

SUPREME COURT OF MISSISSIPPI

Margaret Lynn Owen v. Kenneth Whiteside Owen

Owen · No. No. 2002-CA-00995-SCT · Decided May 10, 2002

SUMMARY

The Mississippi Supreme Court reviewed the remand proceedings in a divorce case involving equitable distribution of marital property under the Ferguson factors. The court held that the chancery court failed to provide adequate legal conclusions supporting its continued 60/40 division of marital assets and reversed and remanded for a new equitable distribution. The court also remanded a \$5,000 offset judgment related to property allegedly not produced for sale because the valuation and calculation were insufficiently explained.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Easley, Justice; Cobb, P.J.; Easley, J.; Dickinson, J.; Smith, C.J.; Waller, P.J.; Carlson, J.; Graves, J.; Diaz, J.; Randolph, J.
JURISDICTION	Mississippi
DECIDED	May 10, 2002
DOCKET	No. 2002-CA-00995-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Margaret appealed a supplemental divorce judgment entered on remand from the Mississippi Supreme Court. She challenged the chancellor's continued 60/40 distribution of marital property and a \$5,000 judgment imposed against her to offset property allegedly not delivered for public sale.
STANDARD OF REVIEW	A chancellor's property division and distribution is reviewed under a limited standard and will be upheld if supported by substantial credible evidence. Findings are upheld unless clearly erroneous or based on an erroneous legal standard; reversal is warranted when the decision is manifestly wrong or applies an erroneous legal standard. Credibility determinations are given deference when supported by credible evidence.
PRECEDENTIAL VALUE	published
PARTIES	Margaret Lynn Owen v. Kenneth Whiteside Owen

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the chancellor complied with the prior remand by applying the Ferguson factors and explaining the continued 60/40 division of marital property through findings of fact and conclusions of law.
2. Whether the \$5,000 judgment imposed against Margaret to offset property allegedly not produced for public sale was supported by a sufficiently detailed analysis.
3. Whether the chancellor erred by admitting a repair estimate for the Jaguar without expert testimony.
4. Whether the chancellor could find that the Jaguar was damaged while in Margaret's possession based on Kenneth's testimony.

HOLDINGS

1. The chancellor addressed the applicable Ferguson factors and made factual findings, but failed to provide conclusions of law explaining how those factors supported leaving the 60/40 division unchanged. The judgment therefore had to be reversed and remanded for a new equitable-distribution analysis.
2. The \$5,000 judgment had to be reversed and remanded because the chancellor did not provide a detailed analysis showing how the amount was calculated or how the Mercedes, camera equipment, and Jaguar factored into the award.
3. The chancellor erred in admitting the Jaguar repair estimate without expert testimony.
4. The chancellor was permitted to credit Kenneth's testimony over Margaret's testimony because credibility determinations are within the chancellor's role as factfinder, but the Jaguar's role in the \$5,000 judgment still required clarification on remand.

KEY QUOTATIONS

“In Ferguson, this Court held that chancellors are required to consider the applicable factors and support their decisions with findings of fact and conclusions of law for appellate review.” (¶ 25)

“On remand, the chancellor shall provide an application of the Ferguson factors, findings of fact, and a conclusion of law to explain how he arrived at his determination of what constitutes equitable division and distribution of the marital property, regardless of the percentages he assigns.” (¶ 39)

FACTUAL BACKGROUND

Margaret and Kenneth Owen were married in 1987 and accumulated two homes, vehicles, an investment account, and retirement assets during the marriage. Kenneth had the higher income and made substantial

financial contributions, while Margaret attended college, performed household duties, worked part-time, operated an art business, and contributed to repairs and other marital activities. The chancellor awarded Kenneth 60% and Margaret 40% of the marital-property proceeds and later imposed a \$5,000 offset against Margaret for property allegedly not delivered for public sale. The disputed property included a Mercedes, camera equipment, and a Jaguar that Kenneth claimed had been damaged while in Margaret's possession.

PROCEDURAL HISTORY

The Union County Chancery Court originally granted the parties a divorce on irreconcilable-differences grounds and divided marital-property-sale proceeds 60% to Kenneth and 40% to Margaret. In *Owen I*, the Mississippi Supreme Court reversed and remanded because the chancellor failed to specifically address the applicable Ferguson factors. On remand, the chancellor submitted the matter on briefs, issued a supplemental opinion addressing the factors, and left the 60/40 distribution unchanged; he also entered a \$5,000 judgment against Margaret following a contempt-related hearing. The Supreme Court reversed again and remanded for an equitable-distribution analysis supported by findings of fact and conclusions of law, and for a detailed analysis of the \$5,000 judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The chancery court must apply the applicable Ferguson factors, make findings of fact and conclusions of law explaining how those factors support an equitable division and distribution of the marital property, regardless of the resulting percentages. It must also provide a detailed analysis of how the \$5,000 judgment was calculated, identify the items included, readdress the Mercedes and camera equipment, and clarify whether and how the Jaguar factored into the judgment. The court must address the admissibility and evidentiary foundation for repair-cost damages consistently with the opinion.

CASES CITED

- *Owen v. Owen*, 798 So. 2d 394 (Miss. 2001)
- *Reddell v. Reddell*, 696 So. 2d 287, 288 (Miss. 1997)
- *Carrow v. Carrow*, 642 So. 2d 901, 904 (Miss. 1994)
- *Savelle v. Savelle*, 650 So. 2d 476, 479 (Miss. 1995)
- *Hemsley v. Hemsley*, 639 So. 2d 909, 914-915 (Miss. 1994)
- *Richardson v. Riley*, 355 So. 2d 667, 668 (Miss. 1978)
- *Lauro v. Lauro*, 847 So. 2d 843, 847 (Miss. 2003)
- *Ferguson v. Ferguson*, 639 So. 2d 921, 928 (Miss. 1994)
- *Chamblee v. Chamblee*, 637 So. 2d 850, 863-864 (Miss. 1994)
- *Craft v. Craft*, 825 So. 2d 605, 614 (Miss. 2002)
- *Trovato v. Trovato*, 649 So. 2d 815, 818 (Miss. 1995)

- *Pierce v. Pierce*, 648 So. 2d 523, 526 (Miss. 1994)
- *Sandlin v. Sandlin*, 699 So. 2d 1198, 1203 (Miss. 1997)
- *Williams v. State*, 708 So. 2d 1358, 1360 (Miss. 1998)
- *United Plumbing & Heating Co. v. Mosley*, 835 So. 2d 88, 92 (Miss. App. 2002)
- *Bryan Bros. Packing Co. v. Grubbs*, 251 Miss. 52, 168 So. 2d 289, 293 (1964)
- *National Fire Ins. Co. of Hartford v. Slayden*, 227 Miss. 285, 85 So. 2d 916 (1956)
- *Sims v. Collins*, 762 So. 2d 785, 790 (Miss. App. 2000)
- *In re Taylor*, 609 So. 2d 393 (Miss. 1992)
- *Simmons v. Jagers*, 914 So. 2d 693, 697 (Miss. 2005)
- *In re Estate of Carter*, 912 So. 2d 138, 143 (Miss. 2005)

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