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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-1076

Filed: 20 August 2019

Nash County, No. 15 CVD 930

SHEILA L. WEEKS, Plaintiff

v.

WILLIAM DAVID WEEKS, Defendant

Appeal by Defendant from Order entered 16 February 2018 by Judge John J. Covolo in Nash County District Court. Heard in the Court of Appeals 26 March 2019.

Bryant & Ivie, PLLC, by John Walter Bryant and Amber J. Ivie, for plaintiff-appellee.

W. Michael Spivey for defendant-appellant.

HAMPSON, Judge.

Factual and Procedural Background

William David Weeks (Defendant) appeals from an Alimony Order awarding Sheila L. Weeks (Plaintiff) alimony of \$3,300.00 per month for a term of 11 years and eight months, along with an award of alimony arrears of \$87,425.00 and attorneys' fees of \$4,500.00. The Record before us tends to show the following:

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Plaintiff and Defendant were married on 12 March 1988 and separated on or about 2 July 2013. At the date of the alimony hearing, Plaintiff was 69 years old, and Defendant was 61 years old. Plaintiff was employed until the mid-90s when she left her position to become a full-time housewife at Defendant's request and has not held employment since, except for a short period where she was held out as an officer for Defendant's corporation. Plaintiff was diagnosed with breast cancer in 1990, eventually resulting in a double mastectomy in 2009. When the parties married, Defendant was employed by the Tarboro Police Department. He left this employment to begin operating three car washes and a pit cleaning business. Ultimately, these businesses were owned by Weeks Investments, Inc., in which Defendant is the sole shareholder.

On 7 July 2015, Plaintiff filed her verified Complaint for Post Separation Support, Alimony, Attorneys Fees, Equitable Distribution, and Motions in the Cause (Complaint). On 11 August 2015, Defendant filed his verified Answer and Counterclaim seeking equitable distribution. Plaintiff filed a verified Response to Defendant's Counterclaim on 9 September 2015. The matter came for hearing on 11 July 2017. After the hearing, the trial court entered its Alimony Order on 16 February 2018. Relevant to this appeal, the trial court made the following Findings of Fact:

(7) During the course of her marriage to Defendant, the Plaintiff has been and remains a dependent spouse as defined in

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N.C.G.S. §50-16.1A(2) and the Defendant has been the supporting spouse as defined in N.C.G.S. §50-16.1A(5). Plaintiff has been and continues to be substantially dependent on the Defendant for her support and maintenance and to maintain the standard of living enjoyed by the parties during the marriage of the parties.

(8) During the marriage, the parties built and resided in a home which had an appraised value of \$418,000.00 in 2012. The Defendant submitted a personal financial statement prepared for use by his bank which indicated he owned real estate in excess of one million dollars. The parties were able to travel and went at least once a year to Disney World. The parties were able [to] purchase new vehicles as needed and the Plaintiff was given a credit card to purchase food, clothing[,] and anything else needed to maintain the household.

(9) The income of the Defendant is not exactly known to the Court since the Defendant is the sole proprietor/employee of the car washes and he alone knows how much he actually clears from the three car washes because he alone empties the cash boxes at the different sites. There was no evidence presented of any kind of records kept or generated by the car wash cash receipts, either a paper record or records saved electronically in the computer memory of any such receipts.

(10) The Plaintiff presented voluminous records of expenses paid each month from the parties' joint accounts as well as for Weeks Investments, Inc. and these were received into evidence. The Defendant managed both the joint checking account and the Weeks Investments, Inc. checking account. The Plaintiff's exhibits indicated that the annual income asserted by the Defendant of \$60,000.00 to \$70,000.00 was far below the actual amount of money coming in and out of these accounts as well as the amount of expenses that were paid [from] these accounts each month. The income analysis prepared by the Plaintiff indicated that in addition to the regular monthly living and business expenses, the Defendant had the additional funds to pay a \$500.00 per month car payment for a lady friend while at the same time making substantial donations to his church of between \$600.00 and \$800.00 per month.

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(11) The financial exhibits of records tendered by the Plaintiff showed that the Defendant paid himself \$343.40 per week in salary, but also on many occasions he cashed checks made out to himself for \$2,000.00 and \$3,000.00. One such check was in the amount of \$12,000.00. When asked by the Court if he considered these payments to be salary, the Defendant admitted that he did. The Defendant additionally used credit cards and the monthly balances on these cards were paid in full each month from either the joint account or Weeks Investments, Inc. account and these were often several thousand dollars. The Defendant also admitted he used cash from the car washes to pay expenses. According to the financial exhibits tendered by the Plaintiff, in 2013 and the following 2 years, the expenses paid out of these two accounts averaged well over \$200,000.00 per year.

