

IN THE COURT OF APPEALS OF TENNESSEE

EASTERN SECTION

FILED

November 21, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

JAMES RONALD BORUM) C/ A NO. 03A01-9606-CH-00203
)
Plaintiff - Appellant,) ROANE CHANCERY
)
v.) HON. FRANK V. WILLIAMS, III,
) CHANCELLOR
MELINDA PHILLIPS BORUM)
) AFFIRMED AND
Defendant - Appellee.) REMANDED

GLEN B. RUTHERFORD, LOCKETT, SLOVIS & WEAVER, Knoxville, for
Plaintiff - Appellant.

BROWDER G. WILLIAMS, Harriman, for Defendant - Appellee.

O P I N I O N

Franks. J.

In this divorce action the Trial Court ordered the husband to pay the wife alimony *in solido* in the amount of \$600.00 per month for ten years, and the sole issue raised on appeal is:

The amount of alimony *in solido* awarded by the Court to the appellee was excessive.

The parties were married in 1975 and have two

children, one born in 1980 and the other in 1985. The husband has a college degree and is employed by TVA with a salary in 1995 of 64,000 plus dollars. The wife has been self-employed, selling home interior items, with an income from that business in 1994 of 1,500.00 plus dollars. The husband's employer will not recognize a qualified domestic relation order, and the husband has a fixed annuity fund with the employer with a balance of 43,000 plus dollars at the end of 1995. The husband also owns, before tax, a 401-K plan that had a balance of 17,000 plus dollars as of February 1996. While the husband is fully vested in all of his retirement accounts, he will not be eligible to draw on those accounts until he attains the age of 55.

The husband earnestly contends that due to his financial obligations, including child support and marital debts, that the amount of alimony is excessive. No issue is raised as to the allocation of the marital debts, nor to the division of marital property. The Court ordered the husband to pay marital debts in excess of \$16,000.00 and the wife to pay marital debts in excess of \$10,000.00. The Trial Court explained his holding thus:

. . . I have been trying to figure how best to handle this, and there is just no good way. I mean, the Parties owe so much, and we have got to do something here. I don't know what is in the future of these two people financially, but we have to provide for it, and there is only one way that I know of that we can provide for these things that won't prevent them from being extinguished at some point in the future. And so, what I am going to do is, in addition to the child support, I am going to set up some alimony, and I am going to break it down between *in solido* and permanent. The *in solido* will be payable regardless of the circumstances. The permanent will be exactly that, permanent, until this lady remarries or whatever. The way I am going

to handle it is this. He presently, on the division that we have so far, has the advantage in terms of his pension plans and things of that sort of \$38,601, and so I am going to provide for *in solido* alimony of \$600 a month, for a total of \$7,200 a year for a period of ten years.

Trial courts have broad discretion in determining the amount and duration of spousal support. *Brown v. Brown*, 913 S.W2d 163 (Tenn. App. 1994). Based upon the financial circumstances of the parties, the award of substantially more than one-half of the marital assets to the husband¹ and on the wife's need, we find no abuse of discretion by the Trial Court as to the alimony *in solido* award.

Accordingly, we affirm the judgment of the Trial Court and remand at appellant's cost.

Herschel P. Franks, J.

CONCUR:

Don T. McMurray, J.

Charles D. Susano, Jr., J.

¹Included are the retirement benefits earned by husband during the marriage.

