

March 31, 2025

No. 1-23-1100

**NOTICE:** This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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<i>In re</i> THE MARRIAGE OF VICTORIA SINGLETON,	)	Appeal from the Circuit Court
	)	of Cook County.
Petitioner-Appellee,	)	
	)	
and	)	No. 18 D 10962
	)	
MICHAEL SINGLETON,	)	Honorable
	)	Gregory E. Ahern,
Respondent-Appellant.	)	Judge, presiding.

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JUSTICE C.A. WALKER delivered the judgment of the court.  
Justices Hyman and Gamrath concurred in the judgment.

**ORDER**

¶ 1 **Held:** In this dissolution of marriage proceeding, we affirm the circuit court's finding regarding the valuation date of the deferred compensation plan, division of the marital assets, reservation of child support, and the allocation of child expense payments, but we reverse and remand the court's finding regarding non-marital interest in the deferred compensation plan.

¶ 2 Following a bench trial, the circuit court entered a judgment (“the Judgment”) in the dissolution of marriage proceedings initiated by petitioner-appellee Victoria Singleton against the respondent-appellant Michael Singleton. Michael now appeals, raising multiple claims of error, including that the court erred by distributing a non-marital portion of his deferred compensation plan (“the Plan”) as marital property. Because Michael failed to provide a sufficient record to review his claims, we affirm, with the limited exceptions of substantively affirming an issue clear from the face of the Judgment, and remanding for the court to amend the Judgment to align with its factual findings (as explained below).

¶ 3 BACKGROUND

¶ 4 On December 14, 2018, Victoria filed a petition for dissolution of marriage, generally alleging irreconcilable differences. She and Michael had one child, M.S., who was four years old at the time of filing. Before trial, the parties agreed to an “Allocation of Parental Responsibilities and Parenting Plan” for M.S. The parties acknowledged the agreement did not “cover the financial arrangements related to the dissolution of the parties’ marriage, including child support, payment for education, extracurricular activities, and the like.”

¶ 5 Victoria’s pretrial motions included an emergency motion to appraise Michael’s residential property on the 8000 block of South Jeffery Boulevard in Chicago to determine its fair market value, which the circuit court granted, and a “Petition for Contribution to Medical and Child Related School Expenses,” which was held until trial.

¶ 6 The trial occurred on June 26 and 27, 2022, with both Michael and Victoria testifying. No report of proceedings or bystander’s report from the trial is included in the record on appeal.

¶ 7 The circuit court issued the Judgment on October 19, 2022. In relevant part, the court found that Victoria had no non-marital assets, while Michael had non-marital property including the

house on Jeffrey Boulevard, for which the court accepted Victoria's valuation at \$255,194, with a net equity of \$88,727. The court also found Michael had a non-marital timeshare.

¶ 8 Regarding Michael's retirement accounts—his pension and his deferred compensation plan (the Plan)—the circuit court found there were marital and non-marital aspects of both, corresponding generally with his 12 years of employment while single, and 17 years of employment while married. Specific to the Plan, the court stated,

“The total value of [the Plan] at the time of Michael's retirement on August 15, 202[0] was \$319,719.92. Michael testified that he unilaterally invaded this account on a monthly basis since his retirement; and failed to notify Victoria of said withdrawals and had no explanation as to why he invaded said account. The valuation date of [the Plan] shall be August 15, 2020.”

The court continued, in a subsequent section, “Based upon Michael's substantial non-marital estate, the marital portion of [the Plan] should be allocated disproportionately in favor of Victoria. Victoria should not be prejudiced by the unilateral withdrawals made since Michael's retirement and during these proceedings.” The court valued Michael's monthly pension payment at \$6003.93.

¶ 9 On the parties' personal debts, the circuit court noted that Victoria had \$54,129.51 in tax debt, which the court found she incurred in part because Michael insisted the parties file separate income tax returns. The court noted that Michael “boast[ed]” about his income tax refunds.

¶ 10 Respecting M.S., the circuit court reserved the issue of child support, but found that Michael owed Victoria repayment for certain of M.S.'s school and health care expenses. The court split these costs evenly based on the finding that Victoria's income was \$84,000 a year, and Michael's was \$9,333 per month, including the full \$6003.93 from his pension. The court also ordered Michael to account for half of M.S.'s tuition payments, totaling \$70,557.58.

¶ 11 In distributing the marital assets, the circuit court ordered Michael to account for his debt to Victoria via the Plan, finding:

“[The Plan] shall be divided 50% to Victoria and 50% to Michael. \*\*\* Michael owes Victoria the sum of \$68,490.36, which shall be paid from Michael’s 50% marital portion of [the Plan]. The appropriate Qualified Domestic Relations Order (QDRO) and Calculation Order shall be ordered to effectuate said division.”

The court further ordered that the marital aspect of Michael’s pension would be split evenly, meaning Victoria would now receive \$1713.47 from the \$6003.93 monthly payment.

¶ 12 The parties filed posttrial motions, Victoria for “clarification” of the Judgment, and Michael to vacate, modify, or reconsider it. On June 12, 2023, the circuit court entered an order that, in relevant part, summarily denied Michael’s motion, and this appeal followed.

