

IN THE SUPREME COURT OF THE STATE OF NEVADA

BETTY ANN HARDISON, BY HER
GUARDIAN, LEON HARDISON, JR.,
Appellant,

vs.

TASSY WOLFE AS SPECIAL
ADMINISTRATOR OF THE ESTATE
OF LEON HARDISON, SR.,
DECEASED,
Respondent.

No. 35790

FILED

SEP 10 2002

JANEITE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a final divorce decree dividing community property, awarding limited spousal support and attorney fees, and denying interim spousal support. Leon Hardison, Jr., Betty Hardison's guardian, contends that the district court erroneously made an unequal distribution of community property. The district court issued written findings of fact which support the unequal distribution. Leon Jr. also contends that the district court abused its discretion by only awarding limited spousal support and attorney fees, and by denying Betty interim spousal support during the pendency of the divorce proceedings. We disagree and accordingly affirm the judgment of the district court.

Division of community property

Under NRS 125.150(1)(b), the district court "[s]hall, to the extent practicable, make an equal disposition of the community property of the parties." The district court may, however, "make an unequal disposition of the community property in such proportions as it deems just

if the court finds a compelling reason to do so.”¹ Here, the record supports compelling reasons to make an unequal disposition of the community property.

Betty and Leon Hardison, Sr., were separated for twenty-four of the thirty-five years that they were married. Leon Sr. first filed for divorce in 1974 when he and Betty separated because of Betty’s paranoid schizophrenia. A district court entered a divorce decree, but it was subsequently set aside at Betty’s request. In 1985, Betty filed for divorce. Betty and Leon Sr. signed a marital settlement agreement, but Betty again refused to go through with the divorce. Since their separation in 1974, Leon Sr. complied with court orders requiring him to pay the mortgage, which he satisfied, and utilities on Betty’s residence. He also paid insurance costs on Betty’s residence and her medical insurance coverage. For these reasons, the district court’s unequal distribution of the community property was not error.²

Spousal support award

Betty contends that the district court’s spousal support award was insufficient. A district court has broad discretion in determining whether to award spousal support, and if it determines that spousal support is just and equitable under the circumstances, it has broad

¹NRS 125.150(1)(b).

²See Putterman v. Putterman, 113 Nev. 606, 608, 939 P.2d 1047, 1048 (1997).

discretion as to the amount awarded.³ This court will not disturb a spousal support award that is supported by substantial evidence.⁴ Here, the record shows substantial evidence to support the district court's award.

The Hardisons were separated for twenty-four of the thirty-five years they were married. During their separation, Leon Sr. continued to pay the mortgage and utilities on the family home as well as other personal expenses for Betty. In addition to the spousal support award of \$175.00 per month for five years, the district court also awarded Betty one-half of Leon Sr.'s retirement in Nevada's Public Employees Retirement System (PERS), which totals approximately \$2,700.00 per month for Betty. Under these circumstances, the district court did not abuse its discretion.

Attorney fees

Betty contends that the district court's award of attorney fees was insufficient. The record reflects that Betty's total attorney fees and costs outstanding were \$9,426.76. Pursuant to Sargeant v. Sargeant,⁵ the district court awarded Betty \$4,000.00 in attorney fees and costs, less \$1,000.00 already paid, for a total amount of \$3,000.00 to be paid by Leon

³See Fick v. Fick, 109 Nev. 458, 464, 851 P.2d 445, 450 (1993); see also NRS 125.150(1)(a).

⁴See Shydler v. Shydler, 114 Nev. 192, 196, 954 P.2d 37, 39 (1998).

⁵88 Nev. 223, 495 P.2d 618 (1972).

Sr. Furthermore, subsequent to awarding attorney fees to Betty, the district court modified its previous findings to reflect an even distribution of Leon Sr.'s pension, in order to maximize Betty's income stream.⁶ This increased Betty's income stream from approximately \$494.00 per month to approximately \$3,200.00 per month from which to pay the remainder of her attorney fees. The award of attorney fees in a divorce proceeding lies within the sound discretion of the district court.⁷ Here, the district court acted within its discretion in its award of attorney fees, and we will not disturb the award on appeal.

Denial of interim spousal support

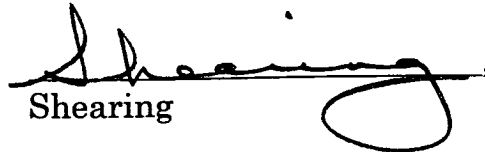
Betty contends that the district court abused its discretion by denying her request for interim spousal support during the pendency of the divorce proceedings. Under NRS 125.040(1)(a), a district court may order a spouse to provide temporary maintenance to the other spouse. Leon Sr. had already satisfied the mortgage on Betty's house and, during the pendency of the divorce proceedings, was paying the utilities and insurance costs on the residence and medical insurance coverage for Betty.

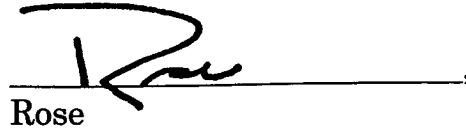
⁶Cf. Rutar v. Rutar, 108 Nev. 203, 208, 827 P.2d 829, 833 (1992), superseded by statute on other grounds, Rodriguez v. Rodriguez, 116 Nev. 993, 13 P.3d 415 (2000) (holding that an increased spousal support award provided adequate resources from which the wife could pay her attorney fees).

⁷NRS 125.040; NRS 125.150(3); Sprenger v. Sprenger, 110 Nev. 855, 860, 878 P.2d 284, 287 (1994).

Under these circumstances, the district court did not abuse its discretion.
Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Rose


_____, J.
Becker

cc: Hon. William O. Voy, District Judge, Family Court Division
Amesbury & Schutt
Paul M. Gaudet
Clark County Clerk