NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

JAMES D. CATHELL	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
LISA M. CATHELL	:	No. 55 MDA 2026

Appeal from the Order Entered December 12, 2025
In the Court of Common Pleas of Adams County Civil Division at No(s): 2021-SU-0356

BEFORE: KUNSELMAN, J., KING, J., and STEVENS, P.J.E.*

MEMORANDUM BY KUNSELMAN, J.: **FILED: NOVEMBER 9, 2026**

James D. Cathell (Husband) appeals from the order entered by the Adams County Court of Common Pleas, which dealt with equitable distribution and alimony in this divorce matter between him and Lisa M. Cathell (Wife). Husband challenges the trial court's award of three years' alimony to Wife. After review, we affirm.

We discern the following factual and procedural history from the trial court's opinion.

> [Husband and Wife] were married on February 8, 2012 and separated on April 22, 2021. Husband filed a Complaint in Divorce on April 22, 2021, raising claims of Divorce and Equitable Distribution. [. . .] On August [20], 2021, Husband withdrew his Equitable Distribution claim. On September 7, 2021, Wife filed a Petition raising claims of Equitable Distribution, Alimony, Alimony *Pendente Lite* (APL), and Attorney's Fees and Costs. The APL claim was ultimately

* Former Justice specially assigned to the Superior Court.

litigated in the York County Domestic Relations Section. Grounds for divorce under 23 Pa.C.S. §3301(d) were approved by Order dated July 31, 2023. [. . . .]

On January 12, 2024, Husband's new counsel [] filed a Motion for the Appointment of a Divorce Hearing Officer ("DHO") to hear the claims of divorce under §3301(d) and equitable distribution. Husband's motion did not include Wife's outstanding claims of alimony, counsel fees, costs and expenses. Wife did not file a countermotion for appointment of the DHO to hear her outstanding claims. As grounds for divorce were already established, the DHO was appointed to hear the claim of equitable distribution and to make a recommendation regarding apportionment of the Hearing Officer's fees.

The DHO held a hearing on October 3, 2024 regarding the issue of equitable distribution. Testimony was received from the parties and a real estate appraiser. During the hearing, Wife's counsel asked the DHO to also consider her claims for alimony, counsel fees, costs and expenses even though he had not been appointed to do so. The DHO discussed this request with the parties during the hearing and left the record open for one week after the hearing to submit evidence regarding Wife's other economic claims. [. . .] After the conclusion of the hearing, Wife filed a "Motion to Expand the Scope of the Divorce Hearing Officer's Appointment to Comport with the Pleadings". [The trial court] granted the motion on October 8, 2024.

[. . .]

With respect to the alimony factors delineated in 23 Pa.C.S. §3701, the DHO found factors 1 (relative earnings and earning capacities of the parties), 3 (sources of income), 5 (duration of the marriage), 8 (standard of living), 10 (relative assets and liabilities), 11 (property brought into the marriage by either party), 13 (relative needs of the parties), and 16 (sufficiency of property for party's reasonable needs) to favor Wife. All other factors were deemed neutral.

[. . .]

