SUPREME COURT OF ALASKA

Jerry L. Conner v. Margaret Conner

68 P.3d 1232 (Alaska 2003) · No. No. S-10273 · Decided April 18, 2003

SUMMARY

The Alaska Supreme Court reviewed a divorce property division involving federal disability and retirement benefits, post-separation mortgage payments, marital debt, and life-insurance requirements. The court held that only the retirement-replacement portion of the workers' compensation benefits was marital property, identified Jerry Conner's fiftieth birthday as the pension maturity date, and remanded for further proceedings concerning the benefit award, rehabilitative spousal support, and life-insurance requirement. The court otherwise affirmed the treatment of the marital debt and post-separation mortgage payments.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Matthews, Justice; Fabe, Chief Justice; Eastaugh, Justice; Bryner, Justice; Carpeneti, Justice
JURISDICTION	Alaska
DECIDED	April 18, 2003
DOCKET	No. S-10273
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jerry Conner appealed the superior court's divorce judgment concerning the division of retirement and workers' compensation benefits, allocation of marital debt, credit for post-separation mortgage payments, rehabilitative spousal support, and life-insurance and survivor-benefit protections.
STANDARD OF REVIEW	Property division is reviewed for abuse of discretion and will not be overturned unless clearly unjust; legal questions are reviewed de novo. Findings of fact are reviewed for clear error.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; binding precedent in Alaska.
PARTIES	Jerry L. Conner v. Margaret Conner

TOPICS

equitable distribution · spousal support · qdro · standard of review · appellate procedure

PRACTICE AREAS

family law · family law procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether workers' compensation benefits received in lieu of retirement benefits are marital property to the extent they replace retirement benefits, while the disability-related portion remains separate property.
2. What maturity date should be used to determine when Jerry's retirement-related benefits become subject to division.
3. Whether the four-year award of a portion of Jerry's workers' compensation benefits could be upheld as rehabilitative spousal support.
4. Whether the superior court erred by allocating the entire secured debt to the house rather than separately allocating part of it to the truck.
5. Whether the superior court erred by refusing to credit Jerry for post-separation payments made to preserve marital property.
6. Whether the superior court could require Jerry to name Margaret as the sole beneficiary of any life insurance when survivor-annuity protections may already adequately protect her interest.

HOLDINGS

1. Workers' compensation or disability payments are separate property to the extent they replace disability-related income, but the portion that substitutes for retirement benefits earned during the marriage is marital property subject to equitable division.
2. Jerry's fiftieth birthday was the appropriate maturity date for purposes of determining when the retirement-replacement portion of his workers' compensation benefits became subject to division.
3. The four-year award could not be affirmed as rehabilitative alimony on the existing findings, but the superior court could reconsider such an award on remand if it made the required findings concerning need, training, education, and self-sufficiency.
4. The superior court did not abuse its discretion by allocating the entire remaining debt to the house rather than separately allocating part of the debt to the truck.
5. A trial court must consider payments made from post-separation income to preserve marital assets, but it is not required to award the paying spouse a credit in the final property division.
6. The superior court erred in requiring Jerry to name Margaret as the sole beneficiary of any life insurance without adequate findings and without determining whether the survivor annuity already protected Margaret's retirement-benefit interest.

KEY QUOTATIONS

> *“We thus hold that the imputed retirement portion of this income stream must be separated from the disability-related portion, with the former divided as marital property and the latter left as the employee spouse's separate property.”* (68 P.3d at 1235)

> *“Trial courts are required to consider payments made from one party's post-separation income to preserve marital assets, but are not required to give credit for such payments in the final property division.”* (68 P.3d at 1238)

> *“It would be inappropriate to require Jerry to name Margaret as the sole beneficiary of any life insurance policy if she is already adequately protected by the survivor annuity.”* (68 P.3d at 1239)

FACTUAL BACKGROUND

Jerry and Margaret Conner separated in 1999 after twenty-nine years of marriage. Jerry, a former Federal Aviation Administration air-traffic controller, became disabled in 1995 and received federal workers' compensation benefits instead of disability retirement because the workers' compensation payments were greater and tax free. The superior court treated a portion of those payments as divisible retirement benefits, awarded Margaret other property and support, allocated the remaining house-and-truck debt entirely to the house, denied Jerry credit for post-separation mortgage payments, and required him to maintain life insurance naming Margaret as sole beneficiary.

PROCEDURAL HISTORY

The parties separated after twenty-nine years of marriage and tried their divorce case in the superior court on December 14, 2000. The superior court divided certain retirement-related benefits, awarded Margaret a portion of Jerry's workers' compensation payments, allocated the house debt, denied Jerry credit for post-separation house payments, and required life-insurance and survivor-benefit protections. The Alaska Supreme Court reversed and remanded for further proceedings consistent with its opinion.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The superior court was instructed to conduct further proceedings consistent with the opinion, including reconsidering the four-year award as rehabilitative alimony with appropriate findings, applying the fiftieth birthday as the retirement-benefit maturity date, and reconsidering whether life insurance was necessary in light of the survivor annuity and other retirement protections.

CASES CITED

- Broadribb v. Broadribb, 956 P.2d 1222, 1225 (Alaska 1998)
- Cox v. Cox, 882 P.2d 909, 913-14 (Alaska 1994)
- Wanberg v. Wanberg, 664 P.2d 568, 570 (Alaska 1983)
- Johns v. Johns, 945 P.2d 1222, 1225 (Alaska 1997)

- Lundquist v. Lundquist, 923 P.2d 42, 47 (Alaska 1996)
- McDougall v. Lumpkin, 11 P.3d 990, 993, 996 (Alaska 2000)
- Dunn v. Dunn, 952 P.2d 268, 270 (Alaska 1998)
- Miller v. Miller, 739 P.2d 163, 165 (Alaska 1987)
- Edelman v. Edelman, 3 P.3d 348, 356 (Alaska 2000)
- Laing v. Laing, 741 P.2d 649, 655 n.8, 656-57 (Alaska 1987)
- Levy v. Office of Personnel Management, 902 F.2d 1550 (Fed. Cir. 1990)
- Villasenor v. Villasenor, 134 Ariz. 476, 657 P.2d 889 (Ariz. App. 1982)
- In re Marriage of Castor, 249 Mont. 495, 817 P.2d 665, 669 (1991)
- Ciliberti v. Ciliberti, 374 Pa. Super. 228, 542 A.2d 580 (1988)
- Allard v. Allard, 708 A.2d 554, 558 (R.I. 1998)
- In re Marriage of Geigle, 83 Wash. App. 23, 920 P.2d 251, 255 (1996)
- In re Marriage of Stenquist, 21 Cal. 3d 779, 148 Cal. Rptr. 9, 582 P.2d 96, 101 (1978)
- Myers v. Myers, 927 P.2d 326, 329 (Alaska 1996)
- Ulsher v. Ulsher, 867 P.2d 819, 822 (Alaska 1994)
- Dixon v. Dixon, 747 P.2d 1169, 1174 (Alaska 1987)
- Carlson v. Carlson, 722 P.2d 222, 225 (Alaska 1986)
- Jones v. Jones, 835 P.2d 1173, 1178-79 (Alaska 1992)
- Ramsey v. Ramsey, 834 P.2d 807, 809 (Alaska 1992)
- Dodson v. Dodson, 955 P.2d 902, 912 (Alaska 1998)
- Harrelson v. Harrelson, 932 P.2d 247, 253 (Alaska 1997)
- Zito v. Zito, 969 P.2d 1144, 1147 (Alaska 1998)