

REL: 05/13/2016

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# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2015-2016

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Dawn Elizabeth Rodgers

v.

Robert Joseph Rodgers

Appeal from Madison Circuit Court  
(DR-14-900711)

THOMAS, Judge.

Dawn Elizabeth Rodgers ("the wife") and Robert Joseph Rodgers ("the husband") were married in December 1991. The parties have two children. The parties separated in May 2012, when the wife moved out of the marital residence; however, the

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testimony at trial established that the parties had not had marital relations in quite some time before the wife left the marital residence.

The wife filed in the Madison Circuit Court a complaint seeking a divorce in August 2014. The parties settled several aspects of the divorce, including dividing the husband's various retirement and/or investment accounts, the parties' several automobiles, and their personal property. At the trial, which was held in April 2015, the trial court considered, among other things, the issues of custody, child support, periodic alimony, and the division of the marital residence. On July 1, 2015, the trial court entered a judgment of divorce, which, among other things, incorporated the parties' settlement agreement, awarded the parties joint custody of the children, ordered the husband to pay \$1,418 per month in child support, ordered the marital residence to be sold and the proceeds, after certain deductions, including an award to the husband of an amount equal to half of the 2015 income-tax refund procured by the wife, to be divided equally. The judgment did not order the husband to pay the wife alimony, reserve the issue of periodic alimony, or require the

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husband to purchase life insurance naming the wife as beneficiary. The wife filed a postjudgment motion, arguing several issues; the trial court amended the judgment to order the husband to secure life insurance naming the wife as beneficiary and reserved the issue of periodic alimony but left all other aspects of the July 1, 2015, judgment unchanged. The wife has appealed the judgment, arguing that the trial court erred by not awarding her periodic alimony.

"Under Alabama law, periodic alimony consists of regular installment payments made from one spouse to another to enable the recipient spouse, to the extent possible, to maintain his or her standard of living as it existed during the marriage, i.e., the 'economic status quo.' Orr v. Orr, 374 So. 2d 895, 897 (Ala. Civ. App. 1979). A divorcing spouse is not automatically entitled to periodic alimony, Beckwith v. Beckwith, 475 So. 2d 575, 577 (Ala. Civ. App. 1985) (holding that periodic alimony is not mandatory), but the decision whether to award periodic alimony rests in the sound judicial discretion of the trial court. Bush v. Bush, 784 So. 2d 299, 300 (Ala. Civ. App. 2000).

"In exercising its discretion, the trial court is guided by equitable considerations. See Killingsworth v. Killingsworth, 925 So. 2d 977, 983 (Ala. Civ. App. 2005). This court and our supreme court have enumerated the many factors trial courts must consider when weighing the propriety of an award of periodic alimony, Edwards v. Edwards, 26 So. 3d 1254, 1259 (Ala. Civ. App. 2009), which include: the length of the marriage, Stone v. Stone, 26 So. 3d 1232, 1236 (Ala. Civ. App. 2009); the standard of living to which the parties became

accustomed during the marriage, Washington v. Washington, 24 So. 3d 1126, 1135-36 (Ala. Civ. App. 2009); the relative fault of the parties for the breakdown of the marriage, Lackey v. Lackey, 18 So. 3d 393, 401 (Ala. Civ. App. 2009); the age and health of the parties, Ex parte Elliott, 782 So. 2d 308, 311 (Ala. 2000); and the future employment prospects of the parties, Baggett v. Baggett, 855 So. 2d 556, 559 (Ala. Civ. App. 2003). In weighing those factors, a trial court essentially determines whether the petitioning spouse has demonstrated a need for continuing monetary support to sustain the former, marital standard of living that the responding spouse can and, under the circumstances, should meet. See Gates v. Gates, 830 So. 2d 746, 749-50 (Ala. Civ. App. 2002); Hewitt v. Hewitt, 637 So. 2d 1382, 1384 (Ala. Civ. App. 1994) ('The failure to award alimony, although discretionary, is arbitrary and capricious when the needs of the wife are shown to merit an award and the husband has the ability to pay.').

