

COURT OF APPEALS OF MARYLAND

Boemio v. Boemio, 414 Md. 118

994 A.2d 911 (2010) · No. No. 57, September Term, 2009 · Decided May 11, 2010

SUMMARY

The Maryland Court of Appeals held that a circuit court may consult reliable, neutral, nonlegislative alimony guidelines as an aid in determining the amount and duration of an award under Maryland Family Law § 11-106. Such guidelines are permissible when they do not replace or undermine the statute’s required considerations. The court affirmed the award of indefinite alimony of \$3,000 per month.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Adkins, J.; Bell, C.J.; Harrell, J.; Battaglia, J.; Greene, J.; Murphy, J.; Barbera, J.
JURISDICTION	Maryland
DECIDED	May 11, 2010
DOCKET	No. 57, September Term, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for a writ of certiorari seeking review of an unreported Court of Special Appeals decision affirming a circuit court's award of indefinite alimony.
STANDARD OF REVIEW	An alimony award will not be disturbed absent arbitrary use of discretion or a clearly wrong judgment. Factual findings concerning unconscionable disparity are reviewed for clear error, while the ultimate alimony award is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential
PARTIES	Thomas Boemio v. Cynthia Boemio, formerly known as Cynthia Seixas

TOPICS

- alimony
- spousal support
- statutory interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

family law

alimony

spousal support

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether a trial court may consult nonlegislative alimony guidelines from a reliable and neutral source when determining the amount and duration of alimony under Maryland Family Law § 11-106.
2. Whether the circuit court properly awarded indefinite alimony based on an unconscionable disparity in the parties' respective standards of living under Maryland Family Law § 11-106(c)(2).

HOLDINGS

1. A trial court may consult guidelines promulgated by a reliable and neutral source as an aid in determining the amount and duration of alimony, provided the guidelines do not conflict with, supplant, or undermine the statutory considerations in Maryland Family Law § 11-106.
2. The circuit court did not abuse its discretion or make clearly erroneous findings in awarding Seixas indefinite alimony because the evidence supported an unconscionable disparity in the parties' respective standards of living after consideration of the duration of the marriage, income disparity, marital lifestyle, the parties' contributions, Seixas's career sacrifices, and Boemio's enhanced earning capacity.

KEY QUOTATIONS

“We hold that the consultation of guidelines promulgated by a reliable and neutral source that do not conflict with or undermine any of the considerations expressed in the statute is permissible.” (414 Md. at 118)

“Therefore, we conclude that the court did not err in consulting those guidelines after conducting its statutory analysis.” (414 Md. at 922)

“Thus, we affirm the CSA's decision to affirm the Circuit Court.” (414 Md. at 928)

FACTUAL BACKGROUND

The parties were married for more than twenty-one years and had two children. Boemio earned a substantially higher income and obtained an MBA during the marriage, while Seixas reduced her employment income to take a less demanding job and serve as the primary caregiver for the children. The parties enjoyed a comfortable middle-class lifestyle, paid off their home mortgage, and saved for retirement and their children's education. At trial, Boemio earned approximately four times Seixas's income, and the circuit court found that Seixas could not reasonably become fully self-supporting or maintain the marital standard of living without alimony.

PROCEDURAL HISTORY

Boemio filed for divorce in the Circuit Court for Montgomery County, Maryland. After a two-day trial, the circuit court awarded Seixas indefinite alimony of \$3,000 per month after considering the statutory factors in Maryland Family Law § 11-106 and consulting American Academy of Matrimonial Lawyers guidelines. The Court of Special Appeals affirmed in an unreported opinion, and the Court of Appeals of Maryland granted certiorari and affirmed.

DISPOSITION

affirmed

CASES CITED

- Solomon v. Solomon, 383 Md. 176, 857 A.2d 1109 (2004)
- Tracey v. Tracey, 328 Md. 380, 614 A.2d 590 (1992)
- Roginsky v. Blake-Roginsky, 129 Md. App. 132, 740 A.2d 125 (1999), cert. denied, 358 Md. 164, 747 A.2d 645 (2000)
- Simonds v. Simonds, 165 Md. App. 591, 886 A.2d 158 (2005)
- Lee v. Andochick, 182 Md. App. 268, 957 A.2d 1038 (2008)
- Rogers v. Rogers, 80 Md. App. 575, 565 A.2d 361 (1989)
- Turrisi v. Sanzaro, 308 Md. 515, 520 A.2d 1080 (1987)
- Blaine v. Blaine, 336 Md. 49, 646 A.2d 413 (1994)
- Alston v. Alston, 331 Md. 496, 629 A.2d 70 (1993)
- Digges v. Digges, 126 Md. App. 361, 730 A.2d 202 (1999)
- Turner v. Turner, 147 Md. App. 350, 809 A.2d 18 (2002)
- Innerbichler v. Innerbichler, 132 Md. App. 207, 752 A.2d 291 (2000)
- Wallace v. Wallace, 290 Md. 265, 429 A.2d 232 (1981)
- Kelly v. Kelly, 153 Md. App. 260, 836 A.2d 695 (2003)
- Cullum v. Cullum, 215 Ariz. 352, 160 P.3d 231 (App. 2007)