

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs January 5, 2026

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Clerk of the
Appellate Courts

UGNE ADAMS ARONSON v. MICHAEL WALLER, ET AL.

Appeal from the Chancery Court for Grainger County
No. 2023-CH-14 James H. Ripley, Chancellor

No. E2025-00606-COA-R3-CV

This appeal involves a petition to establish a boundary line. The parties own adjacent lots in a subdivision and dispute the proper location of the shared northern corner. The petitioner had her lot surveyed prior to the dispute. The surveyor located an artificial monument at the disputed corner that was referenced in a survey completed in 1981 and set the relevant boundary line in accordance with this monument. Later, the surveyor returned to the property and found that the monument had been removed. The surveyor placed a new monument in the same location. The respondents also had their lot surveyed. The surveyor did not locate a monument where he determined the disputed corner to be located and instead set a monument based on courses and distances listed in the 1981 survey. The chancery court determined that the survey performed by the petitioner's surveyor accurately reflected the boundary line at issue and found she owned the disputed area. The respondents appeal. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed

CARMA DENNIS MCGEE, J., delivered the opinion of the court, in which JOHN W. MCCLARTY, P.J., E.S., and JEFFREY USMAN, J., joined.

Nella R. Vargas, Blaine, Tennessee, for the appellants, Michael Waller and Kasey Waller.

T. Dillon Parker, Morristown, Tennessee, for the appellee, Ugne Adams Aronson.

OPINION

I. FACTS & PROCEDURAL HISTORY

This appeal arises from a boundary line dispute between neighboring property owners. The parties dispute the proper location of the properties' shared northern corner. On September 2, 2015, Ugne Aronson purchased a vacant lot in the Hopper Bluff subdivision located in Rutledge, Tennessee. Shortly thereafter, Ms. Aronson hired Marcus Whaley to survey and mark the boundary lines of the Aronson property. Mr. Whaley reviewed a survey of the Hopper Bluff subdivision that had been completed in 1981. He located three artificial markers that he determined were referenced in and had been set during the 1981 survey. He determined that these markers represented three of the Aronson property's four corners. He replaced them with new artificial markers and placed an additional marker where he determined the remaining corner to have been located. Notably, the corner that Mr. Whaley was unable to locate is not the corner at issue in this dispute. In November 2021, Michael and Kasey Waller purchased a lot bordering the Aronson property to the east.¹ Subsequently, the Wallers hired Richard Kent to survey their property. Mr. Kent also relied on the 1981 survey but was unable to locate the marker set at the disputed corner. However, he located other markers and used those in conjunction with the courses and distances set forth in the 1981 survey to complete his survey of the Waller property. Mr. Kent determined that the disputed corner was located approximately seven feet to the west of where Mr. Whaley's survey had recorded the original marker as having been placed. Based on the boundary lines displayed in the Kent survey, the Wallers had a gravel driveway constructed on their property. The construction of this driveway caused Ms. Aronson and the Wallers to dispute the location of the boundary line separating the properties. Several other issues resulted in conflict regarding the position of the boundary line, including the removal of trees and the position of a shed on the Waller property, which Ms. Aronson claimed encroached onto her property. Subsequently, Ms. Aronson asked Mr. Whaley to return and again mark the Aronson property's boundary lines. He and his crew returned to the Aronson property in December 2022 and found that the artificial marker representing the disputed corner had been removed. However, Mr. Whaley had recorded the coordinates of the original marker during the 2015 survey.² He used those coordinates to replace the marker in what he determined to be the same position. Additionally, his crew marked the Aronson property's boundaries consistently with those set forth in the 2015 survey.

On March 1, 2023, Ms. Aronson filed a petition to establish the boundary line in accordance with the Whaley surveys.³ The Wallers filed an answer in which they asserted

¹ At the time of the purchase, Kasey Waller's last name was Sharp. She changed it to Waller during the course of these proceedings. We refer to her as Kasey Waller throughout the opinion for ease of reference.

² While the field work for Mr. Whaley's survey was completed in 2015, the map was not generated until 2016. We refer to it as the 2015 survey in accordance with the trial court's order and to avoid confusion.

