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NO. COA05-803

NORTH CAROLINA COURT OF APPEALS

Filed: 16 May 2006

BENJAMIN F. SCOTT,  
Plaintiff

v.

Cumberland County  
No. 02 CVD 3649

RUTHER L. SCOTT,  
Defendant

Appeal by plaintiff from judgment entered 14 February 2005 by Judge Dougald N. Clark in Cumberland County District Court. Heard in the Court of Appeals 8 May 2006.

*Mitchell, Brewer, Richardson, Adams, Burge & Boughman, by Ronnie M. Mitchell and Harold Lee Boughman, Jr., for plaintiff-appellant.*

*Ruther L. Scott, defendant-appellee, pro se.*

HUNTER, Judge.

The issue presented by this appeal is whether the trial court made sufficient findings of fact to support its award of monthly alimony to defendant. As we hold the trial court did not make sufficient findings of fact, we vacate the award and remand for further findings.

The parties married on 30 October 1958, raised emancipated children, and separated on 17 December 1997. The trial court granted the parties an absolute divorce on 4 September 2002. After conducting a hearing on 20 May 2004 to determine the issues of

equitable distribution and alimony, the trial court filed the judgment from which appeal is taken by plaintiff on 14 February 2005. Among other things, the trial court awarded plaintiff fifty percent (50%) of the value of plaintiff's retirement plan with Pitney Bowes, fifty percent (50%) of the value of plaintiff's Vanguard IRA, and plaintiff's military retirement pay less forty-three percent (43%) awarded by the trial court to defendant. The trial court awarded defendant the remainder of plaintiff's retirement plans and income and additionally awarded defendant the sum of \$300.00 per month as alimony.

Alimony may be awarded by a trial court "to the dependent spouse upon a finding that one spouse is a dependent spouse, that the other spouse is a supporting spouse, and that an award of alimony is equitable after considering all relevant factors, including those set out in subsection (b) of this section." N.C. Gen. Stat. § 50-16.3A(a) (2005). Factors listed in subsection (b) that the trial court shall consider include: (1) the relative earnings and earning capacities of the spouses; (2) the ages and the physical, mental and emotional conditions of the spouses; (3) the amount and sources of earned and unearned income of both spouses; (4) the standard of living of the spouses established during the marriage; (5) the relative assets and liabilities of the spouses and the relative debt service requirements; (6) the contribution of a spouse as homemaker; (7) the relative needs of the spouses; and (8) any other factor relating to the economic circumstances of the parties that the court finds is just and

proper. N.C. Gen. Stat. § 50-16.3A(b). The court must make findings of fact setting "forth the reasons for its award or denial of alimony and, if making an award, the reasons for its amount, duration, and manner of payment." N.C. Gen. Stat. § 50-16.3A(c). The trial court is not required to set out specific findings as to each factor listed in N.C. Gen. Stat. § 50-16.3A(b); however, it "must provide sufficient detail to satisfy a reviewing court that it has considered 'all relevant factors.'" *Rhew v. Rhew*, 138 N.C. App. 467, 472, 531 S.E.2d 471, 474 (2000). The requirement of findings of fact "is mandatory, and it is a vital part of the trial court's order. The trial court must make findings of fact that are sufficiently detailed to allow review." *Vadala v. Vadala*, 145 N.C. App. 478, 479, 550 S.E.2d 536, 537 (2001).

In *Williamson v. Williamson*, 140 N.C. App. 362, 536 S.E.2d 337 (2000), we reversed and remanded an order awarding alimony because, *inter alia*, the trial court failed to make findings of fact demonstrating its reasoning for awarding alimony, setting the amount of monthly alimony, and making it permanent. In *Rhew*, we remanded an order awarding alimony because the trial court failed to make findings regarding the standard of living of the parties during the marriage and the living expenses of the parties.

In the case at bar, other than a finding with regard to the amounts of income plaintiff was receiving from various sources at the time of trial, the judgment contains no findings as to plaintiff's living expenses, defendant's income and living expenses, the relative needs of the parties, or the standard of

living of the parties during the marriage. The judgment contains no findings regarding the parties' ages, physical, or mental conditions. The judgment is devoid of any findings to explain how or why the trial court derived the monthly amount of \$300.00.

Because the award of alimony is not supported by adequate findings of fact, we vacate the award of alimony and remand the matter to the trial court with directions to make findings of fact that demonstrate consideration of relevant factors listed in N.C. Gen. Stat. § 50-16.3A(b) in making or denying an award of alimony.

Vacated and remanded.

Judges WYNN and McGEE concur.

Report per Rule 30(e).