

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs March 5, 2026

FILED

08/05/2026

Clerk of the
Appellate Courts

NADINE BRASHEARS GARRETT v. MARLON ANTOINE GARRETT

Appeal from the Circuit Court for Shelby County
No. CT-5163-23 Carol J. Chumney, Judge

No. W2025-00771-COA-R3-CV

A husband appeals a final divorce decree asserting that the trial court improperly treated his veterans' disability benefits as marital property. We have determined that the trial court did not consider the husband's benefits as marital property and did not award the wife any of the benefits. Therefore, we affirm the decision of the trial court.

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

ANDY D. BENNETT, J., delivered the opinion of the Court, in which JOHN W. MCCLARTY, P.J., E.S., and STEVEN W. MARONEY, J., joined.

Marlon Garrett, Cordova, Tennessee, pro se.

Jeffrey Jones, Bartlett, Tennessee, for the appellee, Nadine Brashears Garrett.

OPINION

FACTUAL AND PROCEDURAL BACKGROUND

Nadine Brashears Garrett ("Wife") and Marlon Antoine Garrett ("Husband") were married in October 2002 and have three adult children. Wife filed a petition for divorce in December 2023 asserting grounds of irreconcilable differences and inappropriate marital conduct. Husband answered admitting irreconcilable differences and denying that he was guilty of inappropriate marital conduct. Further, Husband counterclaimed for divorce on the grounds of irreconcilable differences, inappropriate marital conduct, and adultery.

Wife moved for pendente lite support, and a deputy divorce referee entered a ruling in September 2024 requiring Husband to pay Wife \$350 in temporary alimony. Wife was required to pay this sum, plus an additional \$350 (for a total of \$700), to the Internal Revenue Service for the parties' past-due joint tax liability. Husband was also required to

pay the monthly mortgage payment on the marital home, the utilities, the monthly note on his Dodge Ram, the monthly note on a camper, his car insurance, the monthly payment on the home warranty contract, the monthly payment on the home security system, and his life insurance. The trial court adopted the divorce referee's ruling.

The divorce was tried over two days in February 2024. On May 6, 2025, the trial court entered findings of fact and conclusions of law.¹ The trial court found that Husband failed to make the temporary support payments and monthly payments as ordered by the divorce referee, despite his ability to do so. The court further stated: "[Husband's] failure to follow the orders of the Court affects the Court's confidence in the Husband's willingness to obey the future orders of the Court and is support for the Wife's request that the marital debts, almost all of which are in her separate name, should be paid and extinguished by sale or liquidation of the marital home."

In addressing the grounds for divorce, the trial court found that Husband's conduct "in constantly and falsely accusing the Wife of infidelity, and in disseminating false statements and accusations of infidelity to the Wife's employer, to her fellow employees and friends, and to the parties' adult children" was the cause of their separation. Husband "did not call any witnesses to support his claims of inappropriate marital conduct or adultery," and Wife denied any infidelity. The court found Wife's testimony credible and Husband's testimony "lacking in credibility." After acknowledging Husband's military service and the possible effects of his "undisclosed disability," the trial court found him guilty of inappropriate marital conduct.²

Wife was employed and earned \$6,667 in gross income per month. Husband is a veteran and received \$6,110 per month in Social Security and veterans' benefits. The trial court adopted Wife's testimony and exhibits regarding the marital assets and debts. Husband offered no evidence or testimony to the contrary. The trial court found that the marital home had "presumptive equity of \$200,000.00" and that the parties had approximately \$112,613 in marital debt. The court ordered that each party was responsible for one-half of the marital debt and that the marital home would be sold and the proceeds used to pay off the marital debts. Husband, who remained in the marital home, was ordered to vacate the home within thirty days. Husband was required to continue paying the monthly mortgage and insurance on the marital home as previously ordered. Once the

¹ After the hearing, the court gave the parties the opportunity to submit proposed findings of fact and conclusions of law. Wife submitted proposed findings; Husband, who was representing himself, did not submit proposed findings.

² During the pendency of the divorce, Wife obtained an order of protection prohibiting Husband "from having any contact with the Wife, from contacting third parties and accusing her of infidelity, and from stalking her on social media by disseminating the accusations of infidelity." In its findings of fact and conclusions of law, the court ruled that the order of protection should be extended for one year.

house sold and the sale expenses and marital debts had been paid, the remaining equity would be divided. Wife would receive credit for her attorney fees, and each party would receive credit for the payments he/she made on the mortgage (including insurance and taxes) through the date of sale. Wife was awarded her full 401(K) benefits because “Husband’s available annual benefits in his retirement years will greatly exceed the Wife’s available annual benefits from her 401(K).”

