

COURT OF APPEALS OF VIRGINIA

Present: Judges Annunziata, Agee and Senior Judge Coleman

ANN MAJEWSKI MILLER

v. Record No. 1443-01-1

JOHN R. MILLER, JR.

MEMORANDUM OPINION*

PER CURIAM

DECEMBER 11, 2001

FROM THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE
Samuel B. Goodwyn, Judge

(Gregory S. Larsen; William W. Harty; Roy,
Larsen, Romm & Lascara, P.C., on brief), for
appellant.

(Robert G. Byrum; Shames & Byrum, P.C., on
brief), for appellee.

Ann Majewski Miller (wife) appeals the decision of the circuit court awarding John R. Miller, Jr. (husband) a no-fault divorce pursuant to Code § 20-91(9)(a). On appeal, wife contends the trial court erred in (1) limiting husband's spousal support obligation to twelve months and (2) terminating husband's child support obligation. Upon reviewing the record and briefs of the parties, we conclude that this appeal is without merit. Accordingly, we summarily affirm the decision of the trial court. See Rule 5A:27.

On appeal, we view the evidence and all reasonable inferences in the light most favorable to appellee as the party

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

prevailing below. See McGuire v. McGuire, 10 Va. App. 248, 250, 391 S.E.2d 344, 346 (1990).

Procedural Background

The parties were married on September 23, 1989. On February 11, 1999, husband filed a bill of complaint seeking a divorce. The court, on July 19, 1999, entered a pendente lite order granting physical custody of the parties' minor child to wife and ordering husband to pay \$500 per month in child support. Both parties filed exceptions to the commissioner in chancery's December 21, 2000 report. The trial court granted husband's request for a divorce on the ground that the parties lived separate and apart for over one year, pursuant to Code § 20-91(9)(a). On May 23, 2001, the court entered a final decree of divorce. The court ordered husband to pay wife \$500 per month spousal support for one year, pursuant to Code § 20-107.1(C). The court granted the parties joint legal custody of their child and ordered that Dorothy S. Majewski, maternal grandmother, have primary physical custody.

Analysis

I.

"A spousal support award is subject to the trial court's discretion and will not be disturbed on appeal unless plainly wrong or without evidence to support it." Howell v. Howell, 31 Va. App. 332, 351, 523 S.E.2d 514, 524 (2000). "If the court determines that an award [of spousal support] should be made,

the court is required to consider all the factors outlined in Code § 20-107.1." Barker v. Barker, 27 Va. App. 519, 527-28, 500 S.E.2d 240, 244 (1998). The commissioner considered the Code § 20-107.1 factors and determined wife was in need of financial support and that husband has the ability to meet the need. The commissioner specifically noted wife was in need of support in order to secure the education and training necessary to enhance and improve her earning ability. The trial court accepted the commissioner's findings and awarded wife the sum of \$500 per month. Based on all the evidence and appropriate factors, we conclude that the record supports the spousal support award of \$500 per month for the period of one year.

II.

"[D]ecisions concerning child support rest within the sound discretion of the trial court and will not be reversed on appeal unless plainly wrong or unsupported by the evidence." Barnhill v. Brooks, 15 Va. App. 696, 699, 427 S.E.2d 209, 211 (1993). The court awarded physical custody of the parties' minor child to wife's mother, thereby eliminating the need for husband to make child support payments to wife. The trial court did not abuse its discretion in terminating father's child support obligation.

Accordingly, we summarily affirm the decision of the trial court. See Rule 5A:27.

Affirmed.