

SUPREME COURT OF ALASKA

Faris v. Taylor

444 P.3d 180 (Alaska 2019) · Decided July 12, 2019

SUMMARY

The Alaska Supreme Court reviewed a divorce property-division order involving the date of separation, classification and valuation of marital property, pension division, and recapture of post-separation retirement payments. The court affirmed most of the superior court's rulings, including the 2014 separation date, treatment of the Portland home as marital property, valuation of the Juneau home, and use of a QDRO. It vacated the recapture decision and remanded for specific factual findings concerning dissipation, waste, conversion, and whether the funds remained at the time of trial.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Chief Justice Bolger; Bolger; Carney; Maassen; Stowers; Winfree
JURISDICTION	Alaska
DECIDED	July 12, 2019
DISPOSITION	vacated
PROCEDURAL POSTURE	Faris appealed the superior court's property-division order entered in the parties' divorce proceeding, challenging the separation date, classification and valuation of property, pension allocation, use of a QDRO, and recapture of post-separation pension payments.
STANDARD OF REVIEW	The court reviewed the date-of-separation determination and the recapture order for abuse of discretion; classification and valuation of property for clear error; pension allocation for abuse of discretion; the legal rule applied in exercising discretion and the effect of the settlement agreement de novo.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential.
PARTIES	Tamra Faris v. Gordon Taylor

TOPICS

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PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the superior court used the correct legal standard and adequately supported its determination that the parties separated in 2014 rather than 2004.
2. Whether the Portland, Oregon home purchased in 2006 was marital property.
3. Whether the superior court clearly erred in valuing the Juneau home at \$450,000 rather than adopting a speculative higher value based on a possible subdivision.
4. Whether the superior court erred by dividing Faris's CSRS pension rather than awarding her all of its payments under the prior settlement agreement.
5. Whether the superior court abused its discretion by using a QDRO to divide future pension income when the pension valuations were conflicting.
6. Whether the superior court abused its discretion by recapturing post-separation pension payments without specific findings concerning dissipation, waste, conversion, or the continued existence of the funds.

HOLDINGS

1. The date of separation is determined through a fact-specific inquiry into when the marriage terminated as a joint enterprise or when the parties ceased functioning economically as a single unit; the superior court did not abuse its discretion in finding that the parties separated in 2014.
2. The Portland home purchased in 2006 was marital property because the parties' marriage did not terminate until 2014.
3. The superior court did not clearly err by valuing the Juneau property based on its existing, unsubdivided condition rather than on a hypothetical future subdivision.
4. The superior court did not err by dividing Faris's pension payments between the parties rather than awarding Faris 100 percent of the CSRS payments under the prior settlement agreement.
5. The superior court acted within its discretion by using a QDRO to divide the parties' future pension income when the evidence did not permit an accurate valuation of the pensions.
6. A superior court abuses its discretion by ordering recapture of marital assets no longer existing at trial without specific evidentiary findings of dissipation, waste, or conversion to a non-marital form, including findings regarding whether the assets still existed and whether conversion was intended to deprive the marital estate.

KEY QUOTATIONS

“Alaska law has defined [the separation date] as the point at which ‘the marriage has terminated as a joint enterprise’ or when a couple is no longer ‘functioning economically as a single unit.’” (444 P.3d at 184)

“We have stated that a superior court abuses its discretion when, absent specific evidentiary findings of dissipation, waste, or conversion to a non-marital form, it orders recapture of marital assets no longer

existing at the time of trial.” (444 P.3d at 187)

*“It was an abuse of discretion for the court to order a recapture of those funds absent such specific findings.”
(444 P.3d at 187)*

FACTUAL BACKGROUND

Gordon Taylor and Tamra Faris married in 1973 and lived primarily in Juneau. Faris moved to Hawaii in 2004 and Oregon in 2006 for federal employment, while Taylor remained in Juneau; both later retired and received pension benefits. The superior court determined that the marriage did not functionally terminate until 2014, classified the Portland home purchased in 2006 as marital property, divided the parties' pensions through a QDRO, and recaptured pension payments received after the 2014 separation date.

PROCEDURAL HISTORY

Taylor filed for divorce in 2013, and the parties reached a settlement agreement in February 2014. Faris sought to withdraw from the property-distribution provisions three days after the divorce decree, leading to a five-day property-division trial in late 2015 and early 2016. The superior court entered an order dividing the marital estate in May 2017, denied reconsideration on the challenged issues, and Faris appealed. The Alaska Supreme Court vacated the recapture ruling and remanded for additional findings while affirming the remainder of the property division.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The superior court must conduct a full recapture analysis and make clarifying, specific factual findings concerning what happened to the post-separation retirement payments, whether the funds still existed at trial, and, if they did not, whether they were dissipated, wasted, or converted to a non-marital form with intent to deprive the marital estate. The court may modify the property-division order as necessary to achieve an equitable division.

CASES CITED

- Schanck v. Schanck, 717 P.2d 1, 3 (Alaska 1986)
- Dundas v. Dundas, 362 P.3d 468, 472-73 (Alaska 2015)
- Tybus v. Holland, 989 P.2d 1281, 1284-85 (Alaska 1999)
- Hanlon v. Hanlon, 871 P.2d 229, 231 (Alaska 1994)
- Fletcher v. Fletcher, 433 P.3d 1148, 1152-53 (Alaska 2018)
- Beals v. Beals, 303 P.3d 453, 460 (Alaska 2013)
- Dunmore v. Dunmore, 420 P.3d 1187, 1190, 1195 (Alaska 2018)
- Wagner v. Wagner, 386 P.3d 1249, 1251 (Alaska 2017)

- Limeres v. Limeres, 320 P.3d 291, 296 (Alaska 2014)
- Edelman v. Edelman, 3 P.3d 348, 352-53 (Alaska 2000)
- Calais Co. v. Ivy, 303 P.3d 410, 414 (Alaska 2013)
- Partridge v. Partridge, 239 P.3d 680, 685, 687 (Alaska 2010)
- Nicholson v. Wolfe, 974 P.2d 417, 425-26 (Alaska 1999)
- Day v. Williams, 285 P.3d 256, 260 (Alaska 2012)
- Ethelbah v. Walker, 225 P.3d 1082, 1090-91 (Alaska 2009)
- Foster v. Foster, 883 P.2d 397, 399-400 (Alaska 1994)
- Brandal v. Shangin, 36 P.3d 1188, 1194 (Alaska 2001)
- Barnett v. Barnett, 238 P.3d 594, 603 (Alaska 2010)