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In Re Marriage of Williamson

172 Cal. Rptr. 3d 699 (Ct. App. 2014)

Opinion by Perren, J.

OVERARCHING ISSUE

Whether a party's receipt of cash advances from his or her parents should be considered in determining child support and spousal support amounts when the parties enjoyed a lavish lifestyle throughout a twenty year marriage but the advances ceased at the time the parties separated?¹

STATEMENT OF FACTS

Frederick Williamson II and Mary Kate Williamson were married in 1989 and separated in 2009.² Frederick's paternal great grandfather was Harry Chandler, a wealthy real estate investor and publisher-owner of the Los Angeles Times.³ Mary Kate worked as a sales associate at an Ann Taylor store prior to marriage.⁴ During the marriage, Frederick received \$12,000 to \$13,000 in annual distributions from his grandmother's trust, \$26,000 in annual tax-free gifts from his parents, payments to cover the parties' three children's private school tuition,⁵ as well as multiple one-time advances on inheritance totaling approximately \$2,168,055 over the course of the marriage.⁶ The parties' monthly expenses were between \$40,000 and \$50,000.⁷

After separation, Frederick's father, Norman, voluntarily paid Mary Kate \$8,600 per month and after terminating those payments, Mary Kate obtained a temporary spousal and child support order for \$5,000 from Frederick.⁸ The award was increased to monthly amounts of \$13,450 in spousal support and \$7,950 in child support.⁹ The court permitted payments from the parties' blocked account after Frederick claimed he was no longer receiving money from his parents.¹⁰ In 2010, Frederick's annual income was \$99,000, \$60,000 of which was from employment.

At trial, Norman testified he would not continue to make advances if they were used to pay support, although he would continue to make the annual gifts of \$26,000.¹¹

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1. Cal.Rptr.3d 699, 703 (2014).
 2. *Id.*
 3. *Id.*
 4. *Id.*
 5. *Id.* at 704.
 6. *Id.*
 7. *Williamson*, 172 Cal.Rptr.3d 699 at 704.
 8. *Id.*
 9. *Id.* at 705
 10. *Id.*
 11. *Id.*

The trial court found Mary Kate's expert accountant testimony to be unreliable because it was based on the opinion of Mary Kate's real estate expert who was found to be not credible due to unfamiliarity with important valuation criteria.¹²

The trial court concluded that future advances to Frederick would be speculative and looked only to income available from Frederick's employment and his receipt of \$26,000 in annual gifts.¹³

The trial court found Frederick had a monthly income of \$8,250 and imputed \$3,000 to Mary Kate, ultimately awarding \$1,136 per month in child support and \$2,000 per month in spousal support with attorney fees of \$10,000 awarded to Mary Kate.¹⁴

ANALYSIS

First, the Court of Appeal reviewed the child support findings for abuse of discretion.¹⁵ The court held that although the trial court mischaracterized the monthly gifts as loans, substantial evidence supported the finding that "it is speculative to assume that further gifts or loans will be made in the future."¹⁶ The court stated that "relatives do not have a duty to support a family member's children: and that treating gifts as income would lead to "support payments based on money the parent does not have."¹⁷

Second, the Court reviewed the trial court's spousal support findings under Family Code section 4320 holding that a spouse may not reasonably demand support based upon the parties' actual standard of living when the standard was artificially high and there is no longer a stream of income to support it.¹⁸

The court also declined to consider whether transfers from a parent should be considered in calculating support under section 4320.¹⁹

Third, the court reversed the portion of the judgment that retroactively modified the final temporary support order that allowed Frederick to make support payments out of a community property account without charging Frederick to reimburse Mary Kate for her share of the community interest.²⁰

The court also rejected Mary Kate's contentions that the statement of decision was deficient, holding that the statement of decision "need do no more than state the grounds upon which the judgment rests, without necessarily specifying the particular evidence considered by the trial court in reaching its decision."²¹

12. *Id.* at 706.

13. *Williamson*, 172 Cal.Rptr.3d 699 at 706.

14. *Id.*

15. *Id.* at 707.

16. *Id.* at 709.

17. *Id.*

18. *Id.* at 710.

19. *Williamson*, 172 Cal.Rptr.3d 699 at 711.

20. *Id.*

21. *Id.* at 712.

The court upheld a protective order as to the Chandler trusts, holding that the information disclosed regarding Frederick's specific interest in the trust was sufficient and given that the trust was comprised of eighteen sub-trusts with numerous beneficiaries, discovery was appropriately limited as the intrusiveness of the request outweighed the likelihood the discovery would lead to admissible evidence.²²

LEGAL SIGNIFICANCE

In terms of child support, the obligation of support rests squarely on the parent. Any money received by other family members does not create a duty in the donor to support the child.

In terms of spousal support, although regular gifts can contribute to a parties' standard of living, should the party rely on the gifts as part of their lifestyle, the court will consider the money in excess of earnings to be money beyond the parties' means. In the event the gifts cease, the court will not consider the gifts as income for the purpose of spousal support.²³

22. *Id.*

23. The author of this summary, Brandon Powell, is a Juris Doctor candidate, May 2015, at Western State College of Law.