The court entered a final divorce decree on May 28, 2025, incorporating its findings of fact and conclusions of law. On June 12, 2025, Husband filed a motion for relief from the judgment pursuant to Tenn. R. Civ. P. 60.02 based on lack of notice. On June 26, 2025, the trial court entered an order denying Husband’s Rule 60 motion; the court granted Husband an additional three weeks to vacate the marital residence. On June 26, 2025, Husband filed a motion to alter or amend or, in the alternative, for a new trial, pursuant to Tenn. R. Civ. P. 59. This motion was heard on July 11, 2025, and the court entered an order on July 30, 2025, denying most of Husband’s requests to alter or amend the judgment. With respect to Husband’s objection to the compulsory sale of the Keystone Camper if Husband failed to obtain refinancing within thirty days, the court granted Husband an additional sixty days to obtain refinancing or remove Wife’s liability. The court denied Husband’s motion for a new trial.

Husband appealed and chose not to file a transcript of the evidence or statement of the evidence. In his brief, Husband lists eight issues for our consideration: (1) whether the trial court erred in considering veterans’ benefits as marital property; (2) whether the trial court erred by evicting Husband from his home; (3) whether the trial court erred by finding Husband guilty of inappropriate conduct; (4) whether the trial court was “highly prejudice[d] towards appellant in all rulings/orders issued”; (5) whether the trial court erred by ordering Husband’s “G.I. benefits purchased home to be sold and used to pay off marital debts”; (6) whether the trial court erred by ordering Husband not to be a participant in the sale of the marital home; (7) whether the trial court erred in awarding Wife sole ownership of the “couple’s 401K benefits”; and (8) whether the trial court failed to follow the mandates of Tenn. Code Ann. § 36-4-121(c). Wife offers two additional issues: (1) whether Husband’s appeal should be dismissed for failure to comply with Tenn. R. App. P. 27 and the Rules of the Court of Appeals; and (2) whether Wife is entitled to an award of attorney fees and costs on appeal.

STANDARD OF REVIEW

In an appeal from a bench trial, we review a trial court’s factual findings de novo on the record with a presumption of correctness, unless the preponderance of the evidence indicates otherwise. TENN. R. APP. P. 13(d); *Lovlace v. Copley*, 418 S.W.3d 1, 16 (Tenn. 2013). We review the trial court’s determinations on questions of law de novo with no presumption of correctness. *Tenn. Homes v. Welch*, 664 S.W.3d 1, 8 (Tenn. Ct. App. 2022).

ANALYSIS

I.

We must first address Wife's assertion that Husband's appellate brief fails to comply with the applicable procedural rules.

Husband is representing himself in this appeal, as he did for most of the proceedings below. This Court has previously addressed the standards applicable to pro se litigants:

Parties who decide to represent themselves are entitled to equal treatment by the court. *Murray v. Miracle*, 457 S.W.3d 399, 402 (Tenn. Ct. App. 2014). The court should take into account that many pro se litigants have no legal training and little familiarity with the judicial system. *Id.* However, the court must also be mindful of the boundary between fairness to the pro se litigant and unfairness to the pro se litigant's adversary. *Id.* While the court should give pro se litigants who are untrained in the law a certain amount of leeway in drafting their pleadings and briefs, it must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe. *Hessmer v. Hessmer*, 138 S.W.3d 901, 903 (Tenn. Ct. App. 2003).

Lacy v. Mitchell, 541 S.W.3d 55, 59 (Tenn. Ct. App. 2016). Thus, Husband is required to comply with the procedural rules applicable to all litigants.

Appellate briefs filed in this Court must comply with the Tennessee Rules of Appellate Procedure as well as the Rules of the Court of Appeals of Tennessee. More specifically, Tenn. R. App. P. 27(a) and Tenn. Ct. App. R. 6 address the requirements for an appellant's brief. We agree with Wife's assertion that Husband's brief is deficient in numerous ways, including the failure to provide an adequate statement of the facts and to cite to relevant legal authority or provide references to the record. *See* TENN. R. APP. P. 27(a)(6) - (7), TENN. CT. APP. R. 6(a) - (b). We find that Husband's brief fails to meet the requirements of Tenn. R. App. P. 27(a)(7), which provides that the appellant's brief must include an argument putting forward "the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record." Similarly, Husband's brief fails to meet the briefing requirements of Tenn. Ct. App. R. 6, which include the following:

- (a) Written argument in regard to each issue on appeal shall contain:
 - (1) A statement by the appellant of the alleged erroneous action of the trial court which raises the issue and a statement by the appellee of any action of

the trial court which is relied upon to correct the alleged error, with citation to the record where the erroneous or corrective action is recorded.

(2) A statement showing how such alleged error was seasonably called to the attention of the trial judge with citation to that part of the record where appellant's challenge of the alleged error is recorded.

