

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Dewald v. Dewald

Dewald, 2026 NY Slip Op 02370 (Supreme Court of the State of New York Appellate Division First Department 2026) · No. Index No. 365136/23; Appeal No. 6412; Case No. 2025-03454 · Decided April 21, 2026

SUMMARY

The Appellate Division, First Department, reviewed an order concerning post-divorce spousal maintenance and counsel fees. The court affirmed the denial of spousal maintenance but vacated the \$5,500 counsel-fee award because the lower court did not satisfy the written-decision requirements of 22 NYCRR 130-1.2.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Renwick, P.J.; Friedman, J.; Gesmer, J.; Pitt-Burke, J.; Hagler, J.
JURISDICTION	New York Supreme Court, Appellate Division, First Department
DECIDED	April 21, 2026
DOCKET	Index No. 365136/23; Appeal No. 6412; Case No. 2025-03454
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of Supreme Court, New York County, entered after a trial, that denied the defendant husband spousal maintenance and ordered him to pay the plaintiff wife's \$5,500 counsel-fee award.
STANDARD OF REVIEW	The denial of post-divorce maintenance based on deviation from statutory guidelines is reviewed for abuse of discretion; factual and credibility findings receive substantial deference. The legal sufficiency of the counsel-fee award was reviewed under the requirements of 22 NYCRR 130-1.2.
PRECEDENTIAL VALUE	Published appellate decision; the opinion states that it was published pursuant to Judiciary Law § 431, but also states that it was uncorrected and subject to revision before publication in the Official Reports.
PARTIES	Jerome W. Dewald v. Kristina Y. Dewald

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QUESTIONS PRESENTED

1. Whether Supreme Court abused its discretion by deviating from the statutory maintenance guidelines and denying the husband post-divorce spousal maintenance.
2. Whether Supreme Court properly considered the factors required by Domestic Relations Law § 236(B) (6) in denying maintenance.
3. Whether Supreme Court's counsel-fee award could stand when the court failed to comply with the written-decision requirements of 22 NYCRR 130-1.2.

HOLDINGS

1. Supreme Court did not abuse its discretion in deviating from the statutory maintenance guidelines and determining that the husband was not entitled to post-divorce maintenance.
2. The \$5,500 counsel-fee award had to be vacated because Supreme Court failed to comply with 22 NYCRR 130-1.2's requirement that a written decision identify the conduct supporting the award, explain why the conduct was frivolous, and explain why the amount awarded was appropriate.

KEY QUOTATIONS

"Under that section, a court may award costs or impose sanctions "only upon a written decision setting forth the conduct on which the award or imposition is based, the reasons why the court found the conduct to be frivolous, and the reasons why the court found the amount awarded or imposed to be appropriate."" ([*2])

FACTUAL BACKGROUND

The parties had a relatively short marriage and spent periods living apart. The husband sought post-divorce maintenance, asserting that he lacked assets because he had invested his money in the marriage and lifestyle and that his age prevented him from rebuilding financial security. Supreme Court considered the statutory maintenance guidelines and relevant factors, including the husband's age, assets, prior fraud conviction, maintenance previously paid pendente lite, and the parties' ages and marital standard of living. Supreme Court also ordered the husband to pay \$5,500 in counsel fees, but its decision did not specify the allegedly frivolous conduct or explain the amount imposed.

PROCEDURAL HISTORY

After a trial, Supreme Court, New York County, declined to award the husband post-divorce spousal maintenance and ordered him to pay the wife \$5,500 in counsel fees under 22 NYCRR 130-1.1. The husband appealed. The Appellate Division modified the order by vacating the counsel-fee award and otherwise affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

None stated. The order was modified by vacating the counsel-fee award and was otherwise affirmed.

CASES CITED

- Van Boxtel v. Van Boxtel, 233 A.D.3d 463, 463 (1st Dep't 2024)
- Rennock v. Rennock, 203 A.D.3d 675 (1st Dep't 2022)
- Warshaw v. Warshaw, 173 A.D.3d 582, 583 (1st Dep't 2019)
- Fishman v. Fishman, 244 A.D.3d 526, 527-528 (1st Dep't 2025)
- Matter of Anthony L. v. Bernadette R., 193 A.D.3d 510, 511 (1st Dep't 2021)
- Gordon Group Invs., LLC v. Kugler, 127 A.D.3d 592, 595 (1st Dep't 2015)

OPINION

PER CURIAM.

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affirmed, without costs.

The husband failed to establish that Supreme Court abused its discretion in deviating from the statutory guidelines to determine that he was not entitled to an award of post-divorce maintenance (*see Van Boxtel v Van Boxtel*, 233 AD3d 463, 463 [1st Dept 2024]; *Rennock v Rennock*, 203 AD3d 675 [1st Dept 2022]).

After Supreme Court computed the presumptive amount and duration of maintenance under the guidelines set forth in Domestic Relations Law § 236(B)(6)(e)(1), it considered the factors that warranted a deviation from the statutory formulas. These factors included but were not limited to the husband's age and assets, as well as his prior criminal conviction for fraud; the maintenance that the wife had already paid pendente lite; and the fact that the parties had spent time living apart during their relatively short marriage.

Consideration of these factors provided a sufficient basis for the court's decision not to award maintenance to the husband. In addition, although the husband asserts that the court overlooked Domestic Relations Law § 236(B)(6) factors that it was required to consider — for example, the large disparity in the parties' ages and their standard of living during the marriage — the record makes clear that the court did, in fact, consider those factors.

Contrary to the husband's assertion otherwise, any factual errors made by the court in its assessment are largely immaterial and do not change the analysis.

We also reject the husband's assertions that he lacks assets after investing all his money in the marriage and the parties' lifestyle, and that his age prevents him from rebuilding financial security.

The husband made these same arguments before Supreme Court, which properly rejected them, as it was not required to rely solely on his representations of his financial status (*see* *Warshaw v Warshaw*, 173 AD3d 582, 583 [1st Dept 2019]).

The court also noted that it did not find the husband's testimony to be credible, and this finding is entitled to great deference (*Fishman v Fishman*, 244 AD3d 526, 527-528 [1st Dept 2025]; *Matter of Anthony L. v Bernadette R.*, 193 AD3d 510, 511 [1st Dept 2021]).

However, the award of counsel fees requires vacatur, as the court did not satisfy the procedural requirements of 22 NYCRR 130-1.2.

Under that section, a court may award costs or impose sanctions "only upon a written decision setting forth the conduct on which the award or imposition is based, the reasons why the court found the conduct to be frivolous, and the reasons why the court found the amount awarded or imposed to be appropriate."

Here, the court did not set forth the conduct it found to be frivolous, nor did it provide the reason for its decision to impose counsel fees (*Gordon Group Invs., LLC v Kugler*, 127 AD3d 592, 595 [1st Dept 2015]).

We have considered the husband's remaining arguments and find them unavailing.

THIS CONSTITUTES THE DECISION AND ORDER OF THE

SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED:
April 21, 2026

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PER CURIAM.

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