

COURT OF APPEALS OF VIRGINIA

Present: Judges Baker, Elder and Fitzpatrick

MICHAEL KEITH LAYNE

v. Record No. 2477-94-1

LORETTA GOODMAN LAYNE

MEMORANDUM OPINION*
PER CURIAM
JUNE 20, 1995

FROM THE CIRCUIT COURT OF
THE CITY OF VIRGINIA BEACH
Edward W. Hanson, Jr., Judge

(Robert L. Bohannon; Bohannon, Bohannon & Hancock, on
brief), for appellant.

(Allen J. Gordon, on brief), for appellee.

Michael Keith Layne (husband) appeals the decision of the circuit court awarding spousal support to Loretta Goodman Layne (wife). Husband argues that the trial court erred in accepting the commissioner's recommendation that wife receive \$400 a month in spousal support. 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. Rule 5A:27.

The evidence was heard by a commissioner in chancery, who forwarded his recommendations to the trial court. The trial court confirmed the commissioner's report with minor changes. "The decree confirming the commissioner's report is presumed to be correct and will not be disturbed if it is reasonably

*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

supported by substantial, competent, and credible evidence."

Brawand v. Brawand, 1 Va. App. 305, 308, 338 S.E.2d 651, 652

(1985). In reviewing the determination of spousal support, we note that

the chancellor must consider the relative needs and abilities of the parties. He is guided by the nine factors that are set forth in Code § 20-107.1. When the chancellor has given due consideration to these factors, his determination will not be disturbed on appeal except for a clear abuse of discretion.

Collier v. Collier, 2 Va. App. 125, 129, 341 S.E.2d 827, 829

(1986).

The commissioner's report noted that husband had been the major wage earner, and had substantial experience as a mechanic.

Although husband had a history of cardiac problems, his general health was good. Wife's employment history was limited, and her health was problematic. Wife had custody of the couple's children and lived with her parents. Husband lived in a camper with his girlfriend.

The commissioner also determined, based upon the testimony of the parties, that husband earned approximately \$1,950 per month and had expenses of \$1,800. Wife earned approximately \$780 per month and had expenses of \$1,400.

Husband does not contest the factual determinations, but argues that the order leaves him with insufficient funds to pay his bills, as the commissioner failed to consider his net, rather than gross, salary. However, the commissioner gave due

consideration to the statutory factors, including the parties' health, financial resources, relative earning capacities and needs, and the duration of the marriage. Moreover, wife's entitlement to spousal support is independent of the parties' obligation to support their minor children. "Child support and spousal support are separate and distinct obligations based on different criteria." Lambert v. Lambert, 10 Va. App. 623, 629, 395 S.E.2d 207, 210 (1990).

We cannot say the trial court abused its discretion by confirming the commissioner's report. Accordingly, the decision of the circuit court is affirmed.

Affirmed.