

NORTH CAROLINA COURT OF APPEALS

Wheeler v. Wheeler

No. COA 25-376 (N.C. Ct. App. Mar. 4, 2026) · No. No. COA 25-376 · Decided March 4, 2026

SUMMARY

The North Carolina Court of Appeals vacated an equitable distribution and alimony order in a divorce case and remanded for further proceedings. The court held that the trial court improperly considered non-economic marital misconduct, including alcohol abuse and domestic violence, under the equitable-distribution catch-all factor. The court also directed the trial court to hear further arguments and evidence regarding the classification, valuation, and distribution of Survivor Benefit Plan coverage.

CASE DETAILS

COURT	North Carolina Court of Appeals
WRITING FOR THE COURT	Tobias Hampson; Carpenter; Freeman
JURISDICTION	North Carolina Court of Appeals
DECIDED	March 4, 2026
DOCKET	No. COA 25-376
DISPOSITION	vacated
PROCEDURAL POSTURE	Plaintiff appealed from the Onslow County District Court's equitable distribution and alimony order awarding Defendant an unequal distribution of marital property and ordering Plaintiff to maintain Survivor Benefit Plan coverage for Defendant.
PRECEDENTIAL VALUE	Published precedential opinion of the North Carolina Court of Appeals.
PARTIES	Crawford Wheeler v. Kiyoka Wheeler

TOPICS

- equitable distribution
- family law procedure
- preservation of error
- appellate procedure
- military law

PRACTICE AREAS

- family law
- equitable distribution
- contracts
- military law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court was required to make a finding regarding the validity of an alleged separation agreement.
2. Whether the trial court improperly considered non-economic marital fault and misconduct under N.C. Gen. Stat. § 50-20(c) in ordering an unequal distribution of marital property.
3. Whether the trial court erred by classifying and distributing Survivor Benefit Plan coverage as marital property and ordering Plaintiff to maintain that coverage for Defendant.

HOLDINGS

1. The issue was not preserved for appellate review because Plaintiff did not plead or otherwise argue that the alleged separation agreement barred Defendant's equitable distribution claim and did not request a ruling on that issue in the trial court. The argument was therefore dismissed.
2. The trial court erred by considering Plaintiff's excessive alcohol use, domestic violence, threats to kill Defendant, and taking of Defendant's cards, identification, and passport as factors supporting an unequal distribution because those matters were non-economic marital misconduct unrelated to the economic condition of the marriage. The equitable distribution order was vacated and remanded for reassessment without considering those improper factors.
3. The court declined to decide whether Survivor Benefit Plan coverage is properly classified, valued, and distributed as marital property because the issue was not argued at trial and was inadequately briefed. The order was not reversed on that ground, but the trial court was instructed on remand to hold a hearing allowing the parties to present evidence and arguments concerning SBP, including whether it is part of military retirement benefits or a distinct asset and whether Plaintiff may be required to maintain it.

KEY QUOTATIONS

“Therefore, the Court “h[e]ld that marital fault or misconduct of the parties which is not related to the economic condition of the marriage is not germane to a division of marital property under [Section] 50-20(c) and should not be considered” by the trial court.” (11)

“VACATED AND REMANDED.” (17)

FACTUAL BACKGROUND

The parties married in Japan in February 2005, later moved to North Carolina, and separated in July 2014. Plaintiff had a lengthy military career and military retirement benefits; Defendant claimed that she had forgone employment opportunities during the marriage and had lost Social Security benefits in Japan. The trial court found that an equal distribution would not be equitable and relied in part on Plaintiff's alleged alcohol abuse, domestic violence, threats, and taking of Defendant's identity documents. The record also contained a military retiree statement showing Survivor Benefit Plan coverage and Defendant as the beneficiary.

PROCEDURAL HISTORY

The parties married in February 2005, separated in July 2014, and Plaintiff filed for absolute divorce in June 2021. The trial court entered a divorce judgment while reserving other matters, later conducted a bench trial on equitable distribution and alimony, and entered an August 16, 2024 order awarding Defendant a \$250,000 cash distributive award and requiring Plaintiff to maintain Survivor Benefit Plan coverage for Defendant. Plaintiff appealed.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The trial court must reassess the equitable distribution without considering the improper non-economic marital-fault factors. On remand, the trial court must hold a hearing allowing the parties to present arguments and evidence concerning the classification, valuation, and distribution of Survivor Benefit Plan coverage, including whether SBP is a component of Plaintiff's military retirement benefits or a distinct asset subject to independent distribution. The trial court may reconsider whether Plaintiff may be required to maintain SBP as part of the equitable distribution order.

CASES CITED

- Blue v. Bhiri, 381 N.C. 1, 6, 871 S.E.2d 691, 695 (2022)
- Smallwood v. Smallwood, 227 N.C. App. 319, 331, 742 S.E.2d 814, 822 (2013)
- Kaylor v. Kaylor, 296 N.C. App. 80, 82-83, 88, 907 S.E.2d 758, 761, 765 (2024)
- State v. Sharpe, 344 N.C. 190, 194-95, 473 S.E.2d 3, 5 (1996)
- Weil v. Herring, 207 N.C. 6, 10, 175 S.E. 836, 838 (1934)
- Woodard v. Mordecai, 234 N.C. 463, 470, 67 S.E.2d 639, 644 (1951)
- Mann Contractors, Inc. v. Flair with Goldsmith Consultants-II, Inc., 135 N.C. App. 772, 774, 522 S.E.2d 118, 120-21 (1999)
- Farmers Bank v. Brown Distribs., Inc., 307 N.C. 342, 298 S.E.2d 357 (1983)
- Hagler v. Hagler, 319 N.C. 287, 295, 354 S.E.2d 228, 234-35 (1987)
- Miller v. Talton, 112 N.C. App. 484, 487, 435 S.E.2d 793, 796-97 (1993)
- Howell v. Landry, 96 N.C. App. 516, 526, 386 S.E.2d 610, 616 (1989)
- Truesdale v. Truesdale, 89 N.C. App. 445, 450, 366 S.E.2d 512, 516 (1988)
- Smith v. Smith, 314 N.C. 80, 86-87, 332 S.E.2d 682, 686-87 (1985)
- Fountain v. Fountain, 148 N.C. App. 329, 341-42, 559 S.E.2d 25, 34-35 (2002)
- Becker v. Becker, 127 N.C. App. 409, 412, 489 S.E.2d 909, 912 (1997)
- Ellison v. Ellison, 242 N.C. App. 386, 387, 390, 776 S.E.2d 522, 523-24, 525 (2015)
- Willis v. Willis, 86 N.C. App. 546, 550, 358 S.E.2d 571, 573 (1987)
- Zurofsky v. Shaffer, 236 N.C. App. 219, 236, 763 S.E.2d 755, 765 (2014)

