

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-070743

04/19/2012

HONORABLE MICHAEL W. KEMP

CLERK OF THE COURT

J. Hill

Deputy

IN RE THE MATTER OF
NEAL STEVEN CALDWELL

NEAL STEVEN CALDWELL
UP

AND

PAMELA ELIZA CALDWELL

JENNIFER W SHICK

DOCKET-NW
FAMILY COURT SERVICES-CCC

JUDGMENT / DECREE - DISSOLUTION OF MARRIAGE

This matter was taken under advisement after trial on April 17, 2012.

The Court now rules as follows.

The Court finds that the jurisdictional questions required for dissolution of marriage have been adequately addressed by the pleadings filed and the testimony provided in this matter.

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DECREE OF DISSOLUTION OF MARRIAGE

I. DISSOLUTION OF MARRIAGE.

THE COURT FINDS that at least one of the parties has been domiciled in the State of Arizona for more than 90 days immediately preceding the filing of the Petition; that the conciliation provisions of A.R.S. § 25-381.09, and the domestic relations education provisions of A.R.S. §25-352 either do not apply or have been met; that the marriage is irretrievably broken and there is no reasonable prospect for reconciliation.

To the extent it has jurisdiction to do so, the Court has considered and made provisions for maintenance and disposition of property, and, where applicable, support, custody and visitation.

IT IS ORDERED that the marriage existing between the parties is dissolved, and each party is returned to the status of a single person effective upon the signing and entry of this Decree.

II. CUSTODY AND PARENTING TIME.

THE COURT FINDS that the minor child who is the subject of this action lived in Arizona with a parent, or a person acting as a parent, for at least six consecutive months or more prior to the commencement of this action, such that Arizona is the home state of the child vested with jurisdiction to make a child custody determination pursuant to A.R.S. §25-1031(A)(1).

IT IS ORDERED affirming the Court's orders issued March 12, 2012 with regard to custody and parenting time.

III. CHILD SUPPORT ORDER.

THE COURT FINDS that the relevant financial factors required to be included, and the discretionary allowances and adjustments which the Court will allow, for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the Child Support Worksheet dated April 18, 2012.

IT IS ORDERED that Father shall pay child support to Mother in the amount of \$580.00 per month (plus a Clearinghouse Handling Fee of \$5.00) payable through the Support Payment Clearinghouse on the 1st day of each month commencing May 1, 2012 by wage assignment.

IT IS FURTHER ORDERED that Father's child support obligation shall apply retroactively to May 1, 2011.

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IT IS FURTHER ORDERED approving and settling the formal written Child Support Order signed by the Court on April 18, 2012.

LET THE RECORD REFLECT an Order of Assignment is initiated electronically by the above-named clerk. *Although an Order of Assignment has been issued, it will not be effective until the Court receives current employer information for the party ordered to make payments.*

IT IS FURTHER ORDERED that any time an Order of Assignment is not paying the child support obligation in full, Father shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the "Instructions for Making Support Payments through the Clearinghouse" attached hereto.

IT IS FURTHER ORDERED that Father shall complete the "Current Employer Information" form attached hereto and file same with the Clerk of Court. Father shall file a new form every time Father changes employers for as long as support is ordered.

The parties are reminded that child support payments paid directly between the parties instead of through the Support Payment Clearinghouse should be paid in a traceable manner, such as check or money order, or signed receipt for any cash payments. Evidence of direct payments should be saved in the event child support is disputed.

IV. SPOUSAL MAINTENANCE.

The determination of spousal maintenance is controlled by A.R.S. § 25-319. The threshold question is entitlement, which is controlled by subsection (A) of the statute. It provides as follows:

In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking maintenance:

1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.

Respondent/Wife does have a good paying job but did not receive much in apportioned property since the parties lived on a military base.

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2. Is unable to be self-sufficient through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient.

Respondent/Wife is reasonably able to support herself since she makes close to \$40,000.00 per year.

3. Contributed to the educational opportunities of the other spouse.

No evidence was presented regarding this factor.

4. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

The parties were married for 20 years, a considerable length of time.

Based upon the evidence presented, and pursuant to subsections 1, 2, and 4 of the statute, the Court finds that Respondent/Wife is entitled to an award of spousal maintenance.

The issues of amount and duration are controlled by subsection (B) of A.R.S. § 25-319. It details pertinent factors to be considered. Those factors along with this Court's findings based thereon are as follows:

1. The standard of living established during the marriage.

The couple had a comfortable middle class lifestyle.

2. The duration of the marriage.

Almost 20 years.

3. The age, employment history, earning ability and physical and emotional condition of the spouse seeking maintenance.

Respondent/Wife has a good job. Her level of education was not presented at trial.

4. The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting those of the spouse seeking maintenance.

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Petitioner/Husband has a good job plus military retirement. He is capable of paying some spousal maintenance for a period of time.

5. The comparative financial resources of the spouses, including their comparative earning abilities in the labor market.

Their earning abilities are somewhat in Petitioner/Husband's favor but both are capable of earning a substantial living.

6. The contribution of the spouse seeking maintenance to the earning ability of the other spouse.

It appears Respondent/Wife stayed home for some period of time during the marriage while they lived on base.

7. The extent to which the spouse seeking maintenance has reduced that spouse's income or career opportunities for the benefit of the other spouse.

No evidence was presented regarding this factor.

8. The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children.

No evidence was presented regarding this factor.

9. The financial resources of the party seeking maintenance, including marital property apportioned to that spouse, and that spouse's ability to meet that spouse's own needs independently.

Again, Respondent/Wife is capable of earning a good living and is doing so. Further, Respondent/Wife has taken on more debt and will now have to get her own health insurance.

10. The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available.

No evidence was presented regarding this factor.

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11. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.

No evidence was presented regarding this factor.

12. The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the cost of health insurance for the spouse from whom maintenance is sought if the spouse from whom maintenance is sought is able to convert family health insurance to employee health insurance after the marriage is dissolved.

No evidence was presented regarding this factor.

13. All actual damages and judgments from conduct that results in criminal conviction of either spouse in which the other spouse or child was the victim.

No evidence was presented regarding this factor.

After weighing all of the factors outlined above,

IT IS ORDERED that Petitioner/Husband shall pay spousal maintenance to Respondent/Wife in the amount of \$400.00 per month for a period of 36 months commencing May 1, 2012, until April 1, 2015, by wage assignment.

V. PROPERTY DIVISION.

IT IS ORDERED affirming the March 12, 2012 orders regarding property division.

VI. COMMUNITY DEBTS.

IT IS ORDERED affirming the March 12, 2012 orders regarding community debts.

VIII. ATTORNEY'S FEES.

IT IS ORDERED awarding reasonable attorney's fees and costs to Respondent/Wife in the amount of \$1,000.00 to be paid by Petitioner/Husband. Almost all of the issues were settled by Respondent/Wife's attorney, Petitioner/Husband has not paid any child support at all, and there is some disparity of income.

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IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

April 19, 2012

/s/ Michael W. Kemp

DATE

HONORABLE MICHAEL W. KEMP
SUPERIOR COURT JUDGE

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

Attachments:

NEAL STEVEN CALDWELL: Current Employer Information, Non IV-D Payment Instructions