> On November 18, 2024, Husband timely filed [24] Exceptions to the DHO's Report and Recommendation. Wife did not file Exceptions. [. . .]
>
> [. . .]
>
> Husband filed his Brief in Support of Exceptions on December 9, 2024. Husband briefed only [six] exceptions[.]
>
> [. . .]
>
> On [December] 23, 2024, Wife filed a Motion for Extension of Time to File Brief in Opposition which was granted. Wife filed her Brief in Opposition to Plaintiff's Exceptions to Report and Recommendation of the Divorce Hearing Officer on January 3, 2025. Oral Argument was scheduled for February 14, 2025. Husband filed a motion for continuance on February 10, 2025, which was granted without opposition. Oral argument was held on February 28, 2025.
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> On March 24, 2025 the [trial court] granted Husband's first exception and entered an Order remanding the case to the DHO with instructions to hold a supplemental hearing to allow the parties to present further evidence regarding Wife's claims for alimony, counsel fees, costs and expenses. Wife's counsel's request for the DHO to hear those claims during the hearing without being authorized to do [so] by the [c]ourt was in error and, more importantly, violated Husband's due process rights because he did not have advance notice of it, nor was he afforded the opportunity to prepare in advance to address these claims during the hearing or cross examine Wife regarding those claims. Leaving the record open after the hearing was insufficient to cure the violation of due process.
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> [. . .]
>
> The DHO held the supplemental hearing on June 30, 2025. Both parties represented themselves at the hearing. Husband and Wife were the only witnesses. The DHO filed his Supplemental Report and Recommendation on July 23, 2025. Again, the DHO concluded that Husband had been intentionally dilatory throughout the proceedings and unnecessarily protracted the litigation. The DHO affirmed his original

> recommendations regarding alimony, counsel fees, costs and expenses. [. . . .]
>
> On August [7], 2025, Husband filed a "Petition for Enlargement of Time" in which he requested more time to prepare exceptions to the DHO's supplemental report and recommendation. Both parties were given twenty (20) days from the date of filing of the official transcript of the proceedings in which to file any additional exceptions. Husband then obtained new counsel, who filed [three] exceptions to the DHO's supplemental report[.]
>
> [. . .]
>
> Wife filed no exceptions, nor a brief in opposition to Husband's exceptions to the DHO's supplemental report. A second oral argument was held on November 13, 2025.

Trial Court Opinion (T.C.O.), 12/12/25, at 1-7 (footnotes and citations omitted; formatting altered).

On December 12, 2025, the trial court entered the subject order, which, relevant to this matter, granted Wife alimony of $1,000 per month for 36 months, in accordance with the hearing officer's recommendation.

Husband timely filed this appeal.[1] He presents the following issue for our review:

> 1. Whether the Trial Court erred and/or abused its discretion in denying Husband's First Exception to the DHO Supplemental Report, specifically awarding alimony to Wife?

Husband's Brief at 4.

We begin with our well-settled standard of review. "The role of an appellate court in reviewing alimony orders is limited; we review only to

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[1] Wife, who is *pro se*, did not file a brief in this matter.

determine whether there has been an error of law or abuse of discretion by the trial court." ***Smith v. Smith***, 904 A.2d 15, 20 (Pa. Super. 2006) (citation omitted). "Absent an abuse of discretion or insufficient evidence to sustain the support order, this Court will not interfere with the broad discretion afforded the trial court." ***Id.*** (citation omitted). "An abuse of discretion is more than an error in judgment; it occurs if the judgment is manifestly unreasonable or is the result of prejudice, bias or ill-will." ***Willoughby v. Willoughby***, 862 A.2d 654, 656 (Pa. Super. 2004) (citation omitted).

It "is within the province of the trial court to weigh the evidence and decide credibility, and this Court will not reverse those determinations so long as they are supported by the evidence." ***Childress v. Bogosian***, 12 A.3d 448, 455 (Pa. Super. 2011) (citation omitted). Moreover, a hearing officer's "report and recommendation, although only advisory, is to be given the fullest consideration, particularly on the question of credibility of witnesses, because the [hearing officer] has the opportunity to observe and assess the behavior and demeanor of the parties." ***Id.*** at 455-56 (citation omitted).

Concerning alimony, this Court has explained:

> Following divorce, alimony provides a secondary remedy and is available only where economic justice and the reasonable needs of the parties cannot be achieved by way of an equitable distribution. An award of alimony should be made to either party only if the trial court finds that it is necessary to provide the receiving spouse with sufficient income to obtain the necessities of life. The purpose of alimony is not to reward one party and punish the other, but rather to ensure that the reasonable needs of the person

> who is unable to support herself [or himself] through appropriate employment are met.
>
> Alimony is based upon reasonable needs in accordance with the lifestyle and standard of living established by the parties during the marriage, as well as the payor's ability to pay.