(12) Since the separation of the parties, the Defendant has paid a monthly amount of support to the Plaintiff and the amounts varied from between \$2,000.00 per month to \$800.00 per month. The parties stipulated and agreed that the amount of support paid by the Defendant since the date of separation on July 2, 2013 until the end of October, 2017 was \$84,175.00. The Defendant was also credited for his payments of a monthly social security supplemental plan for the months paid.

(13) The Plaintiff submitted a financial affidavit for her reasonable monthly expenses during the marriage and these expenses were in excess of \$6,600.00 per month and were detailed in the financial exhibit. The Plaintiff's affidavit of current expenses exceeded \$3,700.00 per month and again these expenses were detailed in the financial exhibit. The Plaintiff's only income is social security which is a net income to her of approximately \$300.00 per month.

(14) The Defendant submitted a financial affidavit in which he asserted he had a net income of \$7,151.00 per month, but was unable to explain how he arrived at this net figure. The Defendant's affidavit indicated that the Defendant's total individual need, fixed expenses and debt expenses totaled \$8,565.00 per month. The Defendant's affidavit did not list any

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expenses associated with the monthly payments to the Plaintiff or for the payment of the Plaintiff's supplemental medicare insurance.

(15) The reasonable monthly needs of the Plaintiff are \$3,300.00 per month and she is entitled to such support from the date of separation until the date of hearing. After crediting the Defendant for the payments made prior to the court date, the Defendant owes retroactive alimony arrears of \$87,425.00 to the Plaintiff.

(16) Based upon the factors set forth in N.C.G.S. §50-16A(b)(1) through (16) the Court found that the Plaintiff, the dependent spouse is 69 years of age and is unemployed. It is unlikely she will obtain future employment due to her age and her health issues. The Defendant, aged 61, has exclusive possession of the car washes and pit cleaning businesses and has continued to generate significant income from these entities. The Defendant has received treatment for shoulder issues. The Plaintiff's possibility of future employment is unlikely.

(17) The Plaintiff does not have a substantial separate estate and the Defendant has, since the date of separation, inherited substantial property. The parties were married for 25 years and the Plaintiff's current state of health and her age do not make re-training for employment feasible. The Defendant has exclusive control over the businesses which generate all the income for the marriage. The Plaintiff does have social security income which nets her approximately \$300.00 per month, and she has no other source of income or properties titled in her name. The Plaintiff, although employed outside the home for a short period of time, has been a housewife for the majority of the marriage. The parties enjoyed a comfortable lifestyle in which they were able to build a large home, travel, purchase vehicles as needed and paid their credit card debt in full each month. The Defendant has had a significant inheritance since the date of separation and has other inherited properties which generate additional income for him.

After making these findings, the trial court concluded that Plaintiff was a dependent spouse, Defendant was a supporting spouse, and alimony, retroactive alimony, and attorneys' fees for Plaintiff were equitable. The trial court therefore ordered Defendant to pay Plaintiff \$3,300.00 in monthly alimony until 30 June 2028, \$87,425.00 in alimony arrearages, and \$4,500.00 in attorneys' fees.

Appellate Jurisdiction

The trial court's Alimony Order constitutes a final resolution of Plaintiff's claims for alimony and post-separation support. *See* N.C. Gen. Stat. § 50-16.1A(4)(b) (2017) (post-separation support terminates, *inter alia*, upon the "entry of an order awarding or denying alimony"). However, the Record does not reflect a final determination of the parties' respective Equitable Distribution claims. Nonetheless, and

[n]otwithstanding any other pending claims filed in the same action, a party may appeal from an order or judgment adjudicating a claim for absolute divorce, divorce from bed and board, child custody, child support, alimony, or equitable distribution if the order or judgment would otherwise be a final order or judgment within the meaning of G.S. 1A-1, Rule 54(b), but for the other pending claims in the same action.

