

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**April 18, 2007**

David R. Schanker  
Clerk of Court of Appeals

**NOTICE**

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

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

**Appeal No. 2006AP2773-FT**

**Cir. Ct. No. 2005FA615**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

---

**IN RE THE MARRIAGE OF:**

**SONIA MADALA,**

**PETITIONER-RESPONDENT,**

**v.**

**WILLIAM GERARD MADALA,**

**RESPONDENT-APPELLANT.**

---

APPEAL from a judgment of the circuit court for Racine County:  
ALLAN B. TORHORST, Judge. *Affirmed.*

Before Snyder, P.J., Brown and Anderson, JJ.

¶1 PER CURIAM. William Madala appeals from that portion of the judgment of divorce that awarded child support and maintenance against him. He

argues on appeal that the circuit court imposed an excessive amount of maintenance, and that it erred when it did not impute earning capacity to his ex-wife, Sonia Madala, for purposes of determining the amount of child support. Because we conclude that the circuit court did not err, we affirm.

¶2 At the time of their divorce trial in May 2006, Sonia Madala and William Madala had been married for sixteen years. Sonia was forty-two and William was fifty-three. They had two children from the marriage, ages twelve and ten. The trial court found that William's income was \$75,321 and Sonia's was \$5160. The court concluded that William should pay \$510 bi-weekly for child support. William argued that the children's private school tuition should be paid from an account the parties created for that purpose. The account was funded by money Sonia had inherited. The trial court determined that the children's private school tuition was a variable expense to be shared equally by the parties. The court found that Sonia could use the account money to pay her half of the tuition.

¶3 The court further found that Sonia had a high school diploma and was working toward an associate's degree at that time. The court imputed an earning capacity of \$20,000 to Sonia, and then awarded her \$300 bi-weekly maintenance until her fifty-third birthday. William moved the trial court to reconsider these awards, which the trial court declined to do.

¶4 William now objects that the trial court imputed the \$20,000 earning capacity to Sonia for the purpose of determining maintenance, but did not impute it for the purpose of determining child support. He suggests that Sonia engaged in shirking, and argues that the trial court erred when it split between them the responsibility for paying the children's private school tuition. He also argues that

the maintenance award was excessive both as to the amount of the award and the duration of the award.

¶5 We review these issues for an erroneous exercise of discretion:

The award of maintenance and the division of the marital estate are addressed to the sound discretion of the trial court. *Bahr v. Bahr*, 107 Wis. 2d 72, 77, 318 N.W.2d 391, 395 (1982). Child support awards are also relegated to the trial court's sound discretion. *Schwantes v. Schwantes*, 121 Wis. 2d 607, 630-31, 360 N.W.2d 69, 80 (Ct. App. 1984). As long as the trial court reaches a rational, reasoned decision based on the application of the correct legal standards to the record facts, the trial court's exercise of discretion will be affirmed on appeal. *Smith v. Smith*, 177 Wis. 2d 128, 133, 501 N.W.2d 850, 852 (Ct. App. 1993).

*Sellers v. Sellers*, 201 Wis. 2d 578, 585, 549 N.W.2d 481 (Ct. App. 1996).

¶6 William objects to the child support award on the grounds that the court did not consider Sonia's potential earning capacity in fixing the amount of child support. William argued before the trial court that it should deviate from the standard percentage because Sonia's decision to forgo higher paying jobs was both voluntary and unreasonable. The circuit court, however, disagreed. The court may consider a party's earning capacity if it determines that a spouse's job choice was voluntary and unreasonable. *Id.* at 587. The court found that it was unrealistic under the facts of the case to impute income to Sonia for purposes of determining the child support, and refused to deviate from the standard calculations. The court's child support determination was based on the income that both William and Sonia earned at the time of the trial and was fair. We

conclude that the trial court did not err when it did not consider Sonia's earning potential in setting child support.<sup>1</sup>

¶7 We also see no error in the trial court's finding that William could pay half of the children's private school tuition. William argues that the money should come out of a separate account the parties created for this purpose. The money in that account, however, was money that Sonia inherited. William is, in essence, arguing that he should not contribute to the children's tuition. We agree with the circuit court's determination of this issue.

¶8 We also do not see any error in the award of maintenance. William argues that the court erred in allowing maintenance for ten and one-half years. He argues that the court said it was allowing Sonia time to complete her education, but did not explain why she needed an additional eight years of maintenance. This, however, was only one of the factors considered by the court. The court also considered their ages, Sonia's potential earning capacity, the job market in the area, and the property division. We conclude that the trial court properly exercised its discretion, and entered an award that was fair under the circumstances and supported by the facts of record. For these reasons, we affirm the judgment of the circuit court.

*By the Court.*—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2005-06).

---

<sup>1</sup> William argues for the first time on appeal that Sonia engaged in shirking. We will not consider an issue that was not raised before the trial court. *Segall v. Hurwitz*, 114 Wis. 2d 471, 489, 339 N.W.2d 333 (Ct. App. 1983).