³ In addition to naming the Wallers defendants to the lawsuit, Ms. Aronson also named ORNL Federal Credit Union, a financial institution with a recorded interest in the Waller property, as a defendant. Prior to the trial, an order was entered stating that ORNL Federal Credit Union would "be bound by the

a counterclaim seeking the boundary line to be established in accordance with the Kent survey.⁴ The parties proceeded to trial on February 25, 2025. Mr. Whaley and Mr. Kent were the only witnesses to testify.

Mr. Whaley testified first. He explained the process that he used to survey the Aronson property. He stated that he reviewed the chains of title for the properties at issue. However, he noted that he “may not have reviewed all of” the deeds contained in the chains of title but confirmed he reviewed the deed transferring the property to Ms. Aronson and the 1981 survey. Moreover, he indicated that he did not review each of the deeds concerning the Waller property. Nevertheless, he explained that his crew had located a marker representing the disputed corner while conducting the 2015 survey. His crew used GPS technology to record the coordinates of the marker. Mr. Whaley and his crew returned to the property in December 2022. At that point, they discovered the monument marking the disputed corner had been removed. They used the GPS coordinates saved from the 2015 survey to reset the monument in the same location as it had initially been located. From there, they were able to complete the survey. Mr. Whaley stated that, in his opinion, the boundary line marked in his 2015 and 2023 surveys marked the true boundary line between the Aronson property and the Waller property.

Mr. Whaley noted that his survey contained certain differences from the 1981 survey. The distance listed between the southeastern corner and the disputed corner was listed as 229 feet in the 1981 survey whereas he measured the distance as 228.06 feet. He explained that the difference was caused by the methods used to calculate distances in 1981 and those used in 2015 and 2023. He noted that methods used in 1981 were less technologically advanced and often involved “pull[ing] a chain” to measure distances whereas modern methods use GPS technology and are “a lot more accurate.” Despite this difference, he testified that the line his team located “matched close enough as far as true distance” to support the conclusion that the marker his crew located was the marker set during the 1981 survey. He also found other artificial markers on the “roadside corner and the lakeside corner” and stated the positions of these markers contributed to his analysis regarding the location of the boundary line. He stated that, in his opinion, the monuments he located marked the original corners of the Aronson property as set forth in the 1981 survey.

Conversely, he stated that Mr. Kent’s survey differed significantly from the 1981 survey. He noted that the bearing listed in the Kent survey marking the boundary line at issue was listed at an angle of 32 degrees, whereas the 1981 survey listed the bearing at an

court’s later determination of the boundary line” but would not be responsible for damages or other relief awarded at trial. Accordingly, ORNL Federal Credit Union did not participate at trial and is not a party to this appeal.

⁴ Both parties raised additional claims and/or theories of recovery in their pleading documents. However, prior to the trial, an order was entered in which the parties agreed to settle each of the various claims except for the declaration of the proper position of the boundary line.

angle of 35 degrees. The Whaley survey listed this bearing at 34 degrees. He explained that his bearing differed slightly due to the difference in methods used “to determine what way is north” in 1981 and those used in 2015 and 2023. He stated that the 1981 surveyor likely used a compass to determine the northern bearing whereas he used “GPS equipment” to do so. Additionally, Mr. Whaley noted that “the bearings [on his survey] didn’t match the [1981] plat exactly.” However, he had surveyed four lots in the Hopper Bluff subdivision prior to the Aronson property and found it was not uncommon for a marker to be located four to five feet away from the listed location. Because this was a consistent issue, he determined the measurements were “close enough” to use. He explained that determining whether a marker is set in the proper place depends on whether it is consistent with “other monumentation . . . within that subdivision.” He maintained that the artificial marker located in 2015 matched his own calculations and represented the location of the marker set during the 1981 survey.