"A petitioning spouse proves a need for periodic alimony by showing that without such financial support he or she will be unable to maintain the parties' former marital lifestyle. See Pickett v. Pickett, 723 So. 2d 71, 74 (Ala. Civ. App. 1998) (Thompson, J., with one judge concurring and two judges concurring in the result). As a necessary condition to an award of periodic alimony, a petitioning spouse should first establish the standard and mode of living of the parties during the marriage and the nature of the financial costs to the parties of maintaining that station in life. See, e.g., Miller v. Miller, 695 So. 2d 1192, 1194 (Ala. Civ. App. 1997); and Austin v. Austin, 678 So. 2d 1129, 1131 (Ala. Civ. App. 1996). The petitioning spouse should then establish his or her inability to achieve that same standard of living through the use of his or her own individual assets, including his or her own separate estate, the marital property received as part of any settlement or property

division, and his or her own wage-earning capacity, see Miller v. Miller, supra, with the last factor taking into account the age, health, education, and work experience of the petitioning spouse as well as prevailing economic conditions, see DeShazo v. DeShazo, 582 So. 2d 564, 565 (Ala. Civ. App. 1991), and any rehabilitative alimony or other benefits that will assist the petitioning spouse in obtaining and maintaining gainful employment. See Treusdell v. Treusdell, 671 So. 2d 699, 704 (Ala. Civ. App. 1995). If the use of his or her assets and wage-earning capacity allows the petitioning spouse to routinely meet only part of the financial costs associated with maintaining the parties' former marital standard of living, the petitioning spouse has proven a need for additional support and maintenance that is measured by that shortfall. See Scott v. Scott, 460 So. 2d 1331, 1332 (Ala. Civ. App. 1984).

"Once the financial need of the petitioning spouse is established, the trial court should consider the ability of the responding spouse to meet that need. See Herboso v. Herboso, 881 So. 2d 454, 458 (Ala. Civ. App. 2003). The ability to pay may be proven by showing that the responding spouse has a sufficient separate estate, following the division of the marital property, see § 30-2-51(a), Ala. Code 1975, and/or sufficient earning capacity to consistently provide the petitioning spouse with the necessary funds to enable him or her to maintain the parties' former marital standard of living. Herboso, supra. In considering the responding spouse's ability to pay, the trial court should take into account all the financial obligations of the responding spouse, including those obligations created by the divorce judgment. See O'Neal v. O'Neal, 678 So. 2d 161, 164 (Ala. Civ. App. 1996). The trial court should also consider the impact an award of periodic alimony will have on the financial condition of the responding spouse and his or her ability to maintain the parties' former marital

lifestyle for himself or herself. Id. A responding spouse obviously has the ability to pay if the responding spouse can satisfy the entirety of the petitioning spouse's needs without any undue economic hardship. See, e.g., MacKenzie v. MacKenzie, 486 So. 2d 1289, 1292 (Ala. Civ. App. 1986). In most cases, however, simply due to the fact that, after separation, former spouses rarely can live as well and as cheaply as they did together, Gates, 830 So. 2d at 750, a trial court will find that the responding spouse cannot fully meet the financial needs of the petitioning spouse. Walls v. Walls, 860 So. 2d 352, 358 (Ala. Civ. App. 2003). In those cases, the trial court should endeavor to determine the amount the responding spouse can fairly pay on a consistent basis. See Rubert v. Rubert, 709 So. 2d 1283, 1285 (Ala. Civ. App. 1998).

"After being satisfied that the petitioning spouse has a need for periodic alimony and that the responding spouse has some ability to meet that need, the trial court should consider the equities of the case. The length of the marriage does not determine the right to, or amount of, periodic alimony. Hatley v. Hatley, 51 So. 3d 1031, 1035 (Ala. Civ. App. 2010). However, the longer the parties have maintained certain living and financial arrangements, the more fair it will seem that those arrangements should be maintained beyond the divorce to the extent possible. See Edwards v. Edwards, 410 So. 2d 91, 93 (Ala. Civ. App. 1982). The trial court should also give due regard to the history of the marriage and the various economic and noneconomic contributions and sacrifices made by the parties during the marriage. See Hanna v. Hanna, 688 So. 2d 887, 891 (Ala. Civ. App. 1997). In light of those factors, the trial court should endeavor to avoid leaving the parties in an unconscionably disparate financial position. Jones v. Jones, 596 So. 2d 949, 952 (Ala. Civ. App. 1992). However, the trial court can consider whether the marriage, and its attendant

standard of living, ended due to the greater fault of one of the parties, and, if so, the trial court can adjust the award accordingly. Yohey v. Yohey, 890 So. 2d 160, 164-65 (Ala. Civ. App. 2004). Lastly, the trial court should consider any and all other circumstances bearing on the fairness of its decision. See Ashbee v. Ashbee, 431 So. 2d 1312, 1313-14 (Ala. Civ. App. 1983).

