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ARKANSAS COURT OF APPEALS

DIVISION III
No. CV-13-611

LARRY DARNELL WALTON APPELLANT V. DEBORAH WARREN WALTON APPELLEE	**Opinion Delivered** February 12, 2014 APPEAL FROM THE ST. FRANCIS COUNTY CIRCUIT COURT [NO. 62DR-12-171-3] HONORABLE BENTLEY E. STORY, JUDGE AFFIRMED

PHILLIP T. WHITEAKER, Judge

Appellant Larry Walton appeals from a divorce decree entered by the St. Francis County Circuit Court. He raises two points on appeal, arguing that the circuit court erred 1) in finding that appellee Deborah Walton established and corroborated her grounds of general indignities, and 2) in finding him in contempt and ordering him to pay a fine and attorney's fees. We find no error and affirm.

The parties were married in 1999. In 2012, Deborah filed a complaint for divorce from Larry, alleging general indignities. Larry answered and denied Deborah's allegations. At Deborah's request, the circuit court issued a mutual restraining order, prohibiting both Larry and Deborah from contacting each other, going to each other's homes for any reason, and calling each other's family members.

Deborah subsequently filed a verified petition for contempt, alleging that Larry had violated the restraining order numerous times by calling her and going to her apartment to harass her. Deborah also asserted that Larry was still living in the marital home and was three months behind on the mortgage in violation of the temporary order of the court. She therefore asked the court to order Larry to bring the mortgage payments up to date.

Evidence for both the divorce and the petition for contempt were heard in tandem by the court. The court granted Deborah a divorce on the grounds of general indignities. The court also found Larry in contempt of court, concluding that his actions in calling, emailing, and contacting Deborah were in violation of the mutual restraining order; the court sentenced Larry to thirty days in the St. Francis County Jail, suspended upon his future compliance with the mutual restraining order. The court further found Larry in civil contempt for failing to abide by the court's order that he bring the mortgage payments current, despite the fact that he continued to live in the house and remained gainfully employed during the pendency of the divorce proceedings. For that, the court fined Larry $500; in addition, the court awarded Deborah $1000 in attorney's fees for having had to file the petition for contempt.[1] Larry timely filed a notice of appeal.

Our standard of review in divorce cases is well settled. We review such cases de novo, but we will not reverse the trial court's findings of fact unless the decision is clearly erroneous. *Farrell v. Farrell*, 365 Ark. 465, 231 S.W.3d 619 (2006); *Bellamy v. Bellamy*, 2011 Ark. App.

[1]The decree went on to address the division of marital property and debt, but those matters are not at issue on appeal.

433. We give special deference to the superior position of the trial court to evaluate and judge the credibility of the witnesses. *Cummings v. Cummings*, 104 Ark. App. 315, 292 S.W.3d 819 (2009). A finding is clearly against the preponderance of the evidence when, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made. *Farrell*, *supra*.

Pursuant to Arkansas Code Annotated section 9-12-301(b)(3)(C) (Repl. 2009), the circuit court may "dissolve and set aside a marriage contract, not only from bed and board, but from the bonds of matrimony . . . [w]hen either party shall . . . [o]ffer such indignities to the person of the other as shall render his or her condition intolerable." In *Coker v. Coker*, 2012 Ark. 383, 423 S.W.3d 599, the supreme court noted that this language has remained unchanged since 1838 and commented that it had "been some time since this court addressed the requirements that must be met to grant a divorce under indignities." *Coker*, 2012 Ark. 383, at 5, 423 S.W.3d at 602. Nonetheless, the court quoted *Lytle v. Lytle*, 266 Ark. 124, 133–34, 583 S.W.2d 1, 6 (1979), for the following:

> Although the scope of the "indignities" ground has undergone considerable expansion throughout the years, it is still necessary that the conduct relied upon manifest settled hate, alienation and estrangement and be constantly and systematically pursued with the purpose and effect of causing an enduring alienation and estrangement and rendering the condition of the spouse intolerable. *McNew v. McNew*, 262 Ark. 567, 559 S.W.2d 155; *Welch v. Welch*, 254 Ark. 84, 491 S.W.2d 598.

Coker, 2012 Ark. 383, at 5, 423 S.W.3d at 602-03.

This court has held that, in order to grant a divorce on the grounds of general indignities, the trial court must find that the offending spouse is guilty of conduct amounting to rudeness, contempt, studied neglect, or open insult, and that the conduct has been pursued

so habitually and to such an extent as to render the conditions of the complaining party so intolerable as to justify an annulment of the marriage bond. *Hickman v. Hickman*, 2010 Ark. App. 704, at 2 (citing *Price v. Price*, 29 Ark. App. 212, 216, 780 S.W.2d 342, 345 (1989)). This finding must be based on facts testified to by the witness and not upon beliefs or conclusions in order that the court may be able to determine whether those acts and conduct are of such a nature to justify the conclusions reached by the witness. *Id*.