(3) A statement reciting wherein appellant was prejudiced by such alleged error, with citations to the record showing where the resultant prejudice is recorded.

(4) A statement of each determinative fact relied upon with citation to the record where evidence of each such fact may be found.

(b) No complaint of or reliance upon action by the trial court will be considered on appeal unless the argument contains a specific reference to the page or pages of the record where such action is recorded. No assertion of fact will be considered on appeal unless the argument contains a reference to the page or pages of the record where evidence of such fact is recorded.

We are mindful “that the overall intent of the appellate rules is ‘to disregard technicality in form in order to determine every appellate proceeding on its merits.’” *DiNovo v. Binkley*, 706 S.W.3d 334, 336 (Tenn. 2025) (quoting *Trezevant v. Trezevant*, 696 S.W.3d 527, 230 (Tenn. 2024)). However, the deficiencies in Husband's brief significantly hamper our ability to consider his appeal. In the argument section of his brief, Husband addresses only one of the eight issues he raised. Therefore, we consider the remaining seven issues waived and will address only the issue for which he has made an argument: whether the trial court erred by treating Husband's veterans' benefits as marital property.

II.

Husband asserts that the trial court erred by considering his veterans' benefits as marital property.

To support his position, Husband cites 10 U.S.C. § 1408(c), part of the Uniformed Services Former Spouses' Protection Act (“USFSPA”), and *Mansell v. Mansell*, 490 U.S. 581 (1989). Disabled service members may be eligible to receive permanent disability retirement benefits (known as “Chapter 61 retirement”) and VA disability benefits. *See* 10 U.S.C. § 1201, 38 U.S.C. §§ 1101 to 1176; *Selitsch v. Selitsch*, 492 S.W.3d 677, 683-84 (Tenn. Ct. App. 2015). The USFSPA generally permits state courts to “treat disposable retired pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court.” 10 U.S.C. § 1408(c)(1). As this Court has recognized, “disposable retired pay is commonly treated as marital property and divided between spouses in divorce actions.” *Hammond v. Hammond*, 680 S.W.3d 269, 273 (Tenn. Ct. App. 2023).

In order to receive VA disability benefits, a service member “must waive a corresponding portion of his or her retirement pay.” *Hillyer v. Hillyer*, 59 S.W.3d 118, 119 (Tenn. Ct. App. 2001) (citing 38 U.S.C. § 5305). The USFSPA excludes from the definition of “disposable retired pay” amounts deducted from the member’s retired pay “as a result of a waiver of retired pay required by law in order to receive compensation under title 5 or title 38.” 10 U.S.C. § 1408(a)(4)(A)(ii). Compensation received under title 38 includes disability benefits administered by the Veterans’ Administration. *See* 38 U.S.C. Pt. II, ch. 11; *Sample v. Sample*, 605 S.W.3d 629, 636-37 (Tenn. Ct. App. 2018). In *Mansell*, the U.S. Supreme Court held that a state court could not treat as marital “property divisible upon divorce military retirement pay waived by the retiree in order to receive veterans’ disability benefits.” 490 U.S. at 583.

The trial court’s decision in the present case does not run afoul of the USFSPA or the caselaw interpreting it. In its decision, the trial court found that Husband’s monthly income was \$6,110.00 in “untaxed disability benefits from Social Security and from the Office of Veteran Affairs.” Based on this description, it appears that Husband receives VA disability benefits rather than retirement benefits. However, the trial court did not include Husband’s VA benefits in its list of marital property and, consequently, did not award any of those benefits to Wife.

In his brief, Husband states that the marital home was purchased with veterans’ benefits and, therefore, should not have been classified as marital property. As noted above, Husband failed to provide this Court with a transcript or statement of the evidence. Without a transcript or statement of the evidence, “there is a conclusive presumption that there was sufficient evidence before the trial court to support its judgment.” *Coakley v. Daniels*, 840 S.W.2d 367, 370 (Tenn. Ct. App. 1992); *see also West v. Akard*, No. E2021-00962-COA-R3-CV, 2022 WL 2359780, at *6 (Tenn. Ct. App. June 30, 2022). Moreover, even if the marital home were purchased with veterans’ benefits, Husband has cited no authority to support his position that this fact would preclude the trial court’s classification of the marital home.

Wife has requested that this Court award her reasonable attorney fees and costs incurred on appeal pursuant to Tenn. Code Ann. § 27-1-122 on the ground that the appeal is frivolous. We respectfully decline to exercise our discretion to find the appeal frivolous.

CONCLUSION

The judgment of the trial court is affirmed. Costs of this appeal are assessed against the appellant, Marlon Antoine Garrett, for which execution may issue if necessary.

/s/ Andy D. Bennett
ANDY D. BENNETT, JUDGE