Id. § 50-19.1 (2017).¹

¹ Although not material to this case, Section 50-19.1 was amended in 2018 to allow an appeal from an order or judgment adjudicating "the validity of a premarital agreement as defined by G.S. 52B-2(1)[.]" *Id.* § 50-19.1 (Supp. 2018). Because this amended provision is only applicable to appeals filed on or after 25 June 2018 and Defendant filed his Notice of Appeal prior to this date, we analyze Defendant's appeal under the previous version of this statute. *See id.*

Issue

The dispositive issue on appeal is whether the trial court’s findings of fact are adequate to support its award of alimony to Plaintiff.

Analysis

I. Standard of Review

Alimony cases require the trial court to undertake two separate inquiries: the first is whether a spouse is entitled to alimony; and the second is a determination of the amount and duration of the alimony award. *See Barrett v. Barrett*, 140 N.C. App. 369, 371, 536 S.E.2d 642, 644 (2000); N.C. Gen. Stat. § 50-16.3A(a)-(b) (2017). “We review the first inquiry de novo and the second under an abuse of discretion standard[.]” *Barrett*, 140 N.C. App. at 371, 536 S.E.2d at 644 (citations omitted). Moreover, our review of the trial court’s findings of fact requires us to analyze whether competent evidence in the record supports the trial court’s findings and whether those findings, in turn, support the trial court’s conclusions of law. *Dodson v. Dodson*, 190 N.C. App. 412, 415, 660 S.E.2d 93, 96 (2008) (citation omitted).

II. Alimony

Whether a party is entitled to alimony is governed by N.C. Gen. Stat. § 50-16.3A(a). Under this Statute, “[a] party is entitled to alimony, *inter alia*, if (1) that party is a ‘dependent spouse;’ (2) the other party is a ‘supporting spouse;’ and (3) an award of alimony would be equitable under all relevant factors.” *Carpenter v.*

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Carpenter, 245 N.C. App. 1, 4, 781 S.E.2d 828, 832 (2016) (citation omitted). A dependent spouse is “a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.” N.C. Gen. Stat. § 50-16.1A(2). A supporting spouse is “a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent for maintenance and support or from whom such spouse is substantially in need of maintenance and support.” *Id.* § 50-16.1A(5).

Our Supreme Court’s ruling in *Williams v. Williams* remains the governing standard for determining whether a spouse is actually substantially dependent or substantially in need of maintenance and support. *See* 299 N.C. 174, 261 S.E.2d 849 (1980). We acknowledge *Williams* was decided under the pre-1995 alimony statute providing for “fault-based” alimony. “However, on 1 October 1995, this fault-based approach was replaced by a need-based alimony statute.” *Alvarez v. Alvarez*, 134 N.C. App. 321, 323, 517 S.E.2d 420, 422 (1999) (citation omitted). Nevertheless, our Courts continue to look to *Williams* to guide the economic analysis for purposes of determining entitlement to alimony. *See, e.g., Crocker v. Crocker*, 190 N.C. App. 165, 171, 660 S.E.2d 212, 216 (2008) (applying *Williams* to determine whether the trial court made findings supporting its conclusion of dependency).

The relevant *Williams* factors include:

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(1) the accustomed standard of living of the parties prior to the separation, (2) the income and expenses of each of the parties at the time of the trial, (3) the value of the estates, if any, of both spouses at the time of the hearing, and (4) “the length of [the] marriage and the contribution each party has made to the financial status of the family over the years.”

Hunt v. Hunt, 112 N.C. App. 722, 726-27, 436 S.E.2d 856, 859 (1993) (alteration in original) (quoting *Williams*, 299 N.C. at 183-85, 261 S.E.2d at 856-57). “The conclusions made by the court as to whether a spouse is ‘dependent’ or ‘supporting’ must be based on findings of fact sufficiently specific to indicate that the court properly considered the factors set out in *Williams*.” *Talent v. Talent*, 76 N.C. App. 545, 548, 334 S.E.2d 256, 259 (1985) (citations omitted).

Once the trial court makes a determination that a dependent spouse is entitled to alimony, the trial court is required to “exercise its discretion in determining the amount, duration, and manner of payment of alimony.” N.C. Gen. Stat. § 50-16.3A(b). In so doing, the court is required to consider all relevant factors, including the 16 factors set forth under the Statute. *Id.* Indeed, following an alimony trial, the trial court is required to “make a specific finding of fact on each of the factors in subsection (b) . . . if evidence is offered on that factor.” *Id.* § 50-16.3A(c). Finally, a trial court is required to “set 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.” *Id.*

In this case, Defendant specifically contends the trial court failed to make adequate findings of fact to support its determination to award Plaintiff alimony as

to: the parties' accustomed standard of living during the marriage; Plaintiff's reasonable expenses; Defendant's income; and Defendant's reasonable expenses. In addition, Defendant also argues the trial court failed to make adequate findings concerning the impact of his health on his ability to pay alimony and setting forth its reasons for the amount and duration of the alimony award. We address each of Defendant's contentions in turn.

