FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-2148

MATTHEW ARLAN STORANDT,
Former Husband,

Appellant,

v.

JAMIE LYNN BRYAN f/k/a Jamie
Lynn Storandt, Former Wife,

Appellee.

On appeal from the Circuit Court of Duval County.
Maureen Horkan, Judge.

November 23, 2022

WINOKUR, J.

This appeal stems from a final judgment, dissolving the marriage of Appellant Matthew Arlan Storandt ("Former Husband") and Appellee Jamie Lynne Bryan ("Former Wife"). Because the trial court's determination of the Former Husband's ability to pay alimony following the sale of the marital home was not supported by competent, substantial evidence, the portion of the final judgment that provided for an automatic increase in alimony upon the sale of the marital residence is reversed. We affirm the other issues on appeal without further comment.

After over twenty-two years of marriage, the Former Wife filed a petition for dissolution of marriage, requesting a partition of the marital residence and an award of permanent periodic alimony. The Former Husband objected to both the sale of the marital residence and the amount of alimony sought by the Former Wife. At trial, evidence was presented as to the Former Wife's need for alimony and the Former Husband's current ability to pay. One of the Former Husband's primary expenses was the mortgage payment for the marital residence. He claimed that his monthly household expenses amounted to approximately $4,811.00. Notably, there was no evidence of the Former Husband's monthly expenses in the event that the marital residence was sold.

After considering all of the evidence presented at trial, the trial court entered a final judgment of dissolution of marriage. The trial court first ordered that the marital residence be sold and the net proceeds be equally divided between the parties. The trial court then found that the Former Husband has a current monthly surplus of $649.00 after considering all of his expenses, including the mortgage payment for the marital residence. The Former Wife, who moved into an apartment, had a minimum need of approximately $800.00 per month. However, the trial court found that the Former Husband's ability to pay would increase to $812.00 after the marital residence was sold. The trial court reasoned that the Former Husband's reasonable monthly expenses will decrease after the marital residence is sold because the items listed for property taxes and other related expenses will be reduced. As such, the Former Husband's current household expenses of $3,961.00 per month would be reduced to $2,500.00 per month following the sale of the marital residence.

In sum, the Former Husband was ordered to pay $649.00 per month in permanent periodic alimony. The final judgment provided for an automatic increase to $800.00 per month upon the sale of the marital residence.

On appeal, the Former Husband argues that the trial court abused its discretion by basing the alimony award on the sale of

the marital residence.[*] A trial court may properly order the sale and partition of a marital residence as part of the equitable distribution. *See, e.g.*, *Ortiz v. Ortiz*, 315 So. 3d 149, 152–53 (Fla. 2d DCA 2021). However, a trial court is usually prohibited from considering a future or anticipated event when setting a current alimony award. *See Pflanz v. Pflanz*, 332 So. 3d 1044, 1049 (Fla. 1st DCA 2021). A narrow exception applies where the future event is "fairly certain" to occur and supported by specific factual findings of extenuating circumstances justifying an automatic modification of the alimony award as a result of the future event. *See Harby v. Harby*, 331 So. 3d 814, 819 (Fla. 2d DCA 2021); *Blackmon v. Blackmon*, 969 So. 2d 426, 428 (Fla. 1st DCA 2007).

Here, the future event was "fairly certain" to occur as the trial court ordered the sale of the marital residence within sixty days. However, there was insufficient evidence to support the trial court's calculation of the Former Husband's post-sale monthly household expenses. Like in *Jones v. Jones*, it is simply "theorized" that the Former Husband will be able to pay the increased alimony award by virtue of the fact that "he would no longer be obligated to pay the mortgage and other expenses of owning the home." 28 So. 3d 229, 232 (Fla. 2d DCA 2010). The marital residence was not yet on the market and there was no evidence that the house could be sold in the manner essential to allow compliance with the final judgment. *See id.* Moreover, there was no evidence to support the trial court's imputation of post-sale household expenses. Before the final judgment was entered, the Former Husband resided in the marital residence. There was no evidence of where he would live and his resultant living expenses after the sale.

We therefore conclude that the trial court's determination of the Former Husband's post-sale ability to pay is not supported by competent, substantial evidence. Accordingly, we reverse the portion of the final judgment that ordered the automatic increase of the Former Husband's alimony obligation upon the sale of the

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[*] This Court reviews a trial court's alimony award for abuse of discretion. *See Abbott v. Abbott*, 187 So. 3d 326, 327 (Fla. 1st DCA 2016). The award will not be disturbed if it is supported by competent, substantial evidence. *See id.*

marital residence, and we remand for the trial court to provide factual findings to support the automatic increase in alimony or to remove the language ordering an automatic increase altogether.

AFFIRMED in part, REVERSED in part, and REMANDED for further proceedings consistent with this opinion.

KELSEY and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Michael Stanski, Jacksonville, for Appellant.

William S. Graessle of William S. Graessle, P.A., Jacksonville, for Appellee.