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DISTRICT II

October 30, 2019

To:

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Racine, WI 53403

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You are hereby notified that the Court has entered the following opinion and order:

2018AP1415

In re the marriage of: Terry I. Streicher v. David L. Streicher
(L.C. #2017FA17)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

David L. Streicher appeals pro se from a judgment granting maintenance to his former wife Terry I. Streicher. He challenges both the amount and duration of the maintenance award. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2017-18 version.

David and Terry were married in 1979, and this divorce action was commenced in January 2017. The parties have three children, all of whom have reached the age of majority.

At the time of the divorce, David was fifty-nine years old, employed as a manager, earning \$10,141 per month. He had post-secondary education/training and had worked for the same company for thirty-four years.

Terry, meanwhile, was fifty-six years old, employed as a nanny, earning \$250 per week. Prior to that, she had held a number of different jobs,² never making more than \$10.50 per hour. Terry did not have a high school diploma and stayed at home for a period of time after the first child was born. She then worked on and off, depending on the children's schedules.

After an evidentiary hearing, the circuit court entered a decision on maintenance followed by a judgment. The terms of the judgment required David to pay maintenance to Terry in the amount of \$3028 per month for an indefinite period of time. David now appeals.

On appeal, David challenges both the amount and duration of the maintenance award. The determination of the amount and duration of maintenance is committed to the circuit court's sound discretion, and we will uphold the award absent an erroneous exercise of discretion. *See Bisone v. Bisone*, 165 Wis. 2d 114, 118, 477 N.W.2d 59 (Ct. App. 1991). Discretion is properly exercised when the court arrives at a reasoned and reasonable decision through a rational mental process by which the facts of record and the law relied upon are stated and considered together. *LaRocque v. LaRocque*, 139 Wis. 2d 23, 27, 406 N.W.2d 736 (1987).

² The jobs included retail sales, bank teller, cake decorator, baker, warehouse/receiving, cashier, nursing home assistant, and at home medical billing.

Reviewing the circuit court's decision, we are satisfied that it properly exercised its discretion in establishing the amount of the maintenance award. The court carefully considered the factors found in WIS. STAT. § 767.56(1c) along with relevant case law. It ultimately arrived at a figure that reflected a 55/45 split of income, imputing earnings to Terry that were consistent with her past employment history. The court explained that it was intending to place Terry at or near a standard of living that she would have enjoyed had the parties not divorced. It believed such a result was fair given the length of the marriage and difference in the parties' earning capacities, which was indirectly caused, in part, by Terry's past role as homemaker. No basis exists for this court to disturb the circuit court's determination.

We are also satisfied that the circuit court properly exercised its discretion in setting forth the duration of the maintenance award. Given Terry's age, limited education, and lack of continuous employment history, the court was of the opinion that she would not become self-supporting at a pre-divorce standard of living "anytime soon." This was a reasonable conclusion. Moreover, while the duration of the award is indefinite, that does not mean it is permanent. Per the terms of the judgment, maintenance will continue "until the death of either party, the remarriage of [Terry], or by order of the court." David will have the opportunity to request modification or termination of the award under WIS. STAT. § 767.59 should the circumstances warrant it.

Upon the foregoing reasons,

IT IS ORDERED that the judgment of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals