NOT DESIGNATED FOR PUBLICATION

No. 97,375

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter of the Marriage of

DIANE COBB,
*Appellee,*

and

JEFFREY COBB, SR.,
*Appellant.*

MEMORANDUM OPINION

Appeal from Saline District Court; JEROME P. HELLMER, judge. Opinion filed July 27, 2007. Affirmed.

*Kerry J. Granger*, of Hutchinson, for appellant.

*Janice Norlin*, of Marietta, Kellogg & Price, of Salina, for appellee.

Before MALONE, P.J., BUSER and LEBEN, JJ.

*Per Curiam*: Jeffrey Cobb, Sr. (Respondent) appeals the district court's orders in this divorce case. We affirm.

The Respondent and Diane Cobb (Petitioner) were divorced on June 19, 2006. Child custody and division of property were determined by a separate order on August 11, 2006. The latter order provided that the custody determination was temporary while the parties received counseling, and that all matters regarding the minor child would be reviewed by the district court in about 6 months. The court made no child support orders, but simply directed the parties to complete a child support worksheet based on shared residency and present it to the court for determination or approval of the party's agreement.

The Respondent does not list child custody or support among the issues to be decided on appeal. Nevertheless, Respondent mentions the custody order in his brief, complaining that it "grants the parties shared custody and a terribly complicated parenting time and visitation formula." Respondent also complains that although the court's order provides for shared custody, he has full time custody of the child while the Petitioner pays no child support.

We will not consider child custody or support issues on appeal because the Respondent did not brief these issues. He mentions them only in passing and without citing the record or legal authorities. Respondent bore the burden to present these issues properly for our review. See *McGinley v. Bank of America, N.A.*, 279 Kan. 426, 444, 109 P.3d 1146 (2005) (issues not briefed are deemed waived or abandoned); *Smith v. Martens*, 279 Kan. 242, 244-45, 106 P.3d 28 (2005) (appellate courts generally do not decide moot questions); *Pioneer Operations Co. v. Brandeberry*, 14 Kan. App. 2d 289, Syl. ¶ 1, 789 P.2d 1182 (1990) (appellate court will generally only review final decisions); Supreme Court Rule 6.02(d) (2006 Kan. Ct. R. Annot. 36) (material statements made without citation to the record may be presumed to be without support).

The only issue for our review relates to the division of property. In particular, the Respondent contends the parties' assets and debts were divided inequitably. The district court has broad discretion in this area, and we will not disturb its decision absent a clear showing of error. *In re Marriage of Wherrell*, 274 Kan. 984, 986, 58 P.3d 734 (2002); *In re Marriage of Kirk*, 24 Kan. App. 2d 31, 35-36, 941 P.2d 385, *rev. denied* 262 Kan. 961 (1997).

The Respondent does not object to, or even provide, the net worth of each party's share after the property division. Instead, he objects to specific distributions, such as the

houses, vehicles, and credit card debts. The district court's obligation, however, was a general one--to make a "just and reasonable division of property." K.S.A. 60-1610(b)(1); see also *In re Marriage of Rodriguez*, 266 Kan. 347, 352-53, 969 P.2d 880 (1998) (division need not be precisely equal). The Respondent's failure to argue that the overall division of property was unjust or unreasonable is deemed a waiver or abandonment of this issue. See *McGinley*, 279 Kan. at 444. Nevertheless, we have considered the Respondent's more significant individual complaints.

With regard to the houses, Respondent points out that the Sherman Street house, which he received, had a lesser value than the 10th Street house given to Petitioner. The parties agreed after trial that the Sherman Street house was worth $77,400 and the 10th Street House was worth $102,950. The houses were divided, however, "subject to any indebtedness thereon." The parties agreed after trial that the mortgage on the Sherman Street house was $65,000, and the mortgage on the 10th Street house was either $91,000 or $92,000. When the amount of the mortgages is subtracted from the value of the houses, the Respondent received more equity in the property division than did the Petitioner.

Moreover, the district court justified the division of the houses by "the manner and method of acquisition of the properties, and the need of the parties for the respective

properties." These were appropriate considerations. See K.S.A. 60-1610(b)(1) (stating nonexclusive list of factors). The 10th Street house was larger and could more easily accommodate Petitioner's family and her daycare business. While the Respondent cares for the parties' child from this marriage, the Petitioner cares for 4 other children. The Petitioner had also lived in the 10th Street house as a child and testified to emotional attachments to that house. We find no abuse of discretion in this particular division of property.

With regard to the vehicles, the Respondent argues "the vehicles the Petitioner was awarded have a much greater value and are clear of all debt." The Petitioner did receive the most valuable vehicle, a 1998 Ford Mustang, but this was in accord with both parties' proposed division of property. All the vehicles assigned to the Respondent were requested by him. If these decisions were error, they were invited error and the Respondent may not complain of them on appeal. See *Butler County R.W.D. No. 8 v. Yates*, 275 Kan. 291, 296, 64 P.3d 357 (2003).

The Petitioner also received a 1986 Chevrolet Astro Van worth approximately $1,250, but the Respondent did not refer to this vehicle below in either his pretrial settlement proposal or his posttrial proposed division. He similarly does not explain on

appeal how this assignment to the Petitioner was unjust or unreasonable. We find no error in this particular division of property.

With regard to the debts, the Respondent alleges that his "$6,000 Providian Visa card was not even mentioned in the debt division and the Respondent still has to pay this bill." The trial exhibits submitted by both parties showed that the Petitioner owed a certain amount on her Providian Visa card, which the district court then assigned to her. The Respondent did mention at trial that he also held a Providian Visa card, but he submitted no exhibits showing his indebtedness on this card. The Respondent does not cite the record on appeal for the amount of his debt, and we therefore presume the assertion is without support. See Supreme Court Rule 6.02(d). Finally, the Respondent personally asked at the hearing that each party bear the responsibility for the party's own credit cards.

Whether considered as a failure to preserve the record or invited error, it was not reversible error for the district court to omit any amount owed on Respondent's Providian Visa card from the division of property. See *State ex rel. Stovall v. Alivio*, 275 Kan. 169, 172, 61 P.3d 687 (2003) (burden to designate a record showing error); *Butler County R.W.D. No. 8*, 275 Kan. at 296 (invited error).

We have also examined the record regarding the remaining points raised by the Respondent: the wasting of a GMC truck, the division of a Direct Merchants account, and the payment of credit card debt when the Sherman Street house was refinanced. These points are similarly without merit.

On the record before us, the Respondent has not shown the district court abused its discretion in dividing the property either as a whole or in any specific instances.

Affirmed.