A. Accustomed Standard of Living During Marriage

First, Defendant contends the trial court failed to make adequate findings concerning the accustomed standard of living during the parties' marriage. Defendant concedes the trial court made findings based on "evidence of expenditures during the marriage" but asserts the trial court failed to consider "the source of funds for those expenditures." Defendant further argues "the court's findings do not address the crucial question raised by the evidence of whether the parties had a standard of living sustained by income rather than an illusory one doomed to eventually collapse because it was fueled by debt and asset depletion." Defendant contends the trial court failed to properly consider his position that Plaintiff was "a spendthrift who incurred unsustainable credit card debt that required [Defendant] to borrow money and deplete his separate estate to pay for a lifestyle that could not be supported by his income."

The trial court, however, found:

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During the marriage, the parties built and resided in a home which had an appraised value of \$418,000.00 in 2012. The Defendant submitted a personal financial statement prepared for use by his bank which indicated he owned real estate in excess of one million dollars. The parties were able to travel and went at least once a year to Disney World. The parties were able to purchase new vehicles as needed and the Plaintiff was given a credit card to purchase food, clothing and anything else needed to maintain the household.

Moreover, specific to Defendant's argument, the trial court expressly found: "The parties enjoyed a comfortable lifestyle in which they were able to build a large home, travel, purchase vehicles as needed and paid their credit card debt in full each month." This finding is unchallenged by Defendant and therefore binding upon appeal. *See Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) (citations omitted).

We acknowledge Defendant points to conflicting evidence in the Record that could support his claim for additional evidentiary findings had the trial court determined the evidence was credible or worthy of weight; however, the "trial court is not required to make exhaustive findings regarding evidence presented." *Urciolo v. Urciolo*, 166 N.C. App. 504, 506, 601 S.E.2d 905, 907 (2004) (citation omitted). Nor is the trial court "required to make findings about the weight and credibility which it gives to the evidence before it." *Robinson v. Robinson*, 210 N.C. App. 319, 327, 707 S.E.2d 785, 791 (2011) (citation omitted). Therefore, we reject Defendant's argument on this point and conclude, in this case and on this Record, the trial court made

adequate findings regarding the parties' accustomed standard of living during the marriage.

B. Plaintiff's Reasonable Expenses

Next, Defendant contends the trial court failed to properly examine Plaintiff's reasonable expenses. Defendant concedes Plaintiff submitted a financial affidavit for her monthly expenses both during the marriage and at the time of trial—and the trial court entered a finding thereupon—but claims the trial court's finding was “merely a recitation of the evidence presented.” Defendant thus asserts mere recitations of evidence are insufficient to constitute proper findings of fact. In support of his position, Defendant cites *Williamson v. Williamson*, 140 N.C. App. 362, 536 S.E.2d 337 (2000).

“[T]he trial court's findings of fact must be more than mere evidentiary facts; they must be the ‘specific ultimate facts . . . sufficient for [an] appellate court to determine that the judgment is adequately supported by competent evidence.’” *Id.* at 363-64, 536 S.E.2d at 338 (alterations in original) (citation omitted). “Ultimate facts are the final resulting effect reached by processes of logical reasoning from the evidentiary facts.” *Appalachian Poster Advertising Co. v. Harrington*, 89 N.C. App. 476, 479, 366 S.E.2d 705, 707 (1988) (citation omitted); *see also Montgomery v. Montgomery*, 32 N.C. App. 154, 156-57, 231 S.E.2d 26, 28 (1977) (“The trial court is required to find specific ultimate facts to support the judgment, and the facts found

must be sufficient for the appellate court to determine that the judgment is adequately supported by competent evidence.” (citation omitted)).

In the instant case, however, the trial court’s Alimony Order includes an ultimate finding of fact complying with *Williamson*. Specifically, the trial court summarized Plaintiff’s exhibits and evidence in Finding of Fact 13:

The Plaintiff submitted a financial affidavit for her reasonable monthly expenses during the marriage and these expenses were in excess of \$6,600.00 per month and were detailed in the financial exhibit. The Plaintiff’s affidavit of current expenses exceeded \$3,700.00 per month and again these expenses were detailed in the financial exhibit. The Plaintiff’s only income is social security which is a net income to her of approximately \$300.00 per month.