In his first argument on appeal, Larry asserts that Deborah did not prove a prima facie case of general indignities. We disagree. Deborah and Larry lived in Texas during most of their marriage. In 2012, the parties separated, and Deborah moved to Forrest City to work for the federal prison system because she was tired of living under the emotional and mental abuse and strain she had suffered during the marriage. Some of the abuse and strain were related to Larry's previous romantic relationship. Larry's former partner frequently called Deborah, told Deborah to stay away from her children, and threatened to beat Deborah up. When Larry was informed of this, he would always respond that the former partner was "just jealous." Deborah and the son from the former relationship also had a confrontation resulting in a request for the son to get out of the house. The son became erratic to the point that Deborah had to call the police. The son's mother then called and threatened to kill Deborah. When Deborah told Larry about the threat, he again told her that the woman was "just jealous" and to ignore her.

Deborah also explained that Larry would make important decisions, such as financial decisions, with his former partner instead of consulting with Deborah. As an example, Larry

wrecked Deborah's car and then used the insurance money to buy a car for his daughter. Larry was described as "disrespectful and demanding and controlling." Deborah testified about a specific occasion during the holidays in 2010 when, in front of Deborah's mother and Larry's children, Larry yelled at her and told her what she could and could not eat. Larry would also yell at her in front of other people that she had to "fix his plate" and would make other demeaning demands of her. Larry had also threatened Deborah, including a threat to kill her if she left him, which caused her to seek an order of protection prior to her filing for divorce. She stated that, after she obtained the order of protection, Larry called her approximately two hundred times and would leave her voicemail messages accusing her of being in a cult and being a prostitute.

Larry argues that Deborah's testimony did not demonstrate a prima facie showing of general indignities, contending that she "put on no proof that [Larry] hates her" and did not testify about specific facts that constituted general indignities. He dismisses her testimony that he was "disrespectful, demanding, and controlling of her in day to day life" as being merely "an unspecific conclusion that does not meet the standard" for general indignities established by case law. Based upon the evidence, however, we do not find that the court was clearly erroneous in finding that Deborah established the grounds of general indignities.

There also must be corroboration of the testimony concerning the indignities. It is a rigid rule of continuous application in this state that, in an action for divorce, a decree will not be granted upon the uncorroborated testimony of one of the parties. *Hickman*, 2010 Ark. App. 704, at 3 (citing *Smith v. Smith*, 215 Ark. 839, 223 S.W.2d 776 (1949)). The purpose

of the rule requiring corroboration is to prevent the procuring of divorces through collusion, and when it is plain that there is no collusion, the corroboration may be comparatively slight. *Id.*; *Kirk v. Kirk*, 218 Ark. 880, 239 S.W.2d 6 (1951). It is not necessary that the testimony of the complaining spouse be corroborated on every element in a divorce suit. *Morgan v. Morgan*, 202 Ark. 76, 148 S.W.2d 1078 (1941). Larry contends that Deborah failed to corroborate the grounds and that the court erred in granting the divorce on the uncorroborated grounds of general indignities. Again, we disagree.

Deborah's mother, Dorothy Warren, testified at trial. Dorothy recalled that Larry was "always so demanding" of Deborah. He commanded her to "fix his plate" and his children's plates. Dorothy recalled and corroborated the particular holiday visit wherein Larry told Deborah what she could and could not eat. Dorothy said that Larry was "arrogant . . . and so demanding. He would tell her you can't have this or you can't do this. You can't go out with your friends. You can't talk to this dude. He was just overbearing." Dorothy said that Deborah would "try to play it off," but she was very embarrassed by the situation. When Dorothy visited Deborah and Larry in Texas, Larry was lazy and demanded that Deborah do everything around the house. Dorothy said she was "horrified" and "humiliated," and she "felt he was belittling [Deborah]."

In sum, Deborah offered proof of a continuing pattern of disrespectful, controlling behavior. Larry repeatedly dismissed her concerns about his jealous and threatening ex-partner. He ignored Deborah in making financial decisions; he humiliated her in front of her mother and his children; he called and harassed her repeatedly after an order of protection had

been entered against him; and he threatened to kill her. Dorothy corroborated Deborah's testimony about Larry's belittling and demeaning behavior. Based on the testimony, we are satisfied that Deborah proved and corroborated her grounds of general indignities, and we therefore affirm on this point.

In his second point on appeal, Larry asserts that the circuit court erred in finding him in contempt, ordering him to pay a fine and attorney's fees, and sentencing him to jail.[2] He contends that Deborah never asked the court to do any of these things, and the only reason the court did so was "out of a personal animosity against him." We decline to consider this point on appeal because Larry cites no authority in support of his argument. It is well settled that the appellate courts will not consider arguments advanced without citation to convincing authority. *Corn v. Farmers Ins. Co.*, 2013 Ark. 444, 430 S.W.3d 655; *Matsukis v. Joy*, 2010 Ark. 403, 377 S.W.3d 245; *Louisiana v. Joint Pipeline Grp.*, 2010 Ark. 374, 373 S.W.3d 292.

Affirmed.

GRUBER and VAUGHT, JJ., agree.

Etoch Law Firm, by: *Louis A. Etoch*, for appellant.

[2]As noted above, the thirty-day jail sentence was suspended based upon Larry's future compliance with the mutual restraining order that had previously been entered.