Cook v. Cook, 186 A.3d 1015, 1019-1020 (Pa. Super. 2018) (citation, internal citations, and quotation marks omitted).

In determining "whether alimony is necessary and to establish the appropriate nature, amount, and duration of any alimony payments, the court is required to consider all relevant factors, including the 17 factors that are expressly mandated by statute." ***Id.*** at 1020 (footnote, citation, and emphasis omitted); ***see also*** 23 Pa.C.S.A. § 3701(b)(1-17).

The seventeen statutory factors are as follows:

> (1) The relative earnings and earning capacities of the parties.
>
> (2) The ages and the physical, mental and emotional conditions of the parties.
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> (3) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
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> (4) The expectancies and inheritances of the parties.
>
> (5) The duration of the marriage.
>
> (6) The contribution by one party to the education, training or increased earning power of the other party.
>
> (7) The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.

> (8) The standard of living of the parties established during the marriage.
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> (9) The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
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> (10) The relative assets and liabilities of the parties.
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> (11) The property brought to the marriage by either party.
>
> (12) The contribution of a spouse as homemaker.
>
> (13) The relative needs of the parties.
>
> (14) The marital misconduct of either of the parties during the marriage. [. . .]
>
> (15) The Federal, State and local tax ramifications of the alimony award.
>
> (16) Whether the party seeking alimony lacks sufficient property, including, but not limited to, property distributed under Chapter 35 (relating to property rights), to provide for the party's reasonable needs.
>
> (17) Whether the party seeking alimony is incapable of self-support through appropriate employment.

23 Pa.C.S.A. § 3701(b)(1-17).

Here, the trial court awarded alimony to Wife of $1,000 per month for 36 months. The court explained its rationale as follows:

> The DHO found factors 1 (relative earnings and earning capacities of the parties), 3 (sources of income), 5 (duration of the marriage), 8 (standard of living), 10 (relative assets and liabilities), 11 (property brought into the marriage by either party), 13 (relative needs of the parties), and 16 (sufficiency of property for party's reasonable needs) to favor Wife. All other factors were deemed neutral. [The DHO] determined

that Husband should pay alimony to Wife in the amount of $1,000 per month for three years.

Husband argues that Wife should receive no alimony because she is receiving social security. Defendant's Exhibit 1, admitted at the supplemental hearing, is Wife's Social Security Administration Benefit Letter, dated June [26], 2025. This exhibit shows that Wife receives no social security payments. It indicates that benefits were stopped in March of 2023. The DHO found Wife's testimony credible that she works approximately twenty (20) hours per week at a distillery making $17.00 per hour and teaches a few yoga classes each week. The record supports the DHO's conclusions as to Wife's income. Wife submitted a list of her monthly expenses totaling $1,910.00 at the supplemental hearing.

Given these facts, alimony factor 17 (whether a party is incapable of self-support through employment) was erroneously weighed by the DHO. The DHO concluded that "[n]either party is able to work at this time as both are receiving social security. This factor is found to be neutral for alimony purposes." Regardless of that error, the record supports Wife's position that she has difficulty supporting herself more so than Husband. This factor favors Wife for alimony purposes.

The parties were together for eight years. Husband has been paying APL for five years. The purpose of APL is different than alimony. APL is "an order for temporary support granted to a spouse during the pendency of a divorce or annulment proceeding." APL "is designed to help the dependent spouse maintain the standard of living enjoyed while living with the independent spouse." Also, and perhaps more importantly, "APL is based on the need of one party to have equal financial resources to pursue a divorce proceeding when, in theory, the other party has major assets which are the financial sinews of domestic warfare." The purpose of alimony is not to reward one party and punish another, but rather to ensure that the reasonable needs of the person who is unable to support himself/herself through appropriate employment are met.

