

SUPREME COURT OF VERMONT

Jenike v. Jenike

177 Vt. 502 (2004) · Decided August 3, 2004

SUMMARY

The Vermont Supreme Court reversed and remanded divorce-related decisions concerning spousal maintenance and property distribution. It held that the family court improperly based maintenance on the husband's emotional abuse and fault, which are not factors authorized by Vermont's maintenance statute. The court also held that ordinary-course management of an investment account was not, without more, a violation of an interim order, while leaving open consideration of improper withdrawals or deliberately imprudent investment decisions.

CASE DETAILS

COURT	Supreme Court of Vermont
JURISDICTION	Vermont
DECIDED	August 3, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Husband appealed the Windsor Family Court's divorce judgment concerning property distribution and spousal maintenance.
STANDARD OF REVIEW	The party challenging a property or maintenance award must show that no reasonable basis supports the award. The family court has broad discretion in awarding maintenance and wide discretion in valuing and equitably dividing marital property; the Supreme Court will not disturb the property award absent an abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Jenike, husband v. Jenike, wife

TOPICS

- spousal support
- equitable distribution
- divorce
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- family law
- divorce
- spousal support
- equitable distribution
- appellate procedure

QUESTIONS PRESENTED

1. Whether the family court improperly considered husband's fault, emotional abuse, and alleged misconduct in awarding spousal maintenance.
2. Whether the family court improperly treated husband's continued stock trading during the divorce as a violation of the interim domestic-relations order and relied on the resulting losses in valuing the Fidelity investment account.
3. Whether the \$100,000 property-settlement payment should stand after reversal of the maintenance award and Fidelity-account valuation.

HOLDINGS

1. A spousal-maintenance award may not be based on the recipient spouse's desire to punish the other spouse or on the other spouse's fault for ending the marriage. The maintenance determination must be based on the statutory financial considerations identified in 15 V.S.A. § 752.
2. The family court erred by treating husband's continued buying and selling of stocks in the Fidelity account, when conducted as business in the ordinary course, as a violation of the interim order merely because the account lost value in a declining market.
3. The \$100,000 property-settlement payment and the property award had to be vacated and reconsidered because the family court was required to reconsider maintenance and the valuation of the Fidelity account.

KEY QUOTATIONS

“The purpose of maintenance is “to correct the vast inequality of income resulting from ... divorce.”” (504)

“The statute contains no language suggesting that fault or punishment are valid considerations for awarding maintenance.” (505)

“The evidence supports husband’s claim that his management of the investment account was, for him, “business in the ordinary course” and not prohibited by the general language of the interim domestic relations order.” (505)

FACTUAL BACKGROUND

The parties were married for fifteen years, had no children together, and had comparable education and employment, although husband earned slightly more than wife. Husband maintained substantial investments and withdrew approximately \$145,000 from a Fidelity account shortly after wife filed for divorce, later reducing the account's value to approximately \$15,000 through withdrawals and trading activity. The family court found that husband had emotionally abused and threatened wife and relied on that conduct in awarding her spousal maintenance, while also valuing the Fidelity account at \$260,000 for property-distribution purposes.

PROCEDURAL HISTORY

The Windsor Family Court awarded wife a greater-than-equal share of the marital property, ordered husband to pay \$100,000 as part of the property settlement, and awarded wife \$300 per month in spousal maintenance for fifteen years. After the family court denied husband's motion for reconsideration, husband appealed. The

Supreme Court of Vermont reversed the maintenance award and the valuation of husband's Fidelity account, vacated the property award, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The family court must reconsider wife's maintenance request without taking into account husband's fault for ending the marriage, reconsider the valuation of the Fidelity account without treating ordinary-course stock trading and resulting market losses as violations of the interim order, and reconsider the property award, including the \$100,000 payment, in light of those determinations.

CASES CITED

- Bell v. Bell, 162 Vt. 192, 197-98, 643 A.2d 846, 850 (1994)
- Delozier v. Delozier, 161 Vt. 377, 381, 640 A.2d 55, 57 (1994)
- Strauss v. Strauss, 160 Vt. 335, 338, 628 A.2d 552, 554 (1993)
- Lewis v. Lewis, 149 Vt. 19, 24, 538 A.2d 170, 173 (1987)
- Downs v. Downs, 154 Vt. 161, 168, 574 A.2d 156, 159 (1990)
- DeGrace v. DeGrace, 147 Vt. 466, 470, 520 A.2d 987, 990 (1986)
- Jakab v. Jakab, 163 Vt. 575, 585, 664 A.2d 261, 267 (1995)
- Richter v. Richter, 515 N.Y.S.2d 876, 878 (App. Div. 1987)
- Semprebon v. Semprebon, 157 Vt. 209, 216, 596 A.2d 361, 365 (1991)