

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DOUG M. SAMSON, ¹	§	
	§	No. 344, 2011
Respondent Below,	§	
Appellant,	§	Court Below: Family Court of
	§	the State of Delaware, in and for
v.	§	Sussex County
	§	
PATRICIA D. MACK,	§	File No. CS09-2122
	§	
Petitioner Below,	§	
Appellee.	§	

Submitted: December 14, 2011

Decided: January 19, 2012

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 19th day of January 2012, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

1. Doug Samson (“Samson”), the respondent-below, appeals from a June 2011 Family Court order awarding monthly alimony of \$1,100.83 plus one-half of the marital estate, to Patricia Mack (“Mack”), petitioner-below. Samson argues on appeal that the trial court erred, because (1) the alimony award renders him unable to support himself, and (2) Mack failed to satisfy her burden to show that she is

¹The Court, *sua sponte*, has assigned pseudonyms to all parties under Supr. Ct. R. 7(d).

unable to support herself. Samson also argues that the Family Court erred by denying his claim that Mack had dissipated the marital estate. We affirm.

2. Samson and Mack were divorced in 2009, after a 23-year marriage. The source of Samson's income of \$42,338 is worker's compensation and Social Security. Mack rarely worked during the marriage, was the primary homemaker, and had a 10th grade education. The Family Court held, based on Mack's minimal earning capacity and assets, that Mack was dependent on Samson, but could earn an annual income estimated at \$17,736. Upon determining that the marital assets totaled \$60,400, the Family Court ordered an equal division, and required a forced sale of the marital home if Samson could not pay Mack her share within 120 days. The Family Court also ordered Samson to pay monthly alimony of \$1,100.83, a figure that reflected both parties' projected earning capacities.

3. At the Family Court property division proceeding, Samson also claimed that Mack had improperly withdrawn money from his bank account (rather than from the parties' joint account) to pay bills. The court denied his claim, finding that Samson had failed to show he was depositing "sufficient income into the joint account at the time to pay their ongoing bills."

4. In reviewing an alimony award, this Court will not disturb a Family Court's ruling, provided that its factual findings are supported by the record, its decision reflects due consideration for the factors enumerated in 13 *Del. C.* § 1512,

and its explanations, deductions and inferences are the product of a logical reasoning process.²

5. The record here reflects a logical reasoning process. 13 *Del. C.* § 1512(b) defines a “dependent” as a party who “[l]acks sufficient property . . . to provide for his or her reasonable needs,” or is “unable to support himself or herself through appropriate employment.” Given Mack’s limited earning potential and longtime role as homemaker in the marriage, the Family Court’s finding that Mack was “dependent” is supported by the record.

6. Samson also claims that the \$1,100.83 monthly alimony award leaves him unable to meet his needs, because he will be forced to sell the marital home and was not allocated any expense for rent or mortgage payments. In making its alimony determination, the Family Court allocated Mack \$600 in monthly rent expense. The court made no allocation for either mortgage or rent expenses for Samson, who claims “[i]t is not logical to require [Samson] to sell the home . . . [but] not allow him expense for rent.”

7. Although Samson asserts on appeal that the Family Court required him to sell the home, that requirement was conditioned on Samson being unable (within 120 days) otherwise to make the required payments to Mack for her share of the marital property. Samson was permitted to remain in the marital home (on which

² *Gray v. Gray*, 503 A.2d 198, 201 (Del. 1986).

no mortgage existed), after Mack had moved out. Moreover, to reach its alimony decision, the Family Court required Samson to submit both current *and* estimated expenses. Samson submitted no expense estimate for either rent or mortgage. Therefore, the Family Court's expense allocation was logical and supported by the record.

8. The Family Court also questioned the credibility of Samson's testimony regarding expenses. The court was well within its discretion in making that credibility determination and in adjusting its expense allocations accordingly. Further, Samson is statutorily entitled, under 13 *Del. C.* § 1519(a)(4), to petition the Family Court to request a modification to the court's alimony order, based "upon a showing of real and substantial change of circumstances."

9. Finally, Samson claims that the trial court erroneously determined that Mack had not dissipated the marital assets by paying bills from Samson's personal bank account. The Family Court found that Mack used the assets at issue to pay ongoing, reasonable expenses that both parties had incurred. In addition, the contested withdrawal totaled \$4,807.78, a reasonable amount based on the parties' expenses. Therefore, the Family Court's "non-dissipation" finding was logical and supported by the record.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is **AFFIRMED**.

BY THE COURT:

/s/ Jack B. Jacobs
Justice