At the supplemental hearing, on cross examination by Husband, Wife testified that she earned $20,788.20 in 2023 from her employment at Chicken Hill Distillery. It was not

> stated whether that was a gross or net figure. Wife is still employed twenty hours per week at Chicken Hill and teaches yoga three times per week. She makes $15 per class teaching yoga. When she came into the marriage, she had a business called Pine Country Crafts, in which she made items to sell to stores in Lancaster County, but that business has been defunct for some time, and Wife does not currently have the space or capital to re-invest in it. Wife testified at the first hearing that her station in life is much less than it was when the parties were together. The record supports this contention. This exception will be denied.

T.C.O. at 16-17 (internal citations omitted).

On appeal, Husband argues that Wife is not entitled to alimony. Husband's Brief at 13. Specifically, Husband asserts that the trial court erred or abused its discretion in concluding that factors one, five, and seventeen favored Wife. ***See id.*** at 16-18.

For factor one (relative earnings and earning capacities of the parties), Husband notes that Wife testified she worked at a distillery for twenty hours per week and taught yoga three times per week. ***Id.*** at 16 (citations omitted). However, she stated that she had no physical disability or medical condition that prevented her from working full time. ***Id.*** (citation omitted). Thus, Husband argues that Wife is not entitled to alimony because she has the earning capacity and ability to support herself through employment. ***See id.*** According to Husband, Wife provided no reason why she could not work full time. ***Id.*** Therefore, Husband asserts that factor one should have either been neutral or favored Husband. ***Id.*** at 17.

For factor seventeen (whether a party is incapable of self-support through employment), as noted above, the hearing officer determined that this factor was neutral. The trial court disagreed and instead found that this factor favored Wife.

Husband argues that the hearing officer's assessment of factor seventeen was accurate based on the facts testified to at the hearing, and the factor should have been neutral or favored Husband. ***Id.*** According to Husband, the trial court ignored that Wife can work, has no physical or other disability that prevents her from working full time, and can support and earn more income for herself. ***Id.*** Conversely, Husband is receiving social security and there was no finding by the hearing officer or trial court that Husband can work. ***Id.*** Husband also notes that the trial court awarded Wife 63% of the parties' marital estate. ***Id.*** at 19. Thus, according to Husband, the trial court erred or abused its discretion in deciding this factor favored Wife because Wife can support herself through full-time employment. ***See id.*** at 18.

Lastly, for factor five (duration of the marriage), Husband states that the parties were married for eight years and, at the time of the hearing, Wife had been receiving APL for five years. ***Id.*** (citation omitted). With the total award of alimony, Husband must pay Wife for eight years, the same length as the marriage. ***Id.*** Because the parties' marriage was relatively short and Husband had been paying APL for five years, Husband contends this factor should have been neutral or favored him. ***Id.*** at 18-19.

Initially, we note that some of Husband's arguments on appeal for why Wife should not receive alimony differ from the arguments he presented below to the DHO and the trial court. After the hearing officer issued his supplemental report and recommendation, Husband raised one alimony-related exception to the trial court.[2] Husband claimed that the hearing officer "erred in awarding alimony to [Wife] as the factors favored no award of alimony, especially when [Husband] had been paying support for a substantial period of time during the parties' long separation as compared to their years of marriage and the income of the parties." Plaintiff's Exceptions to the Divorce Hearing Officer's Supplemental Report and Recommendation, 10/1/25.

In Husband's brief in support of his exceptions, he stated that his "main argument" against the alimony award stemmed from "two issues." Brief in Support of Plaintiff's Exceptions to the Divorce Hearing Officer's Supplemental Report and Recommendation, 10/1/25, at 2 (unnumbered). The first issue was that "in the determination of income in favor of each party, the Divorce Hearing Officer failed to factor in [Wife's] social security earnings and

