

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA
COURT OF APPEAL
FIRST CIRCUIT

2015 CA 0634

BETHANY LAURA LAWSON

VERSUS

JEREMY ELLIOTT LAWSON

Judgment Rendered: NOV 09 2015

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On Appeal from the
Twenty-First Judicial District Court
In and for the Parish of Livingston
State of Louisiana
No. 139909

The Honorable Jeffery T. Oglesbee, Judge Presiding

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BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

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HOLDRIDGE, J.

Former husband appeals a trial court judgment ordering him to pay his former wife final periodic spousal support in the amount of \$1,000 per month until July 2016. Finding no abuse of discretion, we affirm the judgment.

Bethany L. Lawson and Jeremy E. Lawson were married in October 2004. Two children were born of the marriage, S.L. (eight years old at the time of trial) and G.L. (four years old at the time of trial). Prior to the birth of their first child, the parties agreed that Ms. Lawson would be a stay-at-home mother, while Mr. Lawson pursued his career. At some point, Ms. Lawson, with the support and agreement of her husband, began attending the seminary to pursue a masters of divinity degree in order to become a fulltime United Methodist elder. Ms. Lawson's educational path was destined to be a lengthy process as she could only attend part-time due to Mr. Lawson's work schedule. Mr. Lawson works thirty to thirty-two day shifts in the Persian Gulf and returns home for approximately twenty-four days before returning for his next thirty to thirty-two day stint.

In January 2013, Ms. Lawson filed for divorce. The parties stipulated to interim spousal support in the amount of \$1,000 per month. The parties' divorce became final in March 2014. Prior to that time, Ms. Lawson filed pleadings requesting final periodic spousal support as well.

A hearing on Ms. Lawson's request for final periodic support was held on October 27, 2014. At the beginning of the hearing, the parties stipulated that Ms. Lawson was free from fault in the dissolution of the marriage.

During the hearing, it was determined that Mr. Lawson earns approximately \$13,500 per month, and Ms. Lawson earns approximately \$1,000 per month. Considering the documentary evidence submitted by the parties as well as their testimony, the trial court rendered judgment in favor of Ms. Lawson and ordered

Mr. Lawson to pay her \$1,000 per month in final periodic spousal support until July 2016, the approximate time when Ms. Lawson will graduate from the seminary and secure fulltime employment with a church. In making its ruling, the trial court noted that the decision for Ms. Lawson to attend the seminary had been a mutual one between the parties and that its practical result would put Ms. Lawson in a better financial position, not only for herself, but also for the parties' children.

From this judgment, Mr. Lawson has appealed. Mr. Lawson in no way disputes his ability to pay the award; rather, he contends Ms. Lawson has not demonstrated the requisite need to justify the award. In challenging her "need," Mr. Lawson contends the trial court erred in relying on Ms. Lawson's expense and income affidavit because she listed expenses disallowed by the jurisprudence and because she listed one-hundred percent of the children's expenses yet did not claim Mr. Lawson's monthly child support payment. He further contends Ms. Lawson's checking account is a better indicator of her finances and establishes that she is not in need.

At the outset, we note that the record makes it abundantly clear that the trial court was well aware of Mr. Lawson's child support obligation to Ms. Lawson.¹ Furthermore, there is no indication that the trial court, when making its ultimate determination, relied upon or included any disallowed expenses.² Nor is there any

¹ Although Mr. Lawson was obligated to pay a large percentage of extra expenses paid by Ms. Lawson, she testified that she had yet to be reimbursed for them. Moreover, there is no merit to Mr. Lawson's assertion that some of Ms. Lawson's claimed expenses, such as household items, utilities, and transportation, must be reduced by two-thirds to account for the two children. The law does not state that a spouse with children living with her is entitled to only a portion of the expenses in the household because of the presence of the children. Mayes v. Mayes, 98-2228 (La.App. 1 Cir. 11/5/99), 743 So.2d 1257, 1262.

² Ms. Lawson testified to other expenses that she had omitted from her affidavit.

indication that the trial court did not consider Ms. Lawson's checking account statements in rendering its decision.

With regard to the balance in her checking account, Ms. Lawson testified that she had been living very frugally because of the uncertainty she faced, given the lack of a final determination regarding child support, spousal support, and a community property settlement. She further testified that she deposited a number of donations she received from her parents and her church, but that such financial assistance could not continue. At the time of trial, Ms. Lawson had approximately \$15,000.00 in her checking account.³

There is certainly no requirement that Ms. Lawson deplete all of her assets before she can be considered in need of support. See Wascom v. Wascom, 97-0547 (La.App. 1 Cir. 6/29/98) 713 So.2d 1271, 1275, writ denied, 98-2028 (La. 11/6/98), 728 So.2d 391.⁴ Rather, the court applies a rule of reasonableness to determine to what extent, if any, a claimant spouse must deplete his or her assets. See Id. In this case, Ms. Lawson testified that a community property partition had yet to be confected and when it finally was, she anticipated having to reimburse Mr. Lawson rental value for the community home she and the children were living in. She further testified that she would have to purchase a new vehicle for her and the children relatively soon, as her present vehicle had approximately 199,000 miles on it, a broken air conditioner, and various other mechanical issues. In light of this and other testimony regarding her financial obligations, it is apparent the trial court correctly applied the rule of reasonableness in this matter.

³ Her average checking account balance for the preceding nine months was \$17,140.72.

⁴ It is of some interest to note that the dissent in Wascom, which was decided nearly twenty years ago, opined that \$20,000.00 in liquid assets (an amount which exceeds Ms. Lawson's assets) would probably be insufficient to defeat a claim for spousal support. See Wascom, 713 So.2d at 1277.

Considering the parties' testimony and the evidence regarding allowable expenses, as well as the illustrative factors set forth in La. C.C. art. 112, we cannot say the trial court abused its discretion in rendering its judgment. The relative need of Ms. Lawson, as well as the limited duration of support ordered, further support the trial court's judgment.

Therefore, the judgment of the trial court is affirmed in accordance with Louisiana Uniform Rules-Courts of Appeal Rule 2-16.2(A)(2), (4), and (7). Costs of this appeal are assessed to Jeremy E. Lawson.

AFFIRMED.