

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 12, 1997

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

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

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.

No. 96-3523

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT II**

IN RE THE MARRIAGE OF:

MARK ALAN HARVAT,

PETITIONER-RESPONDENT,

v.

REGINA ANNE HARVAT,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Winnebago County: WILLIAM E. CRANE, Judge. *Affirmed.*

Before Snyder, P.J., Brown and Anderson, JJ.

PER CURIAM. Regina Anne Harvat has appealed from a judgment of divorce from Mark Alan Harvat. Her sole challenge is to the trial court's award of limited maintenance in the amount of \$950 per month for a period of five

years. Because we conclude that the trial court acted within the scope of its discretion in making this award, we affirm the divorce judgment.

The determination of the amount and duration of maintenance is entrusted to the sound discretion of the trial court and will not be disturbed absent an erroneous exercise of the trial court's discretion. *See Wolski v. Wolski*, 210 Wis.2d 184, 189, 565 N.W.2d 196, 198 (Ct. App. 1997). The exercise of discretion must be the product of a rational mental process by which the facts of record and the law relied upon are stated and considered together for the purpose of achieving a reasoned and reasonable result. *See Kennedy v. Kennedy*, 145 Wis.2d 219, 222, 426 N.W.2d 85, 86 (Ct. App. 1988). The touchstone of analysis in determining or reviewing a maintenance award is the list of statutory factors set forth in § 767.26, STATS. *See Kennedy*, 145 Wis.2d at 222, 426 N.W.2d at 86. These factors reflect and are designed to further two distinct but related objectives: to support the recipient spouse in accordance with the needs and earning capacities of the parties and to ensure a fair and equitable financial arrangement between the parties in each individual case. *See id.*

The support objective is fulfilled when the trial court considers the feasibility of the party seeking maintenance becoming self-supporting at a standard of living reasonably comparable to that enjoyed during the marriage and the length of time necessary to achieve this goal, if the goal is feasible. *See id.* at 223, 426 N.W.2d at 87. What will satisfy the fairness objective must be determined on a case-by-case basis, considering the statutory factors. *See id.*

A review of the trial court's oral ruling and its written findings of fact and conclusions of law compels us to conclude that it considered the relevant statutory factors and applied them to the facts of this case to reach a determination

which a reasonable judge could make. It considered that the parties were the same age, that both were sufficiently healthy to continue working, that their estate had been equally divided, and that custodial responsibility for their children was being divided equally. While acknowledging that the parties had been married for eighteen years, it indicated that it considered a long-term marriage to be at least twenty-five years, which was a determination it was entitled to make. It considered the parties' disparate educational levels and work experiences, including Regina's care of the children. Based on the \$38,000 disparity in Regina's present income of \$19,000 and Mark's salary and bonus of approximately \$57,000, it concluded that an award of maintenance was required and that it should be \$950 per month, which would permit Regina to meet her monthly expenses and be consistent with her predivorce standard of living which was based on an income of approximately \$61,000 for a family of five. However, it concluded that an award for more than five years was unwarranted because within that time the youngest child would reach age eighteen and complete high school, thus relieving Regina of support and custodial responsibilities and permitting her to live on her own income.

While such a result might not guarantee Regina the same standard of living as Mark, the trial court's decision makes clear that it considered the award to be consistent with principles of fairness under the facts of this particular case. Because we cannot hold that the trial court's analysis and conclusions are unreasonable under the facts, we affirm its judgment. In doing so, we also note that if a substantial change in the circumstances of the parties occurs within the next five years, Regina will be entitled to seek modification of the duration or amount of the award, provided she does so before it terminates. *See Dixon v. Dixon*, 107 Wis.2d 492, 508, 319 N.W.2d 846, 854 (1982); § 767.32(1), STATS.

By the Court.—Judgment affirmed.

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

