

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Paul Witt v. Tonya A. Witt

74 So. 3d 1127 (Fla. 2d DCA 2011) · No. No. 2D10-857 · Decided November 18, 2011

SUMMARY

The Florida Second District Court of Appeal reversed and remanded a dissolution judgment because the equitable distribution scheme lacked specific findings identifying marital and nonmarital assets, liabilities, and their allocation. The court also directed the trial court to make the statutorily required findings concerning the denial of alimony and to apply the current version of the procedural alimony statute on remand.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Khouzam; Northcutt; Villanti
JURISDICTION	Florida
DECIDED	November 18, 2011
DOCKET	No. 2D10-857
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The former husband and former wife timely appealed and cross-appealed the final judgment of dissolution of marriage, challenging the equitable distribution scheme and the denial of alimony.
STANDARD OF REVIEW	The circuit court's equitable distribution findings are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published appellate opinion; precedential
PARTIES	Paul Witt v. Tonya A. Witt

TOPICS

- equitable distribution
- alimony
- dissolution of marriage
- family law procedure
- standard of review

PRACTICE AREAS

- Family law
- Appellate procedure
- Equitable distribution
- Alimony

QUESTIONS PRESENTED

1. Whether the final judgment's equitable distribution scheme complied with section 61.075 by containing specific findings identifying marital and nonmarital property, assigning liabilities, and supporting the distribution.
2. Whether the trial court was required to make factual findings addressing the statutory alimony factors when denying the former wife's alimony request.
3. Which version of section 61.08 the trial court should apply on remand.

HOLDINGS

1. A final judgment distributing marital assets and liabilities must contain specific written findings identifying the marital and nonmarital property, assigning liabilities and property to the parties, and showing that the distribution is supported by competent, substantial evidence and the statutory factors. The judgment here was insufficiently clear and required reversal.
2. When determining or denying alimony, the trial court must make factual findings addressing the relevant statutory economic factors. The circuit court's explanation that alimony was unnecessary because the husband would make an equalizing payment and the marriage was short-term did not satisfy section 61.08.
3. Because section 61.08 is procedural in nature, the trial court should apply the current version of the statute on remand.

KEY QUOTATIONS

“A final judgment which fails to include the statutory requirements is difficult to review and requires reversal.” (74 So. 3d at 1128)

“Regrettably, the final judgment did not delineate the equitable distribution scheme to show what property the court found to be marital, what property it found to be nonmarital, and which party should receive each item as required by section 61.075(1).” (74 So. 3d at 1129)

FACTUAL BACKGROUND

Paul and Tonya Witt married on August 17, 2002, and filed for dissolution on November 21, 2005. After a final hearing on May 6, 2009, the circuit court entered a judgment addressing equitable distribution and denying Tonya's request for alimony. The judgment did not assign a \$100,000 contingent tax liability, did not incorporate the parties' stipulation concerning the premarital portion of business assets, did not clearly identify marital and nonmarital property or allocate each item, and denied alimony without addressing all required statutory factors.

PROCEDURAL HISTORY

The circuit court entered a final judgment following a dissolution hearing. The judgment distributed marital assets and liabilities and denied the former wife's request for alimony. The parties appealed and cross-appealed; the district court reversed and remanded because the equitable distribution findings were insufficient and the alimony findings did not satisfy the governing statute.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must create a properly delineated equitable distribution scheme, make specific findings supporting the distribution under section 61.075, make appropriate factual findings regarding alimony under section 61.08, and apply the current version of section 61.08. The court must reconsider the distribution scheme, including alimony, as necessary.

CASES CITED

- Canakaris v. Canakaris, 382 So. 2d 1197, 1202-03 (Fla. 1980)
- Prest v. Tracy, 749 So. 2d 538, 539-40 (Fla. 2d DCA 2000)
- Santiago v. Santiago, 51 So. 3d 637, 638 (Fla. 2d DCA 2011)
- Guobaitis v. Sherrer, 18 So. 3d 28, 33 (Fla. 3d DCA 2009)
- R.A.M. of S. Fla., Inc. v. WCI Cmty., Inc., 869 So. 2d 1210, 1216 (Fla. 2d DCA 2004)