

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

FLOYD R. FINCH,

Appellant

v.

JOANN K. FINCH.

Respondent

DOCKET NUMBER WD76698

DATE: SEPTEMEBR 16, 2014

Appeal From:

Circuit Court of Jackson County, MO
The Honorable James F. Kanatzar, Judge

Appellate Judges:

Division Two
Victor C. Howard P.J., James E. Welsh, Anthony Rex Gabbert JJ.

Attorneys:

Appeallant Acting Pro Se,

Attorneys:

Anita Rodarte, Kansas City, MO, Cousel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

FLOYD R. FINCH,

Appellant,

v.

JOANN K. FINCH,

Respondent

WD76698

Jackson County

Before Division Two Judges: Victor C. Howard P.J., James E. Welsh, Anthony Rex Gabbert JJ.

Floyd R. Finch (“Husband”) appeals the circuit court’s judgment dissolving Husband’s marriage to Joann K. Finch (“Wife”). Husband argues that the court abused its discretion in (1) awarding Wife 54% of the net marital assets, (2) awarding Wife \$4,050 in monthly maintenance, (3) finding that Husband was under-employed and in attributing monthly income of \$26,935 to him, (4) finding that Husband had failed to account for \$100,000 in loan proceeds, (5) failing to credit Husband for the amount of health insurance premiums he was ordered to pay for his minor children in the court’s Form 14, (6) requiring Husband to pay retroactive child support, (7) failing to address Husband’s post-trial petition and motion, and (8) precluding Husband from cross-examining Wife with leading questions as an adverse witness and preventing him from offering his own testimony on Wife’s failures as a homemaker.

AFFIRMED

DIVISION TWO HOLDS:

The circuit court did not abuse its discretion in (1) awarding Wife 54% of the marital property because the court properly considered Husband’s sexual and financial misconduct during the marriage, as well as the other factors in § 452.330.1; (2) awarding Wife \$4,050 in monthly maintenance because neither the *Hill* case nor § 452.335 require the court to impute income from Wife’s IRA and retirement accounts and the facts supported Wife’s need for maintenance; (3) finding that Husband was under-employed and in attributing monthly income of \$26,935 to him because there is sufficient evidence on the record that Husband has significant legal experience and education to allow him to obtain a salary more closely aligned with his experience and education; (4) finding that Husband had failed to account for \$100,00 in loan proceeds because there was sufficient evidence on the record that Husband took out two equity lines of credit but could not account for all of the borrowed funds; (5) failing to credit Husband for the amount of health care insurance premiums Husband was ordered to pay for his then minor children because this Court is precluded from addressing this point as Husband failed to provide the court with a Form 14; (6) requiring Husband to pay child support retroactively because § 452.340.1 provides that a trial court may award child support retroactively to the date of filing

the petition and the court's retroactive date was within this guideline; (7) failing to address Husband's petition for damages to the marital residence post-separation and his motion to set aside the judgment because the court did in fact address Husband's petition for damages and Husband abandoned his motion to set aside the judgment point as he failed to support it with argument; and (8) precluding Husband from cross-examining Wife with leading questions and preventing him to testify about Wife's failures as a homemaker because Husband failed to properly develop his point, thereby abandoning the point.

Opinion by Anthony Rex Gabbert, Judge

Date: 9/16/14

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