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[2] We observe that Husband raised no alimony-related exception to the hearing officer's initial report. This would typically mean that he waived any objection to alimony. ***See*** Pa.R.C.P. 1920.55-2(b) ("Matters not covered by exceptions are deemed waived unless, prior to entry of the final decree, leave is granted to file exceptions raising those matters."). However, because the trial court remanded the matter to the hearing officer for a supplemental hearing and thereafter permitted the parties to file further exceptions, we will not find waiver on this basis.

specifically spell out her 20-hour-per-week pay in his determining of the award." ***Id.*** In addition to this issue, Husband noted that the parties were married for eight years, and he had been paying APL for over five years since separation. ***Id.*** With the award of alimony, Husband would be paying support for longer than the parties were married. ***See id.***

Thus, it appears Husband preserved his argument regarding the length of time he was required to pay support versus the length of the parties' marriage. It does not appear[3] however that Husband raised to the trial court what seems to be his primary argument on appeal—that Wife is capable of full-time employment to support herself, and is, therefore, not entitled to alimony. Instead, Husband argued below that the hearing officer failed to factor in Wife's social security earnings and her twenty hour per-week pay; he did not argue that the hearing officer should have held Wife to full-time employment.

Because Husband failed to raise the argument that Wife can support herself through full-time employment to the trial court, we would have cause to find the argument waived. ***See*** Pa.R.A.P. 302(a) ("Issues not raised in the trial court are waived and cannot be raised for the first time on appeal."); ***Willoughby***, 862 A.2d at 659 (finding that many of husband's concerns were

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[3] We acknowledge that the trial court held oral argument on Husband's exceptions. There are no transcripts of the oral argument sessions, so we do not know what Husband verbally stated to the trial court.

not properly before this Court because he failed to raise them before the trial court). By not raising that argument to the trial court, Husband prevented the court from being able to address that argument in its opinion.

Regardless, we need not find waiver. Even if Husband properly preserved all his arguments, he would not be entitled to relief, because the record supports the trial court's decision. Wife testified extensively at both hearings about various aspects of her life and the parties' marriage. Wife stated that she operated a crafting business when the parties got married and brought that business into the marriage with her. ***See*** N.T., 10/3/24, at 34; N.T., 6/30/25, at 33. However, Husband's health problems took too much of her time, and she eventually had to stop operating the business. ***See*** N.T., 10/3/24, at 35-36.

Wife testified that she brought $80,000 into the marriage and contributed a significant amount of money to improve Husband's house and make it livable. ***Id.*** at 37-38, 48. She stated that she had a Vanguard retirement account for the $80,000 when she came into the marriage but exhausted it paying for various things, including home improvements. ***See*** N.T., 10/3/24, at 59-60; N.T., 6/30/25, at 49. Wife testified that she paid either $3,000 or $5,000 to put central air conditioning in the house. ***See*** N.T., 10/3/24, at 60-61. Wife explained that she did not always earn income to contribute during the marriage, but she brought money to the marriage that she contributed to the house. ***See id.*** at 96.

Wife testified that, at the time of the hearing, she worked twenty hours per week at a distillery and was not working more because there were no more hours available. N.T., 6/30/25, at 38. When asked whether she had tried to get a job elsewhere, she replied that she had another job teaching yoga three times a week. ***Id.*** She testified that she could work but could not find a job making more than seventeen dollars an hour. ***Id.*** at 39. She did not have the space or money to invest to restart her craft business. ***See id.***

Wife testified that her standard of living after Husband filed for divorce was completely different than it was previously. ***See*** N.T., 10/3/24, at 51-52. She stated that she survives, but she was nervous about her future because she had no assets. ***Id.*** at 52. She had no retirement savings because she put what she had into Husband's house, as she assumed they would be together and did not realize she would have to look out for herself. ***See id.*** Wife no longer considers herself to be middle class; she now feels she is in a lower class. ***Id.***

Wife explained that she was seeking alimony for support for the next couple of years because she was a housewife for most of her life and did not make a lot of money. N.T., 6/30/25, at 51. She testified that she lived on a limited income, and it was difficult for her to make enough money to survive. ***Id.*** at 60. However, she "gave" Husband a nice house and put money into the house to make it livable. ***Id.***

