding as to Pamela’s earning capacity under WIS. STAT. § 767.56(1c)(e). However, it was undisputed at the maintenance hearing that Pamela was currently “at her highest earning capacity,” which was \$43,000. The court said that it looked at “earning capacity and the feasibility that [Pamela] can become self-supporting,” and determined that Pamela “would not be able to come close to [Matthew’s] earnings.” Accordingly, contrary to Matthew’s argument, the court did consider Pamela’s earning capacity under § 767.56(1c)(e).

¶25 Matthew also contends that the circuit court failed to make a finding as to whether Pamela could become self-supporting at the standard enjoyed during the marriage under WIS. STAT. § 767.56(1c)(f). He cites *Johnson v. Johnson*, 225

Wis. 2d 513, 519, 593 N.W.2d 827 (Ct. App. 1999), for the statement that “[a] payee spouse is not entitled to maintenance allowing a lifestyle above and beyond the predivorce standard of living.” Here, he argues, the court failed to address the standard of living the parties enjoyed during the marriage at all, and instead focused entirely on their lifestyles after the divorce. We are not persuaded.

¶26 At the hearing, Pamela’s counsel said that, as to the feasibility that Pamela could become self-supporting at the level enjoyed during the marriage, Pamela was “never going to get close to earning what [Matthew] does or having that same lifestyle.” Matthew’s counsel then said that the lifestyle they enjoyed during the marriage was “fairly modest,” noting that they bought used cars and did not travel far for vacations. Matthew argued that, without the extra expenses Pamela paid for the parties’ adult children, Pamela would be able to support herself at that level of lifestyle. In response, Pamela’s counsel asserted that, if the parties had remained married, she would have had the ability to continue to provide financial support to the parties’ adult children. Counsel said that Pamela’s current budget showed that she lived a frugal lifestyle and did not have extravagant expenses. Counsel said that Pamela’s expenses were consistent with her expenses during the marriage, which had always been focused primarily on the parties’ children, and that she was seeking maintenance to continue to meet those expenses.

¶27 It is true, as Matthew contends, that the circuit court did not use the words “at a standard of living reasonably comparable to that enjoyed during the marriage” in its analysis. However, the court said that it was looking at the factors enumerated under WIS. STAT. § 767.56, and the court specifically referenced the factor of “the feasibility that [Pamela] can become self-supporting.” See § 767.56(1c)(f) (“The feasibility that the party seeking maintenance can become self-supporting at a standard of living reasonably comparable to that enjoyed during

the marriage[.]”). As to that factor, the court determined that Pamela “would not be able to come close to [Matthew’s] earnings in her lifetime.” Considered in context, and in light of the facts and arguments set forth by the parties, the court’s comments demonstrate that it considered Pamela’s ability to become self-supporting consistent with her lifestyle during the marriage.

¶28 Matthew also contends that the circuit court failed to explain how its findings under the factors set forth in WIS. STAT. § 767.56(1c) supported its maintenance award. See *King v. King*, 224 Wis. 2d 235, 252, 590 N.W.2d 480 (stating that, despite the circuit court’s detailed findings as to the statutory maintenance factors, it “neglected to provide a rational explanation of how its findings as to [those] factors squared with its award of maintenance”). Matthew argues that the court’s explanation as to why it awarded maintenance was unrelated to the statutory factors. He contends that the court improperly relied on the fact that Pamela continued to support the parties’ adult children, despite the fact that she had no obligation to do so and despite the absence of evidence establishing the extent of that support, as well as the court’s views regarding Matthew’s personal expenditures. We are not persuaded that the court erroneously exercised its discretion.

¶29 The circuit court explained that, in making its maintenance decision, it considered the relevant factors that the marriage had been long-term and that Pamela did not have the ability to become self-supporting. See WIS. STAT. § 767.56(1c)(a) and (f). Additionally, the court explained that it considered the following additional relevant factors: (1) Pamela had been the primary caretaker for the parties’ children, which had limited her earning capacity; and (2) Pamela continued to provide financial support to the parties’ adult children while Matthew did not. See § 767.56(1c)(j) (court may consider “[s]uch other factors as the court

may in each individual case determine to be relevant”). The court acknowledged that there was no obligation for Pamela to continue to support their adult children, but that she had chosen to do so. The court noted the differences in the parties’ budgets, with Pamela’s focused on the family and the parties’ adult children and Matthew’s focused on his own expenses. The court explained that, based on its consideration of the undisputed facts under the relevant statutory factors, the court determined that maintenance was necessary to further the goals of support and fairness. Because the court applied the relevant law to the facts and reached a reasonable result, we have no basis to disturb its maintenance award.

By the Court.—Order affirmed.

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

