

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 20, 2011

A. John Voelker
Acting 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. 2010AP2670

Cir. Ct. No. 2007FA7359

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

IN RE THE MARRIAGE OF:

IWONA LAGIEWKA,

PETITIONER-RESPONDENT,

V.

KRZYSZTOF LAGIEWKA,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: FRANCIS T. WASIELEWSKI, Judge. *Affirmed.*

Before Lundsten, P.J., Vergeront and Higginbotham, JJ.

¶1 PER CURIAM. Krzysztof Lagiewka appeals a divorce judgment awarding Iwona Lagiewka \$2000 per month maintenance for six years and equally

dividing the marital property. He argues that the court failed to consider all of the factors set out in WIS. STAT. §§ 767.56 and 767.61. Specifically, he contends that the court: (1) failed to consider Iwona’s co-habitation with a third party; (2) failed to consider Iwona’s “unjustified depletion of marital assets;” and (3) improperly exercised its discretion when it disallowed Krzysztof’s updated inventory of the family business and when it refused to adjourn the trial to allow Krzysztof to secure an updated appraisal.¹ We reject these arguments and affirm the judgment.

¶2 The court did not make findings as to each of the factors listed in WIS. STAT. §§ 767.56 and 767.61, but the court is not required to do so. *See Wilberscheid v. Wilberscheid*, 77 Wis. 2d 40, 46, 252 N.W.2d 76 (1977). The court appropriately considered the parties’ marriage of almost twenty years, Iwona’s secretarial work at the couple’s auto body shop, her childcare contribution, her lack of formal education and training, her medical problems and lack of current employment. Krzysztof earned \$78,000 per year and claimed a profit of \$37,000 on the business, an amount that he once would have used to pay Iwona’s salary. Iwona was presumptively entitled to half of the marital property. *See* WIS. STAT. § 767.61(3). In light of the length of the marriage and her contributions to the marital income, she was also presumptively entitled to half of the parties’ marital income. *See LaRocque v. LaRocque*, 139 Wis. 2d 23, 39, 406 N.W.2d 736 (1987).

¶3 Iwona’s cohabitation with a third party is relevant only to the extent the third party’s contribution to living expenses reduces Iwona’s need for

¹ Krzysztof also alludes to other issues, but they are not adequately developed and will not be individually addressed. *See M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988).

maintenance. See *Woodard v. Woodard*, 2005 WI App 65, ¶10, 281 Wis. 2d 217, 696 N.W.2d 221. Iwona testified that the third party paid half the rent and utility bills, saving her between \$800 and \$1000 per month. These savings were reflected on her financial disclosure statement and were therefore considered by the court.

¶4 The court also properly exercised its discretion when it refused to assign Iwona the credit card debts incurred during the pendency of the divorce. The court found that these debts did not constitute marital waste, but instead constituted expenditures for basic necessities. That finding is supported by Iwona's testimony that she made the charges to secure food and other necessities.

¶5 Finally, the court appropriately used the party's stipulation regarding the 2009 fiscal year balance sheets and income statements, denying Krzysztof's eleventh-hour efforts to undermine the stipulation or further postpone the trial. At trial, Krzysztof asked the parties' joint accounting expert to give a hypothetical new valuation to the business based on an updated business inventory. The witness responded that a lower inventory number might be relevant to the value of the business, but he would have to consider many other variables in order to obtain a value for the entire business. The trial court expressed concern about updating the valuation without updating the other relevant variables such as current case assets. Based on these concerns, the court refused to allow the couple's daughter to testify to the new inventory. The court also refused to postpone the hearing for the purpose of obtaining an updated valuation because of the likelihood of increased costs and a lengthy delay. The court reasonably exercised its discretion by holding the parties to the stipulation and denying Krzysztof's untimely attempt to interject new information of questionable value to undermine the appraisal.

By the Court.—Judgment affirmed.

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