We acknowledge that Husband provided contrary testimony to much of what Wife stated and essentially claimed that Wife was lying. However, in the hearing officer's original report, he stated that he "considered all of the factors regarding alimony" and was "able to comfortably recommend at this time, based upon the credibility of the testimony" that Husband should pay Wife alimony. ***See*** Divorce Hearing Officer's Report and Recommendation, 11/4/24, at 11. In his supplemental report, the hearing officer explained that he judged the credibility of the witnesses during the hearing. ***See*** Divorce Hearing Officer's Supplemental Report and Recommendation, 7/23/25, at 5. The hearing officer stated that Husband's demeanor compromised his credibility during testimony. ***Id.*** Conversely, Wife's demeanor was "satisfactory." ***Id.*** Similarly, in its opinion, the trial court noted that the hearing officer found Wife's testimony credible regarding her work and income. ***See*** T.C.O. at 16.

We reiterate that it was the trial court's purview to weigh the evidence and decide credibility. ***See Childress, supra***. Additionally, although the hearing officer's report was only advisory, the court was to give it the fullest consideration, especially when it came to credibility of the witnesses. ***See id.*** The hearing officer, and, thus, the trial court, clearly found Wife more credible than Husband. This is a determination that we cannot disturb. ***See id.***

As for Husband's argument related to the duration of the marriage and the length of time he paid APL, he cites ***Teodorski v. Teodorski***, 857 A.2d

194 (Pa. Super. 2004) to support his argument. However, in ***Teodorski***, this Court affirmed a trial court's decision to deny alimony, finding that the trial court committed no abuse of discretion. Conversely, here, the trial court reached the opposite conclusion and granted alimony, and this Court is, again, affirming the trial court's decision following the same standard of review. Both conclusions can be correct. Thus, ***Teodorski*** is not dispositive here. Husband cites no other authority to support his position related to the duration of the parties' marriage. Husband had to prove to us that the trial court abused its discretion, and he failed to do so.

Moreover, even assuming for argument's sake that we agreed with Husband that the hearing officer and trial court erred in weighing factor five (duration of marriage), that was but one factor among many in the trial court's analysis. In other words, even if we agreed that factor five should have weighed in Husband's favor, the hearing officer and trial court weighed all the other factors as being neutral or in Wife's favor.

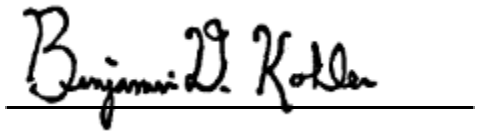
Specifically, of the seventeen alimony factors, the hearing officer found nine to be neutral, eight to favor Wife, and none to favor Husband. As discussed above, the trial court disagreed with the hearing officer on factor seventeen, which the hearing officer found to be neutral, and the court instead found that factor to favor Wife. Thus, the trial court's analysis would have considered eight factors to be neutral, nine factors to favor Wife, and, again, no factors to favor Husband. Even if we agreed with Husband on all three

factors that he disputes (which based on our standard of review, we do not), he fails to explain how those three factors outweigh the other six factors the trial court found to be in Wife's favor.

Most importantly, as noted above, the record supports the trial court's decision to award Wife three years of alimony. ***See Willoughby***, 862 A.2d at 656 (explaining that absent an abuse of discretion or insufficient evidence to sustain the order, we will not interfere with a trial court's broad discretion). We discern no abuse of discretion. ***See id.*** (explaining that an abuse of discretion is more than an error in judgment). Husband's sole issue merits no relief.[4]

Order affirmed.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/9/2026

[4] We remind Husband that an award of alimony "is subject to further order of the court upon changed circumstances of either party of a substantial and continuing nature whereupon the order may be modified, suspended, terminated or reinstituted or a new order made." 23 Pa.C.S.A. § 3701(e).