"The determination of whether the petitioning spouse has a need for periodic alimony, of whether the responding spouse has the ability to pay periodic alimony, and of whether equitable principles require adjustments to periodic alimony are all questions of fact for the trial court, Lawrence v. Lawrence, 455 So. 2d 45, 46 (Ala. Civ. App. 1984), with the last issue lying particularly within the discretion of the trial court. See Nolen v. Nolen, 398 So. 2d 712, 713-14 (Ala. Civ. App. 1981). On appeal from ore tenus proceedings, this court presumes that the trial court properly found the facts necessary to support its judgment and prudently exercised its discretion. G.G. v. R.S.G., 668 So. 2d 828, 830 (Ala. Civ. App. 1995). That presumption may be overcome by a showing from the appellant that substantial evidence does not support those findings of fact, see § 12-21-12(a), Ala. Code 1975, or that the trial court otherwise acted arbitrarily, unjustly, or in contravention of the law. Dees v. Dees, 390 So. 2d 1060, 1064 (Ala. Civ. App. 1980)."

Shewbart v. Shewbart, 64 So. 3d 1080, 1087-89 (Ala. Civ. App. 2010).

The record reflects the following relevant facts. The parties married when both were attending college. The husband completed his degree in electrical engineering, but the wife

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did not complete her accounting degree and instead dropped out of college and worked. The wife testified that she had bagged groceries and had been a stocker at a military commissary and that she had worked at Qualitest Pharmaceuticals in the accounts-receivable department, where she had "handled rebate programs." She never returned to college to complete her accounting degree, and, between 1998, when the parties' first child was born, and 2006, the wife was a stay-at-home mother.

At the time of the trial, the wife, who was then 45 years old, was employed by the "morale, welfare and recreation department" at Redstone Arsenal. She explained that she worked at various fitness centers as an attendant and also taught certain fitness classes. Her gross income, as reflected on the child-support guidelines form contained in the record, is \$1,941.16. She testified that her take-home pay was usually between \$1,300 and \$1,400 per month.

The wife testified that she has an extra lumbar vertebra in her spine and that surgery was indicated for that condition. However, she said that she had not opted for surgery because she could not teach fitness classes if she had the surgery and would not be able to earn an income if she was



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unable to teach those classes. The wife also testified that she had a bulging, but not yet herniated, disk in her back and that she was about to undergo rotator-cuff repair surgery in the weeks after the trial. In addition, the wife explained that she suffered from low cortisol levels, which, she said, could cause a heart attack. However, although the wife testified that stress could cause her to need to seek treatment for low cortisol levels, she admitted that she had not had the need to seek such treatment in over a year before trial.

The husband testified that he has an undergraduate-level degree in electrical engineering. He is employed by the Department of the Army as a general engineer, and his yearly gross salary is \$110,275. The husband is also on active duty in the Alabama Army National Guard; his yearly base salary for that employment is \$18,038.79.<sup>1</sup> The husband's employer is paying for his attendance at a master's degree program. The

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<sup>1</sup>In 2014, the husband earned \$19,954.11 from his employment by the Alabama Army National Guard. He testified that he had performed an extra four days of temporary duty in 2014 and that that additional duty had increased his pay by approximately \$1,000 that year. He testified that he had not performed additional duty in 2015.

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husband testified that his gross monthly income is \$10,692.81; however, the child-support guidelines form contained in the record reflects that the husband's gross monthly income is \$10,829.50.

During the parties' lengthy separation, the husband paid the wife \$1,400 per month in child support. He also assisted her by paying \$500 per month toward her rent. However, in July 2014, shortly before the wife filed her complaint for a divorce, the husband stopped paying the wife the \$500.

