

MASSACHUSETTS SUPREME JUDICIAL COURT

Zaleski v. Zaleski

469 Mass. 230 (2014) · No. SJC-11391 · Decided August 1, 2014

SUMMARY

The Massachusetts Supreme Judicial Court reviewed a divorce judgment awarding the wife rehabilitative rather than general-term alimony under the Alimony Reform Act of 2011. The court held that the judge did not abuse her discretion in selecting rehabilitative alimony or in dividing the marital property and debt, but remanded for reconsideration of the alimony amount because the husband's bonus income was improperly excluded and for reconsideration of the life-insurance security requirement.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Duffly, J.; Ireland, C.J.; Spina, J.; Cordy, J.; Botsford, J.; Gants, J.; Lenk, J.
JURISDICTION	Massachusetts
DECIDED	August 1, 2014
DOCKET	SJC-11391
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The wife appealed from a divorce judgment entered in the Essex Division of the Probate and Family Court that awarded her rehabilitative alimony, divided the marital estate, required her to maintain life-insurance policies as security, and excluded the husband's bonus income from the alimony calculation. The Supreme Judicial Court transferred the appeal from the Appeals Court on its own initiative.
STANDARD OF REVIEW	The court reviewed the alimony award for abuse of discretion, examining whether the judge considered all mandatory statutory factors, relied on relevant factors, and made findings supporting the conclusion. Property division was reviewed to determine whether the judgment was plainly wrong and excessive.
PRECEDENTIAL VALUE	Published opinion of the Massachusetts Supreme Judicial Court; binding Massachusetts precedent.

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QUESTIONS PRESENTED

1. Whether the Probate and Family Court abused its discretion by awarding rehabilitative alimony rather than general term alimony.
2. Whether the alimony amount was required to include the husband's bonus income and other income sources.
3. Whether the requirement that the wife maintain life-insurance policies for the husband's benefit was supported by the findings and governing statutes.
4. Whether the division of marital property and allocation of marital debt were plainly wrong and excessive.

HOLDINGS

1. A judge may award rehabilitative alimony rather than general term alimony when the statutory factors and findings establish with reasonable certainty that the recipient spouse can obtain employment through reasonable efforts and become economically self-sufficient within a predicted time, even without a specifically identifiable future job or event.
2. The calculation of alimony must include all of the payor spouse's income as defined by the Massachusetts Child Support Guidelines, including bonus income, subject to the statutory exclusions.
3. A requirement that the wife maintain life insurance for the husband's benefit was an abuse of discretion because the findings did not support security under the applicable statutes and the \$1.6 million death benefit exceeded any financial obligation the wife had under the judgment.
4. The division of marital property and allocation of marital debt were not plainly wrong and excessive.

KEY QUOTATIONS

"The language of the act is clear that all of the payor spouse's income, as defined by the Massachusetts Child Support Guidelines (guidelines), must be included in any calculation of alimony, and bonus income is specifically included in this definition."

"Rehabilitative alimony is the appropriate form of alimony if "a recipient spouse . . . is expected to become economically self-sufficient by a predicted time.""

FACTUAL BACKGROUND

Carolyn and Stephen Zaleski were married for approximately sixteen years and four months and had two children attending private schools. The wife, who had previously worked in pharmaceutical sales and had earned approximately \$170,000 annually, had not worked outside the home since 2008 but possessed transferable skills and expressed a desire to return to work. The husband was an experienced real-estate investment executive whose income included a base salary of approximately \$400,000 and substantial annual bonuses. The divorce judgment awarded the wife rehabilitative alimony based only on the husband's base salary, allocated marital debts, divided marital assets, and required the wife to maintain \$1.6 million in life-insurance coverage for the husband's benefit.

PROCEDURAL HISTORY

The wife filed a complaint for divorce in the Essex Division of the Probate and Family Court in December 2010. After trial, the Probate and Family Court entered a judgment of divorce nisi awarding rehabilitative alimony of \$11,667 per month for five years, dividing marital assets and debts, and requiring both parties to maintain life insurance. The wife appealed, and the Supreme Judicial Court transferred the case on its own initiative.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Probate and Family Court must recalculate the amount of the monthly alimony payment using all of the husband's income required by the statute, including bonus income, and may take any additional action warranted. The life-insurance requirement imposed on the wife is vacated. The judgment is affirmed in all other respects.

CASES CITED

- Gottsegen v. Gottsegen, 397 Mass. 617, 621-624 (1986)
- Holmes v. Holmes, 467 Mass. 653, 655 n.2 (2014)
- Passemato v. Passemato, 427 Mass. 52, 54 (1998)
- Heins v. Ledis, 422 Mass. 477, 480-481 (1996)
- Baccanti v. Morton, 434 Mass. 787, 790, 793 (2001)
- Pare v. Pare, 409 Mass. 292, 296 (1991)
- Rice v. Rice, 372 Mass. 398, 401 (1977)
- Felton v. Felton, 383 Mass. 232, 239 (1981)
- Flaherty v. Flaherty, 40 Mass. App. Ct. 289, 291 (1996)
- Board of Educ. v. Assessor of Worcester, 368 Mass. 511, 513 (1975)
- Industrial Fin. Corp. v. State Tax Comm'n, 367 Mass. 360, 364 (1975)
- Moriarty v. Stone, 41 Mass. App. Ct. 151, 158 (1996)
- Bak v. Bak, 24 Mass. App. Ct. 608, 621-622 (1987)
- Fechter v. Fechter, 26 Mass. App. Ct. 859, 867-868 (1989)

- Adlakha v. Adlakha, 65 Mass. App. Ct. 860, 870 (2006)
- Sampson v. Sampson, 62 Mass. App. Ct. 366, 371 (2004)
- D.L. v. G.L., 61 Mass. App. Ct. 488, 510 (2004)
- Goldman v. Goldman, 28 Mass. App. Ct. 603, 613 (1990)
- M.C. v. T.K., 463 Mass. 226, 234 n.11 (2012)
- Williams v. Massa, 431 Mass. 619, 631 (2000)
- Denninger v. Denninger, 34 Mass. App. Ct. 429, 430 (1993)
- Dewan v. Dewan, 399 Mass. 754, 757 (1987)
- Holbrook v. Holbrook, 103 Wis. 2d 327, 340 (Ct. App. 1981)

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