

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 28, 2003

Cornelia G. Clark
Clerk of Court of Appeals

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 WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 02-2047
STATE OF WISCONSIN

Cir. Ct. No. 01-FA-350

**IN COURT OF APPEALS
DISTRICT II**

IN RE THE MARRIAGE OF:

GERI L. HASTINGS,

PETITIONER-RESPONDENT,

v.

JEFFERY T. HASTINGS,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Walworth County:
JAMES L. CARLSON, Judge. *Affirmed.*

Before Deininger, P.J., Dykman and Lundsten, JJ.

¶1 PER CURIAM. Jeffery Hastings appeals the judgment divorcing him from Geri Hastings. His appeal concerns the trial court's decision to award

Geri limited term maintenance. We conclude that the trial court properly exercised its discretion on the issue, and therefore affirm.

¶2 The parties divorced in 2002 after twelve years of marriage. At the time of the divorce Jeffery was 41, and reported gross income of \$4,183 per month from three jobs, and a net income of \$3,014 per month. Geri was 34, and earned \$1,577 monthly with a net of \$1,397 as a full-time veterinary technician. The parties agreed to joint custody and equal placement of their three children. The court set Jeffery's child support at \$252 per month, using the standard formula for equal placements. Other than personal effects, the party's assets were negligible.

¶3 At the trial on her maintenance claim, Geri asserted that her expenses exceeded her income by almost \$900 per month, even with child support from Jeffery. She reported that she worked full or part-time for most of the marriage, and had two years of college. She planned to increase her income as a veterinary technician through a two-year certification program. She requested temporary maintenance of \$97 per week for five years to allow her to pursue certification, which she estimated would increase her income by over 40% once she attained it.

¶4 Jeffery testified that he could not meet his present expenses and pay maintenance. He added that he was borrowing money from his parents to meet his monthly expenses, and that his parents were also helping him reduce expenses by providing some child care. He wanted to keep the family home, and planned to do so by reducing the monthly mortgage payments of approximately \$1,000 per month by refinancing.

¶5 The trial court granted Geri's request for \$97 per week in limited term maintenance for five years, based both on the party's income disparity and

her demonstrated need for assistance. The court concluded that Jeffery overstated or duplicated his claimed expenses in some cases, and some expenses would transfer to Geri at divorce. The court concluded that it would be “a tight squeeze” for Jeffery, but that eliminating or reducing the overstated expenses would give him the ability to pay both maintenance and child support.

¶6 The decision on the amount and duration of maintenance rests within the trial court’s discretion. *Olski v. Olski*, 197 Wis. 2d 237, 243 n.2, 540 N.W.2d 412 (1995). The trial court properly exercises its discretion by relying on the facts of record and applicable law to reach a reasoned and reasonable result. *See Trieschmann v. Trieschmann*, 178 Wis. 2d 538, 541-42, 504 N.W.2d 433 (Ct. App. 1993). An award of maintenance should not place an unreasonable hardship on the supporting party. *Bahr v. Bahr*, 107 Wis. 2d 72, 83, 318 N.W.2d 391 (1982).

¶7 The trial court reasonably ordered limited term maintenance. WISCONSIN STAT. § 767.26 (2001-02)¹ is 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. *LaRocque v. LaRocque*, 139 Wis. 2d 23, 32-33, 406 N.W.2d 736 (1987). Here, Jeffery faults the trial court for not expressly finding that Geri needed maintenance to maintain her marital standard of living. However, that need was self-evident and not reasonably in dispute. Her expenses substantially exceeded her income, and there is no evidence

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

that they were exaggerated or easily reducible. There was no evidence that Geri had the means to increase her present income without further education.

¶8 In contrast, the trial court reasonably concluded that Jeffery overstated his expenses, and could reduce them without undue hardship. Jeffery's total housing costs were approximately \$1,675, as opposed to Geri's total cost of about \$850 per month. Jeffery's housing costs were subject to substantial reduction either through refinancing, as Jeffery planned, or selling the family home and moving to less expensive accommodations. Jeffery's other claimed expenses included \$250 per month on small loans that he could anticipate paying off within a few months. They also included a car insurance payment that terminated at divorce. Jeffery claimed food expenses for himself and the children of \$555, while Geri claimed \$390 in food expenses, although she shared placement of the children equally. Jeffery's entertainment budget was \$230 per month versus Geri's \$50 per month. It is indisputable that the maintenance order required Jeffery to make some sacrifice. Jeffery has not demonstrated that the maintenance award put Geri in a better position than it put him or that it forced unreasonable sacrifice on his part. The award reasonably satisfied the two purposes of maintenance without undue or unreasonable hardship.

¶9 Jeffery contends in his reply brief that Geri's "lifestyle has significantly improved [since the divorce] and the concerns expressed in Mr. Hastings' Brief have come to fruition." No facts of record support that assertion, and we disregard it. See *Jenkins v. Sabourin*, 104 Wis. 2d 309, 313-14, 311 N.W.2d 600 (1981). If circumstances have substantially changed, Jeffery is free to petition the trial court for modification of the award. WIS. STAT. § 767.32(1).

By the Court.—Judgment affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5.

