

SUPREME COURT OF MISSISSIPPI

Danny L. Holley v. Wanda S. Holley

Holley · No. No. 2006-CA-01230-SCT · Decided June 27, 2006

SUMMARY

The Mississippi Supreme Court reviewed whether a chancery court awarded excessive alimony in the divorce of Danny and Wanda Holley. The court held that the \$750 monthly periodic alimony award and \$500 monthly arrearage payment were supported by the evidence and affirmed the judgment.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Justice Dickinson; Presiding Justice Diaz; Justice Lamar
JURISDICTION	Mississippi
DECIDED	June 27, 2006
DOCKET	No. 2006-CA-01230-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Danny Holley appealed a chancery court judgment awarding Wanda Holley periodic alimony and alimony arrearages after remand from a prior appeal.
STANDARD OF REVIEW	An alimony award will not be reversed unless it is against the overwhelming weight of the evidence; the chancellor's determinations are entitled to deference when supported by substantial evidence and may be reversed only if manifestly wrong or clearly erroneous.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Mississippi; precedential.
PARTIES	Danny L. Holley v. Wanda S. Holley

TOPICS

- alimony
- divorce
- standard of review
- appellate procedure
- family law

PRACTICE AREAS

- family law
- alimony
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the chancery court's award of \$750 per month in periodic alimony was excessive and unsupported by the evidence.
2. Whether the chancery court appropriately calculated Danny's income by averaging his income over the six years preceding trial.
3. Whether the chancery court properly awarded periodic alimony without a fixed time limitation and with termination upon remarriage or death.

HOLDINGS

1. The \$750-per-month periodic alimony award was supported by the evidence and was not manifestly erroneous or excessive.
2. The chancellor properly averaged Danny's income over the six years preceding trial because his commission-based income fluctuated substantially.
3. Periodic alimony may not be subject to a fixed time limitation and ordinarily terminates upon the recipient spouse's remarriage or either party's death; the award was therefore properly ordered to continue until one of those events.

KEY QUOTATIONS

“Periodic alimony may not be subject to time limitations.” (¶11)

FACTUAL BACKGROUND

Danny and Wanda Holley had been married for nineteen years when they divorced. Danny was a commission-based stock broker whose income fluctuated because of client losses, market conditions, and other factors, while Wanda was a partner in an accounting firm and had expenses exceeding her income. The chancellor considered the parties' needs, incomes, expenses, marriage length, children's residence with Wanda, Danny's adulterous conduct, and the other Armstrong factors, then awarded Wanda \$750 per month in periodic alimony and \$500 per month in arrearages.

PROCEDURAL HISTORY

The Lowndes County Chancery Court granted the parties a divorce in 2002 and initially ordered Danny to pay \$2,000 per month in periodic alimony for sixty months. The Mississippi Supreme Court reversed and remanded for determination of the appropriate type and amount of alimony. On remand, the chancery court reconsidered the original trial evidence and awarded Wanda \$750 per month in periodic alimony and \$500 per month in arrearages. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Holley v. Holley, 2002-CT-00296-SCT (Miss. 2002)

- Harrell v. Harrell, 231 So. 2d 793 (Miss. 1970)
- McEwen v. McEwen, 631 So. 2d 821, 823 (Miss. 1994)
- Sanderson v. Sanderson, 824 So. 2d 623, 626 (Miss. 2002)
- Armstrong v. Armstrong, 618 So. 2d 1278, 1281-82 (Miss. 1993)
- Roberts v. Roberts, 924 So. 2d 550, 553 (Miss. App. 2005)
- Murphy v. Murphy, 631 So. 2d 812, 815 (Miss. 1994)
- Creekmore v. Creekmore, 651 So. 2d 513, 517 (Miss. 1995)
- McDonald v. McDonald, 683 So. 2d 929 (Miss. 1996)
- Waldron v. Waldron, 743 So. 2d 1064, 1065 (Miss. App. 1999)

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