¶ 13 JURISDICTION

¶ 14 The circuit court denied Michael’s posttrial motion on June 12, 2023, and he filed his notice of appeal on June 20, 2023, giving this court jurisdiction pursuant to article VI, section 6 of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rules 301 (eff. Feb. 1, 1994) and 303 (eff. July 1, 2017).<sup>1</sup>

¶ 15 ANALYSIS

¶ 16 On appeal, Michael claims the circuit court erred by (1) using the date of his retirement as the valuation date for the Plan; (2) dividing the marital assets inequitably; (3) failing to award him

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<sup>1</sup> The parties do not address how the pendency of the QDRO and calculations order might affect our jurisdiction, but we find there is no issue of finality because this case aligns with the situation in *In re Marriage of Platt*, 2015 IL App (2d) 141174, ¶ 15, where the court explained, “the absence of a QDRO required in a dissolution judgment does not prevent the judgment from being final.”

child support due to an improper income calculation; and (4) allocating child expense payments according to the faulty calculation.

¶ 17 During the pendency of this appeal, Victoria moved to dismiss, which this court took with the case. In the motion, Victoria argued that the record on appeal is insufficient for substantive consideration of Michael's claims because it lacks a report of proceedings or bystander's report from the trial, citing Illinois Supreme Court Rule 323 (eff. July 1, 2017).

¶ 18 While we decline to dismiss Michael's appeal in its entirety on this basis, we find that the majority of Michael's claims require substantive analysis of the reasoning underlying the circuit court's findings, analysis this court cannot perform without a report of proceedings or bystander's report from the trial. See *Foutch v. O'Bryant*, 99 Ill. 2d 389 (1984). In such a situation, we must resolve any doubts arising from the incompleteness of the record against Michael, who has the burden of supplying a sufficient record for appeal, and presume the lower court's factual findings had sufficient bases and its order conformed with the law. *Id.* at 391-92. Accordingly, we generally affirm the Judgment over Michael's complaints regarding income calculation, the distribution of the parties' tax obligations, child support, and child expenses.

¶ 19 Because this court may still substantively address claims on appeal if the record is otherwise sufficient for review, however, we will address two issues raised in Michael's appeal. See *People v. Moody*, 2016 IL App (1st) 130071, ¶ 23.

¶ 20 First, Michael's claim that the circuit court improperly used an "inconsistent" valuation date for the Plan, specifically August 15, 2020, is facially invalid. Generally, in dissolution of marriage proceedings, a circuit court has discretion to set a valuation date for the marital property set for distribution. See 750 ILCS 5/503(f) (West Supp. 2017). The discretion is not absolute, however, as another panel of this court explained in *In re Marriage of Budorick*, 2020 IL App (1st) 190994,

¶¶ 62-64. There, both spouses had retirement accounts, but the lower court valued the appellant's using the date "closest to" trial, and the appellee's on the date she filed the petition for dissolution (approximately four years earlier). *Id.* ¶ 62. On appeal, the appellant complained that the court's usage of inconsistent valuation dates constituted an abuse of discretion, and this court agreed, explaining, "the trial court's discretion is not unfettered. Specifically, the court must be consistent in setting a valuation date." *Id.* ¶ 63. The *Budorick* court reasoned that the lower court used the different valuation dates to sanction the appellant's frivolous conduct of "delaying and stalling" the dissolution proceedings, and concluded "inconsistent valuation dates cannot be used as a substitute for sanctions for frivolous behavior." *Id.* ¶ 64. We find that the circuit court here did not err in setting the valuation date at the time of Michael's retirement. *Budorick* warns that courts in dissolution of marriage proceedings cannot use inconsistent valuation dates; the circuit court here did not. Victoria has no retirement account or other asset to which the court assigned a valuation date, and Michael points to no other valuation date the court used in the Judgment with which August 15, 2020, is inconsistent. It follows that *Budorick* does not apply.

¶ 21 Second, Michael's claim that the circuit court neglected to effectuate its factual finding that 12 years of the Plan were his non-marital property is confirmed by the face of the Judgment. A court's task when distributing marital property is to divide it in "just proportions" according to the relevant statutory factors. 750 ILCS 5/503(d) (West Supp. 2017). In doing so, the court must "assign each spouse's non-marital property to that spouse." *Id.* The Judgment shows that the court found that the Plan had a non-marital component of 12 years and a marital component of 17 years. It further found that because of Michael's non-marital estate, Victoria should receive a disproportionate allocation of the marital component. In its final distribution, however, the court ordered the Plan "shall be divided 50% to Victoria and 50% to Michael," then specified the sum

of \$68,490.36 would be paid from “Michael’s 50% marital portion” of the Plan. The court did not award the non-marital portion to Michael.

¶ 22 Based on the circuit court’s finding in paragraph 7(d) of the Judgment, it appears that the court intended to assign Michael his 12-year non-marital share of the Plan but ultimately failed to include this term in its final distributions. Accordingly, we remand for the circuit court to modify paragraph 22 of the Judgment to (1) specify that Michael is assigned the 12-year non-marital component of the Plan, and (2) divide the marital portion of the Plan disproportionately in favor of Victoria, as the Judgment intended. The Judgment’s directive that Michael’s \$68,490.36 debt to Victoria be paid from Michael’s “50% share of the marital portion” shall delete reference to “50%.”

¶ 23 CONCLUSION

¶ 24 The Judgment is affirmed in part and remanded for the limited purpose of the circuit court assigning Michael his non-marital share of the Plan and justly dividing the marital portion of the Plan with Victoria receiving a disproportionately greater share, as intended by the Judgment.

¶ 25 Affirmed in part and remanded.