The wife testified that she was unable to meet her expenses on her income. The wife also submitted an exhibit outlining her expenses, which included, among other things, her rent, the older child's private-school tuition, food and restaurant expenses for her and the children, her clothing expenses, the children's school-uniform and clothing expenses, and the costs associated with the older child's participation as a cheerleader at her school. As the husband points out in his appellate brief, although the wife's exhibit indicates that the wife's monthly expenses total \$4,720.08, the total is actually \$4,702.08. In addition, the wife's expenses contain amounts assigned to the husband in the divorce judgment,

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including the private-school tuition for the older child, the cost of the older child's required school uniforms, and all expenses associated with the older child's cheerleading, which, combined, equal \$933.75 per month.<sup>2</sup> Thus, the wife's monthly expenses are reduced to \$3,768.33 by virtue of the divorce judgment. The wife also included in her expenses the costs of having the children live primarily with her. Because she and the husband will alternate custody on a weekly basis under the divorce judgment, some of the wife's monthly food costs of \$767 should be reduced because of the reduction in the time the children will be in her physical custody. However, the exact amount of that reduction is unknown. Her net income of at least \$1,300 combined with \$1,418 per month in child support will provide the wife with \$2,718 in funds from which to meet the expenses incurred by her and the children.

The husband testified that he could not afford to pay alimony. Two exhibits outlining the husband's monthly

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<sup>2</sup>The wife testified that both children wore required school uniforms. Her monthly expenses included \$157.49 as reflecting the cost of those uniforms. To compute the husband's estimated uniform expense for the older child, we divided the wife's monthly expense in half.

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expenses appear in the record, but the husband relied on the exhibit outlining the lesser amount of total expenses while testifying during the presentation of his case. According to the husband, his expenses total \$6,987.42 per month and include, among other things, the mortgage payment on the marital residence, his \$1,418 child-support obligation, and the older child's private-school tuition of \$725. According to the child-support guidelines form contained in the record, the husband also pays a total of \$366.45 per month in health-insurance costs; he testified, however, that he pays \$440.46 per month for insurance. Adding the larger amount of insurance costs and the cost of uniforms and cheerleading costs (which combined to total \$208.75) to his expenses increases the husband's monthly expenses to \$7,636.63.

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However, the record contains no evidence regarding the standard of living the parties enjoyed during the marriage.<sup>3</sup>

As noted above,

"[a] petitioning spouse proves a need for periodic alimony by showing that without such financial support he or she will be unable to maintain the parties' former marital lifestyle. ... As a necessary condition to an award of periodic alimony, a petitioning spouse should first establish the standard and mode of living of the parties during the marriage and the nature of the financial costs to the parties of maintaining that station in life."

Shewbart, 64 So. 3d at 1087-88.

Although the disparate incomes of the parties is clear, the wife failed to present evidence regarding the standard of living of the parties during their marriage. Because the wife failed to meet the necessary condition of proving the standard

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<sup>3</sup>In fact, although both of the children attended Catholic school for part of the marriage, most of the testimony adduced at trial indicates that the husband was quite frugal during the marriage. The wife complained that the husband had never bought her an engagement ring and that they had not taken a honeymoon. The husband admitted that the wife's spending had caused issues during the marriage; he complained that she often overdrew her account and would not tell him when she needed money. The wife stated that, at times, she had not had the funds in her account to pay bills for which she had been responsible during the marriage. The husband said that he had shopped at thrift stores for his clothing as opposed to the department stores the wife favored. He also testified that, after the separation, he had not had cable television.

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of living of the parties during the marriage, we cannot hold the trial court in error for failing to award the wife periodic alimony. The judgment of the trial court divorcing the parties is therefore affirmed.

AFFIRMED.

Pittman and Donaldson, JJ., concur.

Moore, J., concurs specially.

Thompson, P.J., dissents, with writing.

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MOORE, Judge, concurring specially.

"Alimony is a creation of statute. Although based on the common-law obligation of the husband to support his wife, Davis v. Davis, 279 Ala. 643, 189 So. 2d 158 (1966), the court's authority to award alimony upon grant of divorce is entirely statutory. There is no vested right to the future payment of periodic alimony. Hager v. Hager, 293 Ala. 47, 299 So. 2d 743 (1974); Gabbert v. Gabbert, 217 Ala. 599, 117 So. 214 (1928)."

Ivey v. Ivey, 378 So. 2d 1151, 1152 (Ala. Civ. App. 1979). An Alabama trial court's authority to award periodic alimony to a spouse following a divorce arises solely from Ala. Code 1975, § 30-2-51(a), which provides, in pertinent part:

"If either spouse has no separate estate or if it is insufficient for the maintenance of a spouse, the judge, upon granting a divorce, at his or her discretion, may order to a spouse an allowance out of the estate of the other spouse, taking into consideration the value thereof and the condition of the spouse's family."

