

Commonwealth of Kentucky
Court of Appeals

NO. 2011-CA-000682-MR

JULIA ANN MEECE

APPELLANT

v. APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE TIMOTHY E. FEELEY, JUDGE
ACTION NO. 09-CI-00894

JAMES A. MEECE

APPELLEE

OPINION
AFFIRMING

** ** * ** * **

BEFORE: COMBS AND STUMBO, JUDGES; LAMBERT, SENIOR JUDGE.¹

STUMBO, JUDGE: Julia Ann Meece appeals from a findings of fact and conclusions of law from the Oldham Family Court regarding proceedings for a dissolution of marriage. She claims the trial court erred on issues of child custody,

¹ Senior Judge Joseph E. Lambert sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

child visitation, spousal maintenance, and attorney fees. We find no error in the trial court's findings of fact and conclusions of law and affirm.

The parties were married on April 20, 1996. They have two children, one aged 12 years and one aged 10. They were divorced on January 14, 2011. The parties had little in the way of marital assets. During the pendency of the divorce action, the parties were going through bankruptcy and their marital home was being foreclosed upon. The central issue in the divorce proceeding was the custody of the children. Ms. Meece wanted joint custody while Mr. Meece requested sole custody. Only three people testified at the divorce hearing, Mr. Meece, Ms. Meece, and Mr. Meece's mother. The trial court granted joint custody, with Mr. Meece being the primary residential custodian. Further findings will be discussed as they become relevant to our opinion. This appeal followed.

Ms. Meece's first argument is that the trial court failed to make sufficient findings of fact as to the custody determination. Kentucky Revised Statute (KRS) 403.270(2) sets forth the factors a trial court must consider in determining custody arrangements. KRS 403.270(2) states in relevant part:

[t]he court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. The court shall consider all relevant factors including:

- (a) The wishes of the child's parent or parents, and any de facto custodian, as to his custody;
- (b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community;

(e) The mental and physical health of all individuals involved[.]

Ms. Meece claims the trial court focused too much on KRS 403.270(2)(e) and disregarded the other factors. While it is true section (e) was a concern to the trial court, it did not ignore the other factors.

The court thoroughly discussed Ms. Meece's past mental health problems, including a diagnosis of bipolar disorder, depression, anxiety, and a suicide attempt. The trial court also found that the paternal grandparents live close to the parties and their children, and when Ms. Meece was hospitalized for her mental health issues, Mr. Meece's mother helped with the children. In addition, since the marital home has been foreclosed upon, both parties had to find another place to live. Ms. Meece moved in with her parents in Jefferson County and Mr. Meece found an apartment in Oldham County, specifically so his children could stay in the same school district and attend their current school. There was also testimony that Mr. Meece did the house cleaning, laundry, grocery shopping, cooking, and helped with the kids' homework. He also handled taking the children to school in the morning and to their after school care. The trial court touched upon KRS 403.270(a), (c), (d), and (e). Ms. Meece does not argue that the trial court's findings were erroneous; she argues that the court did not make specific findings as

to the custody factors. As stated, we find the trial court did make the necessary findings.

Ms. Meece next argues that the trial court did not conclude that its custody decision was in the best interest of the children. This argument is without merit. The factors set forth by the trial court discussed above demonstrate that the court's decision finding that it is in the best interest of the children for Mr. Meece to be the primary residential custodian is supported by the evidence.

Ms. Meece also claims the trial court failed to make adequate findings regarding spousal maintenance. Again, she does not contend that the findings were erroneous, only that the court did not make specific findings. KRS 403.200 states:

(1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(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 or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(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, including marital property apportioned to

him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(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.

We believe the trial court made adequate findings. The trial court found that the parties had been married for approximately 14 years and that they had a modest lifestyle. The court also found that there was little marital property other than furnishings and personal property. The court did a thorough examination of the parties' finances. The court awarded Ms. Meece her marital share of Mr. Meece's retirement account. The court also found that both parties were currently employed, with Mr. Meece making around \$5,600 a month and Ms. Meece making around \$1,500 a month. Both parties received a vehicle, with Ms. Meece's vehicle being more valuable. Ms. Meece does not have a car payment, but Mr. Meece has a \$400 a month payment. Also, Mr. Meece pays almost \$500 a month for a Chapter 13 Bankruptcy debt reorganization payment plan. At the time of the

dissolution, Ms. Meece also had around \$2,500 in the bank while Mr. Meece had around \$80 in a checking account. Mr. Meece had also been voluntarily paying Ms. Meece \$100 each month in maintenance. The court also found a monthly cost for childcare to be about \$493, paid for by Mr. Meece. The trial court ultimately awarded Ms. Meece \$300 a month in maintenance for a period of 24 months. These findings of fact sufficiently meet the factors set forth in KRS 403.200.

Finally, Ms. Meece argues that the trial court erred in not awarding her any attorney fees. KRS 403.220 states:

[t]he court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

The trial court has broad discretion in awarding attorney fees to either party in a dissolution proceeding. *Age v. Age*, 340 S.W.3d 88 (Ky. App. 2011). Here, the trial court held that each party was responsible for his or her own attorney fees.

The trial court went into great detail concerning the parties' financial situations. It also specifically found that Ms. Meece's vehicle was worth more than Mr. Meece's vehicle and that Ms. Meece had almost \$2,000 more than Mr. Meece did in the bank. Instead of requiring an equalization payment, the trial court directed each party pay his or her own attorney fees. Additionally, Ms. Meece's mother paid for

her attorney fees and there was no evidence this money would have to be paid back. The trial court properly exercised its discretion in a reasonable manner.

Based on the above, we affirm the judgment of the trial court.

ALL CONCUR.

BRIEF FOR APPELLANT:

William D. Tingley
Louisville, Kentucky

BRIEF FOR APPELLEE:

James L. Theiss
LaGrange, Kentucky