The trial court then made the ultimate finding that “[t]he reasonable monthly needs of the Plaintiff are \$3,300.00 per month[.]” Therefore, the trial court did not rely solely on a mere recitation of the evidence but rather exercised its discretion and judgment in determining Plaintiff’s reasonable needs. Thus, the trial court did not err in its findings regarding Plaintiff’s reasonable monthly expenses.

C. Defendant’s Income

Defendant contends the trial court failed to make sufficient findings concerning his income. Specifically, Defendant argues that the trial court did not make a finding as to his actual income at the time of the Alimony Order. We agree.

The general rule is “[a]limony is ordinarily determined by a party’s *actual* income, from all sources, at the time of the [alimony] order.” *Kowalick v. Kowalick*,

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129 N.C. App. 781, 787, 501 S.E.2d 671, 675 (1998) (citation omitted). The primary exception to this general rule occurs where a trial court determines a party has acted in bad faith to depress his or her income. *Id.* (citation omitted). Moreover, this Court has approved of a trial court considering prior years' income to make a determination of current income where the evidence of the current actual income is not credible or is an unreliable measure of a spouse's income. *Green v. Green*, ___ N.C. App. ___, ___, 806 S.E.2d 45, 55 (2017), *appeal dismissed, disc. review denied*, 371 N.C. 485, 818 S.E.2d 273, 278 (2018); *Zurosky v. Shaffer*, 236 N.C. App. 219, 243, 763 S.E.2d 755, 770 (2014); *Diehl v. Diehl*, 177 N.C. App. 642, 649-50, 630 S.E.2d 25, 30-31 (2006).

Here, the trial court made the following Findings concerning Defendant's income:

(9) The income of the Defendant is not exactly known to the Court since the Defendant is the sole proprietor/employee of the car washes and he alone knows how much he actually clears from the three car washes because he alone empties the cash boxes at the different sites. There was no evidence presented of any kind of records kept or generated by the car wash cash receipts, either a paper record or records saved electronically in the computer memory of any such receipts.

(10) The Plaintiff presented voluminous records of expenses paid each month from the parties' joint accounts as well as for Weeks Investments, Inc. and these were received into evidence. The Defendant managed both the joint checking account and the Weeks Investments, Inc. checking account. The Plaintiff's exhibits indicated that the annual income asserted by the Defendant of \$60,000.00 to \$70,000.00 was far below the actual amount of money coming in and out of these accounts as well as the amount of expenses that were paid [from] these accounts each

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month. The income analysis prepared by the Plaintiff indicated that in addition to the regular monthly living and business expenses, the Defendant had the additional funds to pay a \$500.00 per month car payment for a lady friend while at the same time making substantial donations to his church of between \$600.00 and \$800.00 per month.

(11) The financial exhibits of records tendered by the Plaintiff showed that the Defendant paid himself \$343.40 per week in salary, but also on many occasions he cashed checks made out to himself for \$2,000.00 and \$3,000.00. One such check was in the amount of \$12,000.00. When asked by the Court if he considered these payments to be salary, the Defendant admitted that he did. The Defendant additionally used credit cards and the monthly balances on these cards were paid in full each month from either the joint account or Weeks Investments, Inc. account and these were often several thousand dollars. The Defendant also admitted he used cash from the car washes to pay expenses. According to the financial exhibits tendered by the Plaintiff, in 2013 and the following 2 years, the expenses paid out of these two accounts averaged well over \$200,000.00 per year.

It is apparent from these Findings the trial court determined that the evidence of Defendant's reported income was unreliable or not credible. Thus, the trial court properly looked to other sources and evidence to try to determine Defendant's actual income. However, the trial court did not make an express ultimate finding as to Defendant's income at the time the award was made. In fact, the trial court noted Defendant's income "is not exactly known to the Court." However, in order to determine if Plaintiff was entitled to alimony, the trial court was required to make some computation of Defendant's income, based on competent evidence before the court. *See Quick v. Quick*, 305 N.C. 446, 455, 290 S.E.2d 653, 660 (1982); *Hunt*, 112

N.C. App. at 727, 436 S.E.2d at 860. Consequently, the trial court's findings regarding Defendant's income are inadequate to support its alimony award.