Mr. Kent also testified about his survey of the Waller property. He surveyed the Waller property in 2021 and generated a map in 2023. He stated that he had surveyed approximately 5 lots in the Hopper Bluff subdivision prior to the Waller property and had information from those surveys available while conducting the Waller survey. However, none of those surveys were of lots that bordered the Waller property. Nevertheless, he maintained that the additional surveys were helpful to demonstrate the markers had been “within several tenths of the original plat record.” Mr. Kent was able to locate artificial markers representing three of the Waller property’s corners. However, he could not locate a marker at the disputed corner. He calculated what he determined to be the appropriate location for the disputed corner by reviewing the courses and distances listed in the 1981 survey in conjunction with the positions of the located markers. He stated that the measurement of the Waller property’s length set forth in the 1981 survey and the one set forth in his own matched within a tenth of an inch. He later explained that the calculation at issue was a “straight line” calculation and acknowledged it did not demonstrate what the “true distance [was].” The trial judge noted that the distance listed on the boundary line did not match the number listed in the 1981 survey. Mr. Kent acknowledged that this was not customary. Mr. Kent also stated that his survey’s bearings presented “almost parallel” boundary lines on the western and eastern portions of the Waller property. He indicated that the parallel nature of the lines was supported by the omission of boundary lines in the 1981 survey because, a common practice at that time had been to “skip” continuous lines that ran over multiple pieces of property. Accordingly, he claimed that his survey reflected the intended boundary line set in the 1981 survey.

Mr. Kent reviewed the Whaley survey and stated that he “unders[too]d how he came up with it.” However, he explained that he did not agree with the Whaley survey because Mr. Whaley did not adequately “prove” the marker and “there wasn’t that room for error that he mentioned in his survey.” He stated that if a marker was not within “several tenths” of an inch from where it was marked, he would take extra steps, such as reviewing the survey of an adjacent lot, to prove it was in the proper location. He stated that the

determination of whether an artificial monument has been placed in the correct position is based largely on the courses and distances set forth in “recorded deeds or a combination of recorded maps.” He contended that distances can be more important than the location of the marker “[i]f the evidence says so.” However, Mr. Kent acknowledged that there could be instances in which an artificial marker was set in the proper location but, nonetheless, did not match the survey. He stated that this could occur when a person observed the placement of an artificial marker in a particular location, but the courses and distances did not match the placement upon later review.

Mr. Kent also stated that he relied on surveys of nearby properties, which he received after his initial survey had been completed. One of these surveys was proffered as evidence and objected to as an unrecorded document containing hearsay. Ms. Aronson’s counsel argued that, as the survey was unrecorded, it constituted hearsay and was only admissible if it was an ancient document. *See* Tenn. R. Evid. 803(16). Counsel maintained that, because the survey was conducted in 2006, it was not an ancient document and therefore, was not admissible hearsay. The Wallers’ counsel argued that, because Mr. Kent relied on the survey in conducting his own, he was permitted to testify about it. The trial judge noted that Mr. Kent had indicated this survey was not “utilized to form his initial opinion as to the location of the boundary.” Rather, he became aware of it after the survey had been completed. Likewise, Mr. Kent acknowledged that the survey did not “change [his] conclusion” regarding the boundaries of the Waller property. Accordingly, the court sustained the objection and did not permit the admission of the survey or testimony regarding its relevance to Mr. Kent’s analysis. The same ruling was made when Mr. Kent attempted to discuss additional surveys of other properties.

The chancery court entered its final order on April 1, 2025. The court made several pertinent findings of fact. The court found that Mr. Whaley’s survey crew located artificial markers between the Aronson property and the Waller property that were “the pins shown on the 1981 plat.” This included the marker located at the disputed corner. Additionally, the chancery court found that the survey crew “recorded the precise coordinates of the old iron rods found [] during the field work in December of 2015” and used those coordinates to create the Whaley survey. The court noted that, when the Whaley survey crew returned in 2023, the monument located at the northern corner of the Aronson property and the Waller property “had mysteriously disappeared.” However, the chancery court found that, “because [the survey crew] had carefully recorded the precise location of the old iron rods during the field work in December of 2015 they were able to replace the missing rod in the precise location where the rod had been located with an iron pin.” The court noted that the 2015 and 2023 Whaley surveys depicted the boundary line in the same location. Conversely, the chancery court noted that Mr. Kent never located the artificial marker set in 1981 and had instead based his survey largely on his determination “that the original surveyor had intended the boundary line between [the subject properties] to be parallel . . . with the boundary line between” the Waller property and the property bordering it to the east. The chancery court stated that, because the Whaley crew had located the original

artificial marker and the survey had been based on the location of that marker, it accurately represented the boundary line at issue. It noted that “[t]here was no persuasive evidence introduced that the old iron rod discovered in 2015 had been moved prior to its discovery in 2015.” Accordingly, the court adopted the Whaley survey as the accurate depiction of the boundary line at issue. The Wallers filed this appeal.

