

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 6, 2003

Cornelia G. Clark
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 Nos. 02-1068
02-2227**

Cir. Ct. No. 97-FA-73

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

JULIE A. KROMBACH,

PETITIONER-APPELLANT,

V.

JAMES NEIL KROMBACH,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Marquette County:
RICHARD O. WRIGHT, Judge. *Reversed and cause remanded.*

Before Vergeront, P.J., Dykman and Lundsten, JJ.

¶1 PER CURIAM. Julie Krombach appeals from post-divorce orders resolving various issues among the parties, including payment of uninsured medical and counseling expenses for their three children. The issue is whether the

trial court properly exercised its discretion in dividing those expenses. Because the trial court did not adequately explain the reasons behind its decision, we reverse and remand for a re-determination of the issue.

¶2 Julie and James were divorced in 1996 by a North Carolina court. However, issues regarding the children were left unresolved and subsequently litigated in Wisconsin. During the Wisconsin proceeding Julie received primary physical placement of the children. The most recent proceedings concerned a proposed change in the physical placement of the eldest child, and allocation of the children's healthcare costs. Those costs included roughly \$9,000 incurred for psychological therapy. Julie had paid \$2,800 toward the bill, and sought a \$1,400 contribution from James. The trial court ordered each party to pay one-half of the \$6,200 balance, but denied Julie any reimbursement for the amount she had already paid. All other past and future healthcare costs were divided evenly.

¶3 Julie's appeal originally concerned both the physical placement issue and the division of the therapy expenses. The parties settled the former dispute limiting this appeal to whether the trial court properly required Julie to pay roughly two-thirds of the children's therapy costs while dividing all other healthcare expenses equally.

¶4 The allocation of the children's expenses between the parties is analogous to the determination of child support. See *Kuchenberger v. Schultz*, 151 Wis. 2d 868, 872-73, 447 N.W.2d 80 (Ct. App. 1989). It is therefore a matter for the trial court's discretion. *Sellers v. Sellers*, 201 Wis. 2d 578, 585, 549 N.W.2d 481 (Ct. App. 1996). That discretion is properly exercised if the court considers the facts of record, uses the proper legal standards, and reasons its way to a rational conclusion. *Burke v. Hales*, 165 Wis. 2d 585, 590, 478 N.W.2d 37

(Ct. App. 1991). Generally, this court looks for reasons to sustain discretionary decisions. *Id.* at 591.

¶5 We find no explanation in the record for the trial court's allocation of the therapy expenses. The record contains testimony from James that some of the therapy arranged by Julie was unnecessary. However, the trial court expressly declined to find that the therapy was unnecessary. Viewing the matter independently we can discern no reason not to divide all the healthcare costs equally. While a reason may exist, the record does not show it. Consequently, we find an erroneous exercise of discretion.

¶6 James contends that the trial court intended to balance out his obligation to pay the guardian ad litem fees for the proceeding. The record gives no indication that this was, in fact, the trial court's reason for its decision. Accordingly, we remand for reconsideration to allow the trial court to allocate the children's healthcare costs and explain its reasoning. The trial court is not required to hold a hearing or consider additional argument. It may choose to comply with this opinion based on the existing record.

By the Court.—Order reversed and cause remanded.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)5 (2001-02).