D. Defendant's Reasonable Expenses

Defendant also contends the trial court failed to make any findings concerning his own reasonable expenses. Defendant asserts the trial court again made mere recitations of the evidence and thus not ultimate findings of fact required to support the trial court's conclusions of law.

Finding of Fact 14 addresses Defendant's expenses: "The Defendant's affidavit indicated that the Defendant's total individual need, fixed expenses and debt expenses totaled \$8,565.00 per month. The Defendant's affidavit did not list any expenses associated with the monthly payments to the Plaintiff or for the payment of the Plaintiff's supplemental medicare insurance." Here, the trial court merely recited statements from Defendant's affidavit and never reached an ultimate finding of fact as to Defendant's reasonable expenses. Therefore, the trial court's findings regarding Defendant's reasonable expenses are inadequate to support its award of alimony to Plaintiff. *Williamson*, 140 N.C. App. at 363, 536 S.E.2d at 338.

E. Defendant's Health

Defendant asserts the trial court failed to make adequate findings concerning the impact of his health on his ability to pay alimony. Section 50-16.3A(b)(3) of our General Statutes states: "The court shall exercise its discretion in determining the

amount, duration, and manner of payment of alimony. . . . [In making this determination,] the court shall consider all relevant factors, including: . . . (3) The ages and the physical, mental, and emotional conditions of the spouses[.]” N.C. Gen. Stat. § 50-16.3A(b)(3). Defendant notes the trial court found he had “received treatment for shoulder issues” but nevertheless contends the trial court failed to consider what impact that had on his ability to pay alimony. While Defendant is correct that a court must consider the physical conditions of the spouses under Section 50-16.3A(b)(3), “the trial court is not required to make findings about the weight and credibility it assigns to the evidence before it.” *Hartsell v. Hartsell*, 189 N.C. App. 65, 75, 657 S.E.2d 724, 730 (2008).

Here, in Finding of Fact 16, the trial court considered this factor in making its determination of the amount and duration of alimony and specifically did so in the context of also finding: “Defendant, aged 61, has exclusive possession of the car washes and pit cleaning businesses and has continued to generate significant income from these entities.” Thus, the trial court made an adequate finding taking into consideration Defendant’s health upon his ability to pay alimony.

F. Amount and Duration of Alimony Award

Finally, Defendant also argues the trial court failed to make findings setting forth its reasoning for the amount and duration of the alimony award under Section 50-16.3A(c). We agree.

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“Under N.C. Gen. Stat. § 50-16.3A(c) . . . , the trial court is also required to set forth the reasons for the amount of the alimony award, its duration, and manner of payment.” *Fitzgerald v. Fitzgerald*, 161 N.C. App. 414, 421, 588 S.E.2d 517, 522 (2003). Where the trial court does not state its reasons for the amount and duration of its alimony award, we must remand for further findings. *Wise v. Wise*, ___ N.C. App. ___, ___, 826 S.E.2d 788, 799 (2019) (citing *Hartsell*, 189 N.C. App. at 75-76, 657 S.E.2d at 730-31); *Squires v. Squires*, 178 N.C. App. 251, 267, 631 S.E.2d 156, 165 (2006); *Fitzgerald*, 161 N.C. App. at 423, 588 S.E.2d at 524; *Williamson*, 140 N.C. App. at 365, 536 S.E.2d at 339.

While in this case, it may be possible to discern the overall likely intent of the trial court both as to duration and amount, the trial court’s Order does not expressly set forth its reasons for the amount and duration of its alimony award. Thus, we must remand this matter to the trial court for further findings articulating its rationale for both the amount and duration of its alimony award.

Conclusion

For the forgoing reasons, we vacate the Alimony Order and remand the matter to the trial court for further findings of fact to support its award of alimony to Plaintiff. On remand, the trial court should make ultimate findings of fact: (1) as to Defendant’s income at the time of the original hearing; (2) as to Defendant’s reasonable expenses at the time of the original hearing; and (3) setting forth its

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reasons for the amount and duration of its alimony award. The trial court may base these additional findings on the existing record, unless in its discretion it chooses to open the record to take additional evidence. *See Rhew v. Rhew*, 138 N.C. App. 467, 472, 531 S.E.2d 471, 475 (2000) (citations omitted). Further, because we vacate the Alimony Order, the trial court is free, in its discretion, to reconsider its alimony award including entitlement, amount, and duration, in light of its additional findings.

VACATED AND REMANDED.

Judges DIETZ and TYSON concur.

Report per Rule 30(e).