

COURT OF APPEALS OF VIRGINIA

Present: Judges Coleman, Bumgardner and Lemons
Argued at Salem, Virginia

JENNIFER A. STOUT

v. Record No. 2837-97-3

RUSSELL D. STOUT

MEMORANDUM OPINION* BY
JUDGE RUDOLPH BUMGARDNER, III
NOVEMBER 3, 1998

FROM THE CIRCUIT COURT OF THE CITY OF ROANOKE
Jonathan M. Apgar, Judge

Leisa Kube Ciaffone (E. Scott Austin; Gentry,
Locke, Rakes & Moore, on brief), for
appellant.

No brief or argument for appellee.

Jennifer A. Stout appeals a final decree of divorce that awarded her spousal support, but limited it to twenty-four months. Finding that the trial court erred in limiting the periodic support, we reverse.

This marriage lasted eight years during which both parties worked and contributed to the household. The evidence delineated the current earnings and financial obligations of both parties and showed that the wife was attempting to reobtain a civil service job that she previously held. The evidence also showed that in the future the wife would have the additional expense of providing her own medical insurance.

The divorce decree awarded spousal support "in the amount of \$350 per month for a period of twenty-four (24) months commencing

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

August 1, 1997." It did reserve to the wife "pursuant to § 20-109, the right to seek continuation of the spousal support, for good cause shown, after the twenty-four (24) month period is over." The wife argues that the time limitation on the award was error absent evidence supporting a finding that the husband would have no ability to pay spousal support in the next two years or that she would have no need for spousal support. We agree.

The trial court awarded the wife a specified amount payable monthly for a designated period. This created an award of periodic payment under the holding of Dickson v. Dickson, 23 Va. App. 73, 79, 474 S.E.2d 165, 168 (1996). The issue is whether it is error to place a time limit on a periodic support award absent evidence that the parties' financial circumstances will change in the near future. That is the same issue decided in Brooks v. Brooks, 27 Va. App. 314, 498 S.E.2d 461 (1998).

In Brooks, we reversed the imposition of the two-year limitation because the record was devoid of any proof of a change in the parties' financial circumstances. See id. at 317-18, 498 S.E.2d at 463; Thomas v. Thomas, 217 Va. 502, 504-05, 229 S.E.2d 887, 889-90 (1976). Brooks controls the present case because the court imposed a limitation on the periodic support award and the evidence failed to show that husband's ability to pay or wife's need for support would change in the near future.

Accordingly, we hold that the trial court erred in limiting the duration of the award. Therefore, we reverse the holding

that limited periodic support to twenty-four months and remand the case for entry of a support order in accordance with this decision.

Reversed and remanded.