

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 4, 2010

A. John Voelker
Acting 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. 2009AP2564

Cir. Ct. No. 2008FA1059

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

KEVIN AR-RAHMAAN,

PETITIONER-RESPONDENT,

V.

NORELLA M. AR-RAHMAAN N/K/A NORELLA M. BARNES,

RESPONDENT-APPELLANT.

APPEAL from a judgment of the circuit court for Rock County:
R.A. BATES, Judge. *Affirmed.*

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

¶1 PER CURIAM. Norella Barnes appeals a divorce judgment. The issues relate to property division and maintenance. We affirm.

¶2 Barnes first argues that the circuit court erred in the property division. She argues that the court improperly awarded her former husband Kevin Ar-Rahmaan \$353,694, while she received only \$30,965. However, out of the amount she argues was awarded to Ar-Rahmaan, the court found that \$161,593 of it was inherited property that was not part of the marital estate. *See* WIS. STAT. § 767.61(2) (2007-08).¹ As a result, it is not accurate to describe that amount as having been awarded to him in the property division.

¶3 Barnes argues that the court should have considered the inherited property as part of the marital estate on the ground that failing to divide that property will create a hardship on her. *See* WIS. STAT. § 767.61(2)(b). It is not apparent that she raised this issue in the circuit court. The transcript of argument by her attorney at the hearing does not include any request to include the inherited property in the marital estate. The exhibit presenting her proposed property division does not appear to propose that the inherited property be awarded to either party, which suggests she conceded it was not part of the marital estate. We do not usually consider issues raised for the first time on appeal, and we see no reason to do that in this case. *Wirth v. Ehly*, 93 Wis. 2d 433, 443-44, 287 N.W.2d 140 (1980), *superseded by statute on other grounds*.

¶4 Focusing, then, on divisible property, the parties appear to agree that the court awarded approximately \$192,000 to Ar-Rahmaan and \$31,000 to Barnes. Barnes argues that this division is so unequal as to be unreasonable. She argues that a more equal division would have been appropriate due to sacrifices she made

¹ All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

for the marriage, such as moving to Wisconsin and retiring to help care for Ar-Rahmaan's mother, and due to her lower earning capacity.

¶5 The circuit court's decision appears to have essentially left the parties with the value of the assets they brought to the marriage. We cannot say this is unreasonable in light of the fact that the marriage was not particularly long (less than eight years) and occurred relatively late in life when the parties were about fifty years old. It is proper for the court to consider the value of property the parties brought to the marriage. WIS. STAT. § 767.61(3)(b). Barnes does not assert that she brought assets with substantial value to the marriage, other than her pension, which she continues to receive in full under the court's decision. Nor does it appear that the parties accumulated significant new assets during the marriage.

¶6 While the court found that Barnes suffered some economic disadvantage by retiring earlier than she might have otherwise chosen, we note that she is instead receiving her pension payments and, as she acknowledges, has the ability to increase her current part-time employment. It may be true that Barnes now has a lower earning potential than Ar-Rahmaan, but it is far from certain that he will be able to find employment with pay similar to his former General Motors wage, contrary to her assertion that he "merely" has to find a comparable job.

¶7 Barnes also argues that the court erred by awarding her no maintenance. She is correct that the court did not state any reasons for that decision, but in the absence of stated reasons we search the record for reasons to sustain the decision. *Long v. Long*, 196 Wis. 2d 691, 698, 539 N.W.2d 462 (Ct. App. 1995). Here, we find those reasons in the fairly short length of a relatively

late-life marriage and the court's finding that, after Ar-Rahmaan's impending layoff, their incomes would be similar.

By the Court.—Judgment affirmed.

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