II. ISSUES PRESENTED

The Wallers have presented the following issues on appeal, which we have slightly restated:

1. Whether the chancery court erred when it found that the Whaley survey represented the true boundary line between the properties.
2. Whether the chancery court erred when it did not admit surveys of adjacent properties or Mr. Kent’s testimony regarding those surveys into evidence.

For the following reasons, the judgment of the chancery court is affirmed.

III. DISCUSSION

A. Standard of Review

As this is a non-jury case, we will review any findings of fact “*de novo* upon the record of the trial court, accompanied by a presumption of the correctness of the finding, unless the preponderance of the evidence is otherwise.” Tenn. R. App. P. 13(d); *see Haddad Fam. P’ship v. Pouncey*, No. W2014-01761-COA-R3-CV, 2015 WL 4460864, at *5 (Tenn. Ct. App. July 21, 2015). “For the evidence to preponderate against a trial court’s finding of fact, it must support another finding of fact with greater convincing effect.” *In re Est. of Ladd*, 247 S.W.3d 628, 637 (Tenn. Ct. App. 2007) (citing *Walker v. Sidney Gilreath & Assocs.*, 40 S.W.3d 66, 71 (Tenn. Ct. App. 2000); *Realty Shop, Inc. v. R.R. Westminster Holding, Inc.*, 7 S.W.3d 581, 596 (Tenn. Ct. App. 1999)). However, “[t]here is no presumption of correctness . . . as to the trial court’s legal conclusions.” *In re Est. of Fletcher*, 538 S.W.3d 444, 448 (Tenn. 2017). Additionally, “[t]he trial court’s determinations regarding witness credibility are entitled to great weight on appeal and shall not be disturbed absent clear and convincing evidence to the contrary.” *Duke v. Duke*, 563 S.W.3d 885, 894 (Tenn. Ct. App. 2018) (citing *Morrison v. Allen*, 338 S.W.3d 417, 426 (Tenn. 2011); *Jones v. Garrett*, 92 S.W.3d 835, 838 (Tenn. 2002)).

B. Evidentiary Issue

The Wallers argue that the chancery court erred when it did not permit the later discovered surveys of other properties or testimony regarding those surveys to be entered as evidence. While this issue is listed second in both the issues presented and argument

portions of the Wallers' brief, it involves the admissibility of evidence upon which they rely in the portion of their brief regarding the competing surveys. Accordingly, we address the issue first in this opinion. During the trial, Ms. Aronson's counsel objected to entry of the survey as hearsay pursuant to Tennessee Rule of Evidence 802. The chancery court determined that, because the survey was not used to complete the Kent survey and did not meet the criteria for the hearsay exception for ancient documents, it was inadmissible. *See* Tenn. R. of Evid. 803(16). On appeal, the Wallers argue that the survey should have been admitted into evidence pursuant to Tennessee Rules of Evidence 703, regarding the basis for opinion testimony of an expert witness, and 803(6), a hearsay exception for records of regularly conducted activity.

