

IN THE SUPREME COURT OF THE STATE OF NEVADA

DONNA TUGGLE,
Appellant,
vs.
RORY S. TUGGLE,
Respondent.

No. 34606

FILED

JUN 11 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a final divorce decree dividing community property and awarding spousal support.

In this instance, appellant Donna Tuggle contends that the district court erroneously awarded an unequal division of community property, and failed to consider the condition of the parties in the alimony determination at trial. We disagree. And as a result, we affirm the decision of the district court.

NRS 125.150(1)(b) states that in granting a divorce decree, the trial court shall "make an equal disposition of the community property of the parties." However, before this court "will interfere with the trial judge's disposition of the community property of the parties or an alimony award, it must appear on the entire record in the case that the discretion of the trial judge has been abused."¹ Therefore, "[t]his court's rationale for not substituting its own judgment for that of the district court, absent an abuse of discretion, is that the district court has a better opportunity to observe parties and evaluate the situation."²

¹Wolff v. Wolff, 112 Nev. 1355, 1359, 929 P.2d 916, 919 (1996) (citing Shane v. Shane, 84 Nev. 20, 22, 435 P.2d 753, 755 (1968)).

²Id. (citing Winn v. Winn, 86 Nev. 18, 20, 467 P.2d 601, 602 (1970)).

As to the unequal division of community funds, Donna cites numerous instances in which the district court failed to make an equal distribution. It is our determination, however that the record indicates an equal distribution of community property. Because the trial court is in a better position than this court to evaluate and disperse community funds - and because the record in this instance gives no appearance of an unequal distribution - we conclude that the district court did not abuse its discretion.

Donna's second contention - that the district court failed to consider the parties' condition when awarding alimony - is misplaced as well. In determining an appropriate alimony award, we have held that the district court should consider the seven factors illuminated in Sprenger v. Sprenger.³ Further, the recipient spouse should be afforded a lifestyle to which the spouse is accustomed until the recipient spouse can provide sufficient individual support.⁴

Here, the trial court noted that it was cognizant of the factors listed in Sprenger, and held that Donna was entitled to an award of \$1,500 per month for 30 months. It is our conclusion that this was not an abuse of discretion. The district court's division of community property allowed Donna to stay in the family home, to continue to drive her own vehicle, and to continue to possess the bulk of the home furnishings. Indeed, Donna was living within a similar lifestyle that she had prior to divorce.


³110 Nev. 855, 859, 878 P.2d 284, 287 (1994).


⁴See Rutar v. Rutar, 108 Nev. 203, 207-08, 827 P.2d 829, 831-32 (1992).

Although appellant's brief seems to argue that an equivalent lifestyle means equal income upon divorce, the language of NRS 125.150 fails to support this assertion.

Having reviewed appellant's arguments and concluding that they lack merit, we

ORDER the judgment of the district court AFFIRMED.



Young J.


Leavitt J.

cc: Hon. Steven E. Jones, District Judge
Kendal Sue Bird
Rawlings, Olson, Cannon, Gormley & Desruisseaux
Bell, Lukens, Marshall & Kent, Chtd.
Clark County Clerk

BECKER, J., concurring in part and dissenting in part:

I concur with the majority's decision regarding the issue of alimony; however, I disagree with the conclusion that either the district court's findings or the record reflect that the district court made an equal division of community property. On the contrary, the value of Mrs. Tuggle's interest in Mr. Tuggle's pension is substantially greater than Mr. Tuggle's interest in Mrs. Tuggle's pension. The district court did not issue a reciprocal qualified domestic relations order and neither the record nor the findings reflect how this unequal treatment of the pensions was resolved by the distribution of other community property. I would therefore reverse the judgment of the district court and remand the matter for more detailed findings, or a redistribution of the community property in light of the unequal distribution of the pensions.

Becker, J.
Becker