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NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2005-CA-001830-MR

CHARLES REEVES LAMOND

APPELLANT

v. APPEAL FROM HOPKINS CIRCUIT COURT
HONORABLE CHARLES W. BOTELER, JR., JUDGE
CIVIL ACTION NO. 2004-CI-00142

PAMELA KAY LAMOND

APPELLEE

OPINION
AFFIRMING

** ** * * * * * ** ** ** ** *

BEFORE: WINE, JUDGE; EMBERTON AND BUCKINGHAM,¹ SENIOR JUDGES.

BUCKINGHAM, SENIOR JUDGE: Charles Reeves Lamond appeals from a judgment of the Hopkins Circuit Court ordering him to pay maintenance in the amount of \$1,400 per month to his ex-wife, Pamela Kay Lamond, in their divorce proceeding. We affirm.

¹ Senior Judges Thomas D. Emberton and David C. Buckingham, sitting as Special Judges by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

When Charles filed the petition for dissolution of marriage in 2004, he was 44 years old and Pamela was 45 years old. They had been married for 25 years at the time the divorce decree was entered on October 3, 2005.

The domestic relations commissioner (DRC) found that Charles earned \$5,040 per month in gross income and \$3,879 per month in net income and that he received an additional \$450 per month in rental income. The DRC determined that Pamela's gross income was \$832.50 per month and her net income was \$743 per month. The DRC further found that Pamela's income was insufficient to meet her reasonable needs and also that she lacked sufficient income-producing property to meet those needs.²

The DRC held that “[g]iven the allocation of marital debt, the parties’ net monthly incomes, and the expenses necessary to reasonably meet the parties’ living expenses, the Commissioner recommends that Charles be required to pay maintenance to Pamela in the sum of \$1,400 per month, beginning April 1, 2005 continuing until the death of either party, Pamela’s remarriage, or further orders of the Court whichever first occurs.”

Charles filed timely exceptions to the DRC’s report. The circuit court held that the DRC appropriately considered all relevant factors in recommending the maintenance award and entered an order on August 2, 2005, overruling Charles’ exceptions. Upon entry of the final order by the court, this appeal by Charles followed.

Charles argues that the circuit court erred by confirming the DRC’s report which, he argues, was erroneous because the amount of his gross income was used in

² See Kentucky Revised Statutes (KRS) 403.200(1).

determining the maintenance award rather than the amount of his net income. *See Powell v. Powell*, 107 S.W.2d 222, 226 (Ky. 2003). We disagree.

An award of spousal maintenance will only be ordered if the trial court finds that the spouse seeking support:

- (a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and
- (b) Is unable to support himself through appropriate employment

KRS 403.200(1). The maintenance award is subject to limitations however.

(2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

- (a) The financial resources of the party seeking maintenance . . . ;
- (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- (c) The standard of living established during the marriage;
- (d) The duration of the marriage;
- (e) The age, and the physical and emotional condition of the spouse seeking maintenance; and
- (f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

KRS 403.200(2). The decision to grant or deny a maintenance award lies within a trial court's sound discretion in its application of KRS 403.200. *See Leveridge v. Leveridge*, 997 S.W.2d 1, 2 (Ky. 1999). We will only reverse an award of maintenance if we find that the trial court abused its discretion or based its decision on findings of fact that are clearly erroneous. *See Perrine v. Christine*, 833 S.W.2d 825 (Ky. 1992).

There is nothing in the record before us to cause us to believe that the DRC failed to consider all relevant statutory factors. In fact, the DRC made specific reference to the parties' income (including net income), skills and education, standard of living during the marriage, and ability of Charles to meet his own financial needs while meeting those of Pamela. In fact, in the very sentence where the DRC made the \$1,400 maintenance award, the DRC specifically noted that it was based in part on "the parties' net monthly income." Furthermore, we are not aware of, nor does Charles cite, any relevant legal authority requiring the DRC or circuit court to determine a maintenance award in a specific manner contrary to that used herein. In short, we find no clearly erroneous fact findings and no abuse of discretion in the awarding of maintenance in this case.

The judgment of the Hopkins Circuit Court is affirmed.

ALL CONCUR.

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BRIEF FOR APPELLEE:

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