Tennessee Rule of Evidence 103(a) states that “[e]rror may not be predicated upon a ruling” where it “is one excluding evidence [and] the substance of the evidence and the specific evidentiary basis supporting admission were [not] made known to the court by offer [and] were [not] apparent from the context.” Tenn. R. Evid. 103(a)(2). Additionally, this rule provides that error may only be found where “a substantial right of the party is affected[.]” *Id.* “The purpose of an offer of proof is to preserve excluded evidence in a manner sufficient to allow appellate review of the trial court’s decision to exclude the evidence.” *State v. Lowe*, 552 S.W.3d 842, 864 (Tenn. 2018). Accordingly, “[a] party’s failure to make an offer of proof ‘constitutes a waiver of the right to challenge the exclusion of [the evidence].’” *Blount v. Blount*, 720 S.W.3d 295, 324-25 (Tenn. Ct. App. 2024) (quoting *Jernigan v. Paasche*, 637 S.W.3d 746, 758 (Tenn. Ct. App. 2021)). When the evidence at issue is in the form of “a document or exhibit, this is done simply by having the exhibit marked for identification only and not otherwise introduced.” *Lowe*, 552 S.W.3d at 864 (quoting *State v. Goad*, 707 S.W.2d 846, 852-53 (Tenn. 1986)). Here, the Wallers did not have the surveys at issue marked for identification and none are contained in the record preserved for appeal. Likewise, the substance of the surveys and the evidentiary basis supporting their admission are not “apparent from the context” in which they were discussed. Tenn. R. Evid. 103(a)(2). Similarly, where excluded evidence consists of oral testimony, the offer of proof requirement “may be satisfied by presenting the actual testimony, stipulating to the content of the excluded evidence, or presenting a summary of the excluded evidence.” *Blount*, 720 S.W.3d at 324. Mr. Kent’s testimony regarding the surveys was not recited and neither a stipulation regarding the content of the testimony nor a summary of the testimony was presented to the chancery court. Therefore, because the Wallers failed to make offers of proof regarding the surveys and Mr. Kent’s testimony, we are unable to ascertain whether the excluded “evidence would have affected the outcome of the trial if it had been admitted[.]” *Id.* Accordingly, the Wallers have waived review of the chancery court’s ruling on this issue.

C. Competing Surveys

The Wallers also argue that the chancery court erred when it adopted the Whaley survey as the accurate representation of the boundary line in dispute. The Wallers assert

that the chancery court “did not properly discern the difference in the credibility of the witnesses in this case.” They claim that Mr. Kent “was a more credible witness” than Mr. Whaley. The Wallers assert that the court “did not consider the source, the amount, or the detail of evidence provided by [Mr.] Kent.” They maintain that Mr. Whaley’s statement that he did not review every deed contained in the properties’ chains of title, the fact he had surveyed fewer lots in the Hopper Bluff subdivision than Mr. Kent, and his failure to review surveys of other properties located in the subdivision demonstrate Mr. Kent’s testimony was more credible. Likewise, they claim that the artificial marker Mr. Whaley located was not reliable and he should have used courses and distances to prove it “was actually still in the same place as it was placed in 1981[.]” They argue that Mr. Whaley “ran a new line that was full of errors” when resetting the marker instead of following the proper boundary line whereas “Mr. Kent discovered the boundary according to the original plat using the best evidence obtainable.”

“In resolving a boundary line dispute, it is the role of the trier of fact to evaluate all of the evidence and assess the credibility of the witnesses.” *Mix v. Miller*, 27 S.W.3d 508, 514 (Tenn. Ct. App. 1999). “The judgment of the trial court should be affirmed, absent errors of law, unless the preponderance of the evidence is against those findings.” *Hong v. Foust*, No. E2011-00138-COA-R3-CV, 2012 WL 388448, at *5 (Tenn. Ct. App. Feb. 8, 2012). As this Court has previously explained, “[i]n determining disputed boundaries, resort is to be had first to natural objects or landmarks, because of their very permanent character; next, to artificial monuments or marks, then to the boundary lines of adjacent landowners, and then to courses and distances.” *Thornburg v. Chase*, 606 S.W.2d 672, 675 (Tenn. Ct. App. 1980). As stated above, a trial court’s determinations regarding witness credibility are typically “entitled to great weight on appeal and shall not be disturbed absent clear and convincing evidence to the contrary.” *Duke*, 563 S.W.3d at 894. ““This deferential standard specifically applies in a boundary dispute where a trial court must choose between two competing surveys.”” *Bridgewater v. Adamczyk*, 421 S.W.3d 617, 628 (Tenn. Ct. App. 2013) (quoting *Dillehay v. Gibbs*, No. M2010-01750-COA-R3-CV, 2011 WL 2448253, at *6 (Tenn. Ct. App. June 16, 2011)). See, e.g., *Galloway v. Scott*, No. E2023-01666-COA-R3-CV, 2025 WL 294498, at *9 (Tenn. Ct. App. Jan. 24, 2025) (declining to disturb a trial court’s holding regarding the determination of a boundary line where the court “explained in detail its reasoning for giving more credence to [one surveyor’s] testimony and survey”); *Bridgewater*, 421 S.W.3d at 628 (finding no error in the trial court’s choice between competing surveys “[i]n light of the great deference” given to its decision and where the record demonstrated “that the trial court thoroughly considered each of the surveyors’ methods and conclusions”); *Hong*, 2012 WL 388448, at *5 (explaining that “[d]ue to the fact-intensive nature of boundary line disputes” a trial court’s “credibility determinations are binding on this court unless the evidence preponderates against them” and where a trial court accepts “one surveyor’s findings over that of another, that same deference requires this court to accept the trial court’s findings”).

The chancery court explained its reasoning for adopting the Whaley survey over the Kent survey. The chancery court found that the Whaley survey crew located the artificial marker establishing the disputed corner that was set during the completion of the 1981 survey. It also found that Mr. Whaley was able to accurately replace the marker missing from the disputed corner when he conducted the 2023 survey because his crew “carefully recorded the precise location of the” original artificial marker. Importantly, the court noted that “[t]here was no persuasive evidence introduced that the old iron rod discovered in 2015 had been moved prior to its discovery in 2015.” Likewise, the court noted that Mr. Kent did not locate the 1981 marker but instead erected a new marker “where he believed, based on the metes and bounds contained in the 1981 survey, that the [marker] should [have been].” Mr. Kent’s testimony was based largely on his belief that the 1981 surveyor intended the boundary line between the Aronson property and Waller property to be parallel with the Waller property’s eastern boundary line. The court deemed Mr. Whaley’s survey as more credible because it was predicated on the location of an artificial marker whereas Mr. Kent’s was based on courses and distances. In doing so, the court applied the traditional hierarchy of markers. *See Wood v. Starko*, 197 S.W.3d 255, 259 (Tenn. Ct. App. 2006); *Thornburg*, 606 S.W.2d at 675.

As stated above, we grant great deference to the chancery court’s determination regarding the credibility of witnesses. *Bridgewater*, 421 S.W.3d at 628. The evidence supports the chancery court’s decision. Mr. Whaley testified regarding his methods. He stated that he reviewed the chains of titles for both properties. He did acknowledge that he “may not have reviewed” every deed contained in the chains of title but confirmed he reviewed the deed transferring the property to Ms. Aronson and the 1981 survey. The Wallers have not pointed to any information contained in a deed that Mr. Whaley did not review, which would have affected the outcome of his surveys. Likewise, they have not explained what information Mr. Kent relied upon from those items, which made his testimony more credible. Similarly, it is unclear what additional credibility that the Wallers believe attached to Mr. Kent’s testimony based on the number of additional lots he surveyed in the subdivision. Mr. Whaley stated that he had surveyed approximately four lots prior to surveying the Aronson property. Mr. Kent stated that he had surveyed approximately five lots before surveying the Waller property. He stated that this previous work gave him “a good database of what [was] going on” but acknowledged none of the lots bordered the Aronson property or Waller property. Again, the significance of Mr. Kent having surveyed one additional lot in the subdivision prior to the Waller survey is unclear. The Wallers do not explain the significance of this, stating, “[Mr. Whaley’s] history of work in this subdivision only consisted of a few other surveys for other lots.” Further, the Wallers point to additional surveys of certain properties in the Hopper Bluff subdivision to support their contention that Mr. Kent’s testimony was more credible. However, as stated above, the chancery court did not permit those surveys or testimony regarding them to be admitted into evidence. As we determined that the Wallers waived the issue of the admissibility of this evidence by failing to submit an offer of proof during the trial, we

cannot review the surveys at issue and therefore cannot say the chancery court erred in its assessment of witness credibility based on the contents of those surveys.

