

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JANUARY 14, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-1852-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

In re the Marriage of:

ELLEN S. KRUEGER,

Petitioner-Appellant,

v.

DOUGLAS A. KRUEGER,

Respondent-Respondent.

APPEAL from a judgment of the circuit court for Outagamie County: DENNIS C. LUEBKE, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Ellen Krueger appeals that part of a divorce judgment awarding her \$35,000 annual maintenance.¹ She argues that the trial

¹ This is an expedited appeal under RULE 809.17, STATS.

court did not state adequate reasons for giving her less than half of the parties' joint annual income. We reject this argument and affirm the judgment.

At the time the parties married, Douglas had earned his dental degree. Ellen was finishing college at that time. After they married, they used Douglas's income to pay off both of their student loans, and Douglas paid for Ellen's post-graduate courses. Ellen worked outside the home all but eight years of the twenty-three year marriage, including fulltime work for the last twelve years. At the time of the divorce she earned approximately \$41,000 per nine-month school year at a technical school. Douglas earned approximately \$185,000 per year as a dentist.

The trial court divided the marital property equally, awarding each party approximately one-half million dollars. It then considered each of the factors set out in § 767.26, STATS., and determined that \$35,000 annual maintenance added to Ellen's \$41,000 income would allow her to spend and save money at one-half the rate the couple spent and saved during the marriage. The court noted that Douglas had completed his education prior to their marriage and significantly contributed toward Ellen's education. While Ellen was somewhat disadvantaged because she was out of the job market for eight years early in the marriage, her continued education and work history distinguish her situation from that found in *Bahr v. Bahr*, 107 Wis.2d 72, 74, 318 N.W.2d 391, 393 (1982), where the wife had no significant employment history and medical problems that affected her earning capacity and in *LaRocque v. LaRocque*, 139 Wis.2d 23, 28, 406 N.W.2d 736, 738 (1987), where the wife contributed significantly to her husband's stream of income, had no recent employment history and received a smaller estate in the property division. Ellen argues that she contributed to Douglas's dental practice during the marriage. The record shows that she worked only 100 days at the business over the course of the twenty-three year marriage. The trial court reasonably gave little weight to Ellen's contributions toward Douglas's practice.

Ellen complains that the maintenance award will not allow her to enjoy the lifestyle that she could have anticipated had the marriage continued. She cites no specific objective that will not be met. The property division has given her access to substantial investment capital. The maintenance award reflects one-half of the couple's annual spending plus one-half of their annual savings. By her own testimony, this amount will allow Ellen to maintain her

lifestyle, travel and investments. The court based Ellen's award in part on her expenses while she lived separate from Douglas. We conclude that the maintenance award constitutes a reasoned and reasonable determination that is the product of a rational mental process, *Hartung v. Hartung*, 102 Wis.2d 58, 66, 306 N.W.2d 16, 20 (1981), and constitutes a proper exercise of the court's discretion.

By the Court. — Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.