

No. 31674 – *Tammi Ray v. Jimmie Ray*

FILED

June 30, 2004

released at 10:00 a.m.

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

Albright, Justice, concurring:

I concur in the judgment rendered in this case. I regret that the Court did not take the opportunity in this opinion to distinguish between the receipt of income as a result of work or investment of capital and the recovery of principal, that is, money received from the sale of an asset. This case presented an opportunity for this Court to clarify how, if at all, the conversion of an asset by sale or exchange impacts the separate duties of effecting an equitable distribution of marital assets, paying alimony where appropriate, and calculating child support within the context of ongoing financial obligations owed by a litigant who, for whatever reason, converts an existing asset to some other form of property, real or personal.

While I am satisfied that the result in the instant case served justice, I do not think that the reasons for that result can be fully and properly articulated in the absence of a clear understanding of the difference between the receipt of income and recovery of principal.