

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

AUGUST 20, 1996

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. 96-0187-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

In re the Marriage of:

STANLEY E. ANDREWS,

Petitioner-Appellant,

v.

DONA M. ANDREWS,

Respondent-Respondent.

APPEAL from a judgment of the circuit court for Dunn County:
JAMES A. WENDLAND, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Stanley Andrews appeals the maintenance award of the divorce judgment.¹ The trial court ordered \$250 monthly payments until

¹ This is an expedited appeal under RULE 809.17, STATS.

Stanley retired or reached the age of sixty-five. The trial court rejected Stanley's request for an adjustment on the ground that the award would force him to tap into his IRA with associated adverse tax consequences.

The trial court made a discretionary decision. *LaRocque v. LaRocque*, 139 Wis.2d 23, 27, 406 N.W.2d 736, 737 (1987). On appeal, Stanley argues that the trial court wrongly disregarded the adverse tax consequences of tapping his IRA and that the maintenance award violated the fairness and support objectives applicable to all maintenance awards. We reject these arguments and affirm the judgment.

The trial court had no basis to make an adjustment for the tax consequences of using his IRA. First, Stanley did not show that he needed to use it. Second, he provided no evidence of the tax consequences. Divorce courts may disregard tax consequences without such evidence. *Fowler v. Fowler*, 158 Wis.2d 508, 518-19, 463 N.W.2d 370, 373 (Ct. App. 1990). Under these circumstances, Stanley's tax consequences never rose above the level of conjecture.

The trial court also awarded a reasonable amount of maintenance. Maintenance awards have a fairness objective and support objective. See *LaRocque*, 139 Wis.2d at 33, 39, 406 N.W.2d at 740, 742. Here, Stanley's \$250 monthly obligation complied with these principles from his perspective. It fell short of raising Dona's income to Stanley's income level and amounted to only 12% of his income. It also will cease when Stanley retires or reaches the age of sixty-five. Viewed in this light, the award was consistent with the support and fairness objectives. It reflected a proper exercise of discretion.

By the Court.—Judgment affirmed.

This opinion will not be published.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