

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

March 6, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 95-3596**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**IN RE THE MARRIAGE OF:**

**ROGER BOSMAN,**

**Petitioner-Appellant,**

**v.**

**DEBRA A. BOSMAN,**

**Respondent-Respondent.**

APPEAL from an order of the circuit court for La Crosse County:  
JOHN J. PERLICH, Judge. *Affirmed.*

Before Eich, C.J., Dykman, P.J., and Vergeront, J.

PER CURIAM. Roger Bosman appeals from an order awarding limited term maintenance to his ex-wife, Debra Bosman. The issue is whether the trial court properly exercised its discretion in setting the amount and duration of the award. We affirm on both questions.

The parties divorced in 1990 after sixteen years of marriage. Because Roger became unemployed just before the final divorce hearing, the issue of maintenance was held open. In 1991, Roger regained full-time employment. However, Debra did not seek maintenance until 1995, after the couple's two children became adults and Roger ceased paying child support.

At the beginning of the marriage, both parties worked full time, with Debra earning more than Roger. After the children were born, Roger became the primary wage earner and Debra the primary caretaker of the children. She continued to work, but mostly in part-time low-paying jobs. Additionally, Roger's employment caused them to move several times, further disrupting her job situation and career opportunities.

In 1994, Roger earned \$54,000 as a sales manager, including a \$7,000 bonus, and Debra earned \$25,000 working for an insurance firm. She believed that she was on track to substantially increase her earnings, given time to work her way up in the company. In the meantime, she was unable to afford a home and lived in an apartment. She also testified to other restrictions on her life-style since the divorce. At the time of the hearing, Roger was forty-three and Debra forty-two and in good health. Each had negligible assets. Roger lived in a home with his second wife.

The court found that Roger had a much higher present earning capacity and that Debra had suffered the greater reduction in her standard of living since the divorce. The court also considered the length of the marriage and the loss in Debra's earning capacity that occurred each time the parties moved in order to preserve Roger's job and earning capacity. Based on those factors, the court awarded forty-five percent of the parties' gross income, not including Roger's bonuses, to Debra for a period of eight years. In making the award, the court did not consider the parties' financial reports, deeming them unreliable. The initial award under the court's formula was \$571 per month, to be revised annually based on the parties' tax returns. On appeal, Roger challenges the award as excessive in amount and duration.

The amount and duration of maintenance is a matter of trial court discretion. *Haugan v. Haugan*, 117 Wis.2d 200, 215, 343 N.W.2d 796, 804 (1984). The trial court properly exercises that discretion if it articulates its reasoning,

bases the award on facts of record and the correct legal standards, and awards maintenance that is neither excessive nor inadequate. *Id.* at 215-16, 343 N.W.2d at 804. The object of maintenance is to leave each party with adequate means of support and to treat each fairly and equitably. *LaRocque v. LaRocque*, 139 Wis.2d 23, 32-33, 406 N.W.2d 736, 740 (1987).

Debra's award of forty-five percent of the parties' gross income is not excessive. The trial court stopped short of awarding Debra fifty percent of the parties' income because the marriage, while long, was not a life-long commitment. On the other hand, the record demonstrates without dispute that Debra substantially sacrificed her earning capacity and potential career opportunities to care for the children and to facilitate Roger's career. The trial court appropriately relied on that factor to award maintenance, under § 767.26(5) and (9), STATS., and the resulting income and life-style disparity several years later justified the amount awarded. Additionally, because the award is based on a percentage formula, if Debra's financial situation improves as she anticipates, the award will diminish accordingly.

The trial court also reasonably chose an eight-year term for the award. Debra's employment with her company was relatively recent. Although she testified that she expected to advance in the company, she did not anticipate that to happen imminently. She requested ten years of maintenance. The court could reasonably conclude that under the circumstances, and given the substantial disparity in income between the parties, eight years was an appropriate measurement of Debra's need for assistance while she regained the earning capacity sacrificed during the marriage. As noted, any gains in income that Debra receives in the meantime will result in a diminished award.

*By the Court.* – Order affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.