By its wording, § 30-2-51(a) allows a trial court granting a divorce to award a spouse who is without a separate estate sufficient for his or her maintenance an allowance from the estate of the other spouse.

To come within the purview of § 30-2-51 so as to qualify for consideration of an award of periodic alimony, a spouse must first prove that he or she lacks a sufficient estate for

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his or her "maintenance." That is, the petitioning spouse must establish to the satisfaction of the trial court that he or she cannot maintain the marital standard of living, i.e., "the economic status quo," Orr v. Orr., 374 So. 2d 895, 897 (Ala. Civ. App. 1979), based on his or her own resources.

In this case, Dawn Elizabeth Rodgers ("the wife") introduced into evidence an exhibit listing her current living expenses. Among other things, that exhibit detailed the monthly costs for housing, clothing, food, entertainment, and job-related expenses the wife had been incurring since the parties separated in 2012. The wife did not testify that those costs were necessary to enable her to live as she did before the parties separated. In fact, the wife presented no evidence regarding the marital standard of living or the costs incurred by the parties to sustain that standard of living. The dissent argues that the Madison Circuit Court ("the trial court") should have inferred from other evidence the general marital standard of living, which it describes as "comfortable, but not extravagant," \_\_\_ So. 3d at \_\_\_ (Thompson, P.J., dissenting), and implies that the wife had demonstrated that her current expenses were reasonably



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necessary to continue that way of life. However, a trial court cannot base a factual determination on an inference based on an inference. See Systrends, Inc. v. Group 8760, LLC, 959 So. 2d 1052, 1074 (Ala. 2006). The burden rests squarely on the petitioning spouse to prove that he or she meets the threshold requirements for periodic alimony, Shewbart v. Shewbart, 64 So. 3d 1080, 1087-89 (Ala. Civ. App. 2010), so that the trial court does not have to speculate as to whether its statutory authority has been invoked.

Even if the trial court could have determined that the wife's current expenses approximated the costs of the marital standard of living, the trial court still would have had to decide that the wife could not meet those costs based on her own resources, which would include "her own separate estate, the marital property received as part of any settlement or property division, and ... her own wage-earning capacity." Shewbart, 64 So. 3d at 1088. The divorce judgment awarded the wife three automobiles, one-half of several retirement accounts, and all of her own personal property and financial accounts. Assuming that the wife cannot access the retirement accounts without adverse financial consequences, as she argues

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in her appellate brief, without citation to the record, see Rule 28(a)(7), Ala. Code 1975, the record fails to disclose the value of the wife's other assets, which Robert Joseph Roberts ("the husband") contends could be liquidated in order to eliminate some of the wife's monthly debts.

The wife testified to a monthly net income of \$1,300 to \$1,400. However, in considering her financial needs, the trial court was not confined to the wife's current income but also could consider her ability to earn. See Rockett v. Rockett, 77 So. 3d 599, 603 (Ala. Civ. App. 2011). Before the marriage, the wife pursued an accounting degree through her junior year at college. After the parties married, the wife did not complete her education, but she did obtain work in the accounts-receivable department at a pharmaceutical company from which she eventually resigned in 1998. The wife began working again in 2006 as a fitness instructor, one of two part-time jobs she held at the time of trial, the other being as a salesperson at a gymnasium. In 2009, the wife decided that the marriage was over and she began "planning [her] exit"; although she remained in the marital home until 2012 and received financial support from the husband after the

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parties separated until she filed for a divorce in 2014, the wife did not take any steps to complete her accounting degree or otherwise improve her employment marketability, having applied for only three or four jobs.

None of the wife's health issues or child-rearing responsibilities would prevent her from working full time. At trial, the wife testified that she was "re-enrolling" in the same university that she had attended in the 1990s to finish her accounting degree. The wife gave various explanations for delaying her return to school, including testifying that she

"wanted to wait until [the divorce] was settled before -- so I needed to know what the financial situation was going to be before I get back in is what my thinking was."

The husband testified that the wife

"has been riding this thing out, not trying to improve her situation a bit because she can maximize her settlement and then she can try to move on with her life. She said it multiple times. She said it in the courtroom today. She can't do anything until this is over."

