

**DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FIFTH
DISTRICT**

Coleman v. Bland

187 So. 3d 298 (Fla. 5th DCA 2016) · No. 5D14-3779 · Decided February 29, 2016

SUMMARY

The Florida Fifth District Court of Appeal considered whether the marital portion of a former husband's pension was de minimis and could therefore be awarded entirely to him in an equitable distribution proceeding. The court held that the trial court erred in assigning no value to the marital pension interest, reversed the relevant order, and remanded for reconsideration of its disposition.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fifth District
WRITING FOR THE COURT	Palmer, J.; Lawson, C.J.; Evander, J.
JURISDICTION	Florida
DECIDED	February 29, 2016
DOCKET	5D14-3779
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The former wife appealed an order entered after remand in a dissolution proceeding. The order awarded her no portion of the former husband's pension on the ground that the marital portion was de minimis.
STANDARD OF REVIEW	Abuse of discretion for the trial court's determination of equitable distribution and its valuation and distribution of marital assets; the distribution must be supported by factual findings based on competent substantial evidence.
PRECEDENTIAL VALUE	Published precedential opinion of the Florida Fifth District Court of Appeal
PARTIES	Arvita M. Coleman, former wife v. Michael Bland, former husband

TOPICS

- equitable distribution
- family law
- appellate procedure
- standard of review
- remedies

PRACTICE AREAS

family law

equitable distribution

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by determining that the marital portion of the former husband's pension was de minimis and awarding the former wife no portion of it.
2. Whether the trial court's valuation and disposition of the marital portion of the pension were supported by competent substantial evidence and equitable-distribution principles.

HOLDINGS

1. The trial court erred by determining that the marital portion of the pension was of de minimis value and by awarding the former wife no portion of it.

KEY QUOTATIONS

“The \$89.67 might be de minimis to [the former husband]; however, it is clearly not de minimis to [her] as it would increase her \$331 per month income by 27.1%.” (187 So. 3d at 300)

“Thus, the trial court erred when it determined that the marital portion of the pension was of de minimis value.” (187 So. 3d at 300-01)

FACTUAL BACKGROUND

The former husband worked for the Yonkers School Board of Education for approximately 31 years and retired after 49 weeks of marriage to the former wife. The parties' marriage lasted 39 months, and the former husband's pension paid approximately \$5,900 per month. On remand, the trial court determined that approximately three percent of the pension was earned during the marriage but awarded the former wife no share, finding the marital portion de minimis in light of the parties' circumstances and support the husband provided after the petition for dissolution was filed.

PROCEDURAL HISTORY

The circuit court dissolved the parties' marriage and equitably distributed their marital property. On the former wife's first appeal, the Fifth District affirmed in all respects except the pension issue, reversing and remanding because the trial court had failed to make findings concerning whether any portion of the pension was marital property. On remand, the trial court calculated that approximately three percent of the pension was marital but awarded the former wife no portion of it, deeming the amount de minimis. The former wife appealed that order, and the Fifth District reversed in part and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reconsider the proper disposition of the marital portion of the former husband's pension.

CASES CITED

- Coleman v. Bland, 73 So. 3d 795 (Fla. 5th DCA 2011)
- Bardowell v. Bardowell, 975 So. 2d 628 (Fla. 4th DCA 2008)
- Claughton v. Claughton, 625 So. 2d 853 (Fla. 3d DCA 1993)
- Locke v. Locke, 832 So. 2d 971 (Fla. 2d DCA 2002)

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