The Wallers also argue that Mr. Whaley's survey was less credible than Mr. Kent's because he relied on the artificial marker his crew located in 2015 despite it having been approximately "[seven] feet off from the original plat map and other surveys, which had been done in the area in 1999 and 2002."⁵ They claim that Mr. Whaley should have taken steps to "prove this pin to verify if this pin was actually still in the same place as it was placed in 1981[.]" They claim that failure to do so rendered his survey "defective" and he should have relied on the courses and distances contained in the 1981 survey and other documents to retrace the boundary line instead. Conversely, they argue that Mr. Kent relied on the courses and distances listed in the 1981 survey and additional surveys, which he used to establish the accurate boundary line.

As noted above, the chancery court made a factual finding specific to this issue. It found that Mr. Whaley's crew located the marker representing the disputed corner, which had been set during the completion of the 1981 survey. The court further found that Mr. Whaley's crew recorded the coordinates of the marker and used those coordinates to replace it after it "mysteriously disappeared." The Wallers have not put forth evidence preponderating against the chancery court's determination that Mr. Whaley's crew located the artificial marker set in 1981 and replaced it in an accurate position during the 2023 survey. They claim that, based on Mr. Kent's calculations and his placement of a marker in 2021, the marker Mr. Whaley located was seven feet away from the location set forth in 1981 survey. They do not present any evidence indicating that the artificial marker was moved prior to the 2015 survey other than Mr. Kent's survey placing it in a different location. This portion of the Kent survey is predicated on courses and distances. Accordingly, the Wallers essentially argue that the Kent survey was credible because it was based on courses and distances rather than the location of the monument. The law in Tennessee is clear that artificial markers are granted higher priority than courses and distances when assessing disputed boundary lines. *Wood*, 197 S.W.3d at 259 (stating that where a survey "is based upon no natural objects or landmarks . . . one must then look to artificial monuments or markers before ever relying on boundary lines of adjacent land owners or courses and distances"); *Thornburg*, 606 S.W.2d at 675 (explaining that "resort is to be had first to natural objects or landmarks . . . next, to artificial monuments or marks, then to the boundary lines of adjacent landowners, and then to courses and distances"). Accordingly, because Mr. Whaley's survey was predicated on an artificial monument, the chancery court did not err by adopting it instead of Mr. Kent's, which was predicated on courses and distances. While there could be instances in which the evidence of a monument having been moved after its initial placement is sufficient to require reliance on boundary

⁵ Again, as explained above, the Wallers waived any argument regarding the admissibility of additional surveys by failing to make an offer of proof. Accordingly, we will not consider the additional surveys in our assessment of the competing surveys.

lines or courses and distances to determine the proper boundary line, such evidence has not been submitted in this case. *See Wood*, 197 S.W.3d at 260. The Wallers have simply not put forth any evidence demonstrating that the monument Mr. Whaley located in 2015 was not the 1981 marker in its original location. They claim only that Mr. Whaley could have not been sure the marker he located at the disputed corner was in its original location “because he was not there when that original pin was place[d] . . . in 1981.” The Wallers cite no Tennessee law requiring a surveyor to have observed the placement of a marker in order to rely on its location when conducting a subsequent survey.

Conversely, Mr. Whaley explained that his measurements “matched close enough” to the 1981 survey to convince him that the monuments he located “truly represented the corners of that lot.” He testified that it was “[v]ery common” to have discrepancies when resurveying property after a substantial period of time had passed. Mr. Whaley also explained that the discrepancies in the measurements likely stemmed from the methods used in 1981 as opposed to his modern methods and stated such discrepancies were common in other lots within the Hopper Bluff subdivision. The chancery court accepted this testimony and adopted his survey as the accurate representation of the boundary line. Given the great weight we assign to a trial court’s decision between competing surveys and the absence of evidence preponderating against the court’s findings of fact, the ruling of the chancery court is affirmed. *See Bridgewater*, 421 S.W.3d at 628.

IV. CONCLUSION

For the foregoing reasons, the ruling of the chancery court is affirmed. Costs of this appeal are taxed to the appellants, Michael Waller and Kasey Waller, for which execution may issue if necessary.

s/ Carma Dennis McGee
CARMA DENNIS MCGEE, JUDGE