From that testimony, the trial court could have determined that the wife had refused to complete her accounting degree during the marriage for strategic litigation purposes. The trial court also could have determined that the wife actually

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had the ability to earn sufficient wages to cover her expenses but was, in essence, voluntarily underemployed. See generally Clore v. Clore, 135 So. 3d 264 (Ala. 2013) (affirming rehabilitative-alimony award of \$800 per month based, in part, on wife's decision not to seek employment during pendency of divorce).

Moreover, no spouse has a vested right to periodic alimony, even if that spouse contributed to the financial success of the other spouse during a long-term marriage. See Hager v. Hager, 293 Ala. 47, 299 So. 2d 743 (1974). Section 30-2-51(a) makes the determination whether to award periodic alimony a matter of judicial discretion so that a trial court can consider the equities of each individual case. See Shewbart, supra. This court reviews a judgment denying periodic alimony only to correct an abuse of that discretion. Id. At trial, the trial court questioned the parties at length about their financial circumstances. In the divorce judgment, the trial court denied the wife's claim for periodic alimony. The trial court considered a postjudgment motion filed by the wife in which she asserted that the denial of periodic alimony was in error for the same reasons asserted by

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the wife in this appeal. The trial court did not state its reasons for maintaining its original judgment denying the claim, but it could have determined that it would be inequitable to award periodic alimony under the circumstances. Our standard of review requires affirmance of the judgment.

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THOMPSON, Presiding Judge, dissenting.

The evidence in this case indicates that, from his job as an engineer with the Department of the Army and his job with the Army National Guard, Robert Joseph Rodgers ("the husband") earns a combined gross salary of approximately \$128,000 annually. Dawn Elizabeth Rodgers ("the wife") earns a net annual salary of approximately \$16,800 by working at a gym and teaching fitness classes. She testified that she has attempted to obtain more lucrative employment but has not yet been successful. The wife stated that she has been limited in her job choices because of her lack of a college education and the type of job experience she has.

The undisputed evidence demonstrates that, early in the marriage, the parties agreed that the wife would not continue pursuing her degree in accounting but instead would work to support the parties while the husband completed his engineering degree. The wife testified that, at that time, she would work two or three jobs at a time to enable the husband to be a full-time student. The husband did serve part time in the Army National Guard.

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Additionally, evidence indicates that, after the husband finished college, the wife continued to work until the parties' first child was born. The evidence is undisputed that the parties agreed at that time that the wife would not work outside the home. The wife remained out of the workforce for the next eight years, until the parties' younger child began kindergarten.

At the time the parties separated, they lived in a home that the wife estimated had a fair market value of approximately \$175,000. The husband did not dispute the wife's estimation. The older child, who was 16 years old at the time of the trial, was enrolled in private school. The younger child, who was 13 years old at the time of the trial, had also been enrolled in private school when the parties separated in 2012, but she was in public school at the time of the trial. Other evidence indicated that, in the fall of 2009, before the parties separated, they had taken a family vacation to Disney World. Later, the husband said, he and the wife went on what he called a second honeymoon to South Miami Beach.

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From the totality of the evidence, I believe an inference can be drawn that the parties had a comfortable, but not extravagant, standard of living during their marriage of more than 20 years. Furthermore, the evidence presented supports the conclusion that the husband was able to earn a comfortable living because of the decisions the parties made together early in the marriage that enabled the husband to complete his degree and have a successful career. Based on the resulting differences in their educations and job experience, the parties have disparate earning capabilities.

At the time of the trial of this matter, the husband annually earned more than \$100,000 more than the wife. Evidence indicates that the wife cannot meet her monthly expenses based on the current monthly salaries from her two jobs. On the other hand, evidence indicated that, after paying his monthly expenses, the husband still had \$2,000 a month.

Because issues of alimony and property division must be considered together, Ray v. Ray, 176 So. 3d 1229, 1233 (Ala. Civ. App. 2015), I also reviewed the division of marital assets set forth in the judgment. The property division



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appears to be relatively equal; therefore, I cannot say that the wife received a greater share of the marital property in lieu of periodic alimony or that the property division so favored the wife that it offset her need for periodic alimony.

Based on the substantial difference in the parties' incomes, the substantial differences in their relative earning capacities, the reasons for those differences, and the lifestyle the parties enjoyed before they separated, I believe that refusing to award the wife any periodic alimony constitutes an abuse of discretion. Accordingly, I would reverse the judgment of the trial court. For that reason, I respectfully dissent.