

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JULY 9, 1996

NOTICE

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.

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

No. 95-2774

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

In re the Marriage of:

AMY LYNN SCHANNO,

Petitioner-Appellant,

v.

TIMOTHY PAUL SCHANNO,

Respondent-Respondent.

APPEAL from a judgment of the circuit court for Polk County:
JAMES R. ERICKSON, Judge. *Affirmed.*

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

PER CURIAM. Amy Schanno appeals the portion of her divorce judgment that denied her a \$200 monthly short-term maintenance award from her former husband, Timothy Schanno. The trial court made a discretionary decision, *Wikel v. Wikel*, 168 Wis.2d 278, 282, 483 N.W.2d 292, 293 (Ct. App. 1992), and needed to consider such factors as the marriage's length, the parties' health, their earning capacities, and their respective need for maintenance and ability to pay. *Brabec v. Brabec*, 181 Wis.2d 270, 276, 510 N.W.2d 762, 764 (Ct.

App. 1993). On appeal, Amy argues that the trial court improperly deprecated the marriage's length and exaggerated the relevance of other factors. We reject these arguments and affirm the judgment.

The trial court had a reasonable basis to deny Amy short-term maintenance. We uphold discretionary decisions that have a reasonable basis in record. *Littmann v. Littmann*, 57 Wis.2d 238, 250, 203 N.W.2d 901, 907 (1973). First, the marriage lasted only eight and one-half years. Other things being equal, this comparatively short term weighed against a maintenance award. After taking into account the other factors, the trial court could reasonably rule that they failed to counterbalance the marriage's relatively short duration. As the trial court noted, Amy was thirty years old. She enjoyed good health, a good education, and good prospects in her current employment. Although she earned a good deal less than Timothy, she received child support from Timothy and had the potential to increase her earning capacity.

On the other hand, Timothy had attained his income level by working fifty or more hours per week, in spite of the fact that his formal education was inferior to Amy's. He also suffered financial consequences from the divorce similar to Amy's. As the trial court noted, the divorce had the effect of lowering both Timothy's and Amy's standards of living. Moreover, Timothy was already paying 20% of his income in child support to a former wife. By virtue of his divorce from Amy, he would now be paying 30% of his income in child support. Last, Timothy suffered from severe divorce related emotional problems. The trial court found that an additional financial burden could be detrimental to his health. Under the circumstances, Amy's financial capacity, Timothy's other marital payments, and the marriage's relatively short duration gave the trial court a reasonable basis to deny Amy short-term maintenance.

By the Court.— Judgment affirmed.

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