

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2007-160

DECEMBER TERM, 2007

Gary Thomas	}	APPEALED FROM:
	}	
v.	}	Windham Family Court
	}	
Susan Thomas	}	DOCKET NO. 183-7-06 Wmdm

Trial Judge: Karen R. Carroll

In the above-entitled cause, the Clerk will enter:

Husband appeals the family court’s divorce order, arguing that the court abused its discretion by awarding wife maintenance and not crediting him for property taxes he paid while the parties were separated. We affirm.

The parties were married in February 1998 and separated in January 2006 after wife left the marital home. No children were born of the marriage, but wife’s two children from a previous marriage lived with the parties for some time during the marriage. Following an evidentiary hearing, the family court awarded wife (1) half of the equity in the marital home less mortgage and loan payments husband made during the parties’ separation—approximately \$30,000, and (2) \$300 per month for five years in rehabilitative maintenance.

Husband first contends on appeal that the family court abused its discretion by failing to subtract property taxes he paid during the parties’ separation, in addition to mortgage and loan payments, from wife’s equity award. We find no abuse of discretion. Although husband listed the property taxes on his financial affidavit submitted to the court, he did not specifically request reimbursement for payment of the taxes in his requests for relief submitted in response to the court’s order. Nor does he explain, other than noting that he was awarded a credit for other payments he made during the parties’ separation, how not crediting him for the taxes amounted to an abuse of discretion. Considering wife’s minimal property award and resources, as well as the circumstances surrounding wife’s departure from the marital home, we find no abuse of discretion in the court not crediting husband for property taxes he paid during the parties’ separation.

Nor do we find merit in husband’s argument that the family court abused its discretion by awarding wife rehabilitative maintenance in the amount of \$300 per month for five years. The

court found that wife was living a threadbare existence dependent on collecting refundable bottles. After finding that wife lacked the income to support her reasonable needs in light of the standard of living established during the marriage, see 15 V.S.A. § 752(a), the court addressed each of the criteria set forth in § 752(b) and concluded that \$300 per month for five years would help wife obtain either employment or disability payments for a knee injury she suffered years earlier in an automobile accident. Husband complains that wife is capable of working now, but the court concluded that, even though wife did not present medical evidence demonstrating that she was unable to work, she would be working if she were able to, considering her history of hard work and contribution to the marriage. Husband has failed to show that this conclusion lacks support in the evidence or the court's findings, or that the court's maintenance award amounts to an abuse of discretion. See Chaker v. Chaker, 155 Vt. 20, 25 (1990) ("A maintenance award will be set aside only if there is no reasonable basis to support it.").

Affirmed.

BY THE COURT:

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice