

RENDERED: October 10, 2003; 2:00 p.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court Of Appeals

NO. 2002-CA-000625-MR

LLOYD HAMILTON

APPELLANT

v.

APPEAL FROM SCOTT CIRCUIT COURT
HONORABLE ROBERT OVERSTREET, JUDGE
CIVIL ACTION NO. 97-CI-00513

CHRISTINA HAMILTON

APPELLEE

OPINION

AFFIRMING

** **

BEFORE: EMBERTON, Chief Judge; McANULTY, Judge; and HUDDLESTON,
Senior Judge.¹

HUDDLESTON, Senior Judge: Lloyd Hamilton appeals from a decree
dissolving his marriage to Christina Hamilton in which the

¹ Senior Judge Joseph R. Huddleston sitting as Special Judge
by assignment of the Chief Justice pursuant to Section 110(5)(b)
of the Kentucky Constitution and Ky. Rev. Stat. (KRS) 21.580.

circuit court adopted the report of the domestic relations commissioner in its entirety,² overruling his objections³ regarding the award of maintenance to Christina. Having considered the factors set forth in KRS 403.200,⁴ the court

² According to Ky. R. Civ. Proc. (CR) 52.01, the "findings of a commissioner, to the extent the court adopts them, shall be considered as the findings of the court."

³ In the instant case and commonly throughout this jurisdiction, the term "exception" or some variation thereof is used to describe the procedure by which a party obtains trial court review of the report of a DRC pursuant to CR 53.06. In actuality, CR 53.06 does not contain the term "exception" but rather speaks of "objections." In keeping with the rule, we will use the term "objection" throughout this opinion.

⁴ KRS 403.200 provides:

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

(a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child

determined that Christina "is entitled to maintenance of \$400.00 per month until she either dies, remarries or reaches age 65, whichever first occurs," dependent upon her medical condition and subject to the court's continuing supervision.

Lloyd and Christina married on February 27, 1988. Two children were born of the marriage, namely Kara Marie, on May 22, 1990, and Stacy Lynn, on November 29, 1995. In August 1997, Christina underwent surgery to remove a cerebellar astrocytoma tumor, and she has been unable to work since that time. Christina filed a petition for dissolution of marriage on November 14, 1997. However, the parties' attempted reconciliation which lasted until May 1999, at which point Christina moved from the marital residence.

living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, and the physical and emotional condition of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

Both parties had "well-paying jobs" at Toyota Motor Manufacturing during the marriage. Prior to her surgery, Christina worked in the body-weld department. It is undisputed that Christina is currently disabled and can no longer perform her previous job.⁵ Lloyd remains employed at Toyota as a production team member and earns an annual gross income of approximately \$60,000.00 to \$62,000.00. Unable to maintain the admittedly lavish lifestyle to which the couple had grown accustomed on his salary alone, Lloyd filed for a Chapter 7 liquidation in the United States Bankruptcy Court, Lexington Division, on August 6, 1999. All of Lloyd's debts were discharged as a result of those proceedings.

In a "property settlement and child custody agreement" filed on May 26, 2000, Lloyd and Christina resolved all issues concerning child custody, visitation and the division of marital property, reserving the issues of maintenance and child support for later decision. Pursuant to the agreement, Lloyd and Christina agreed to share joint custody of the children with Christina being the primary residential custodian. Prior to the hearing on the reserved issues, the DRC advised both parties that he planned to consider Lloyd's total annual income,

⁵ Lloyd concedes that the "[m]edical evidence produced showed conclusively" that Christina is "totally disabled."

including his "performance award" payment and overtime earnings, in determining child support.⁶

Christina receives a combined disability and social security income of \$1,524.00 per month. In addition, she has received a benefit payment of \$602.12 each month from UNUM Life Insurance Company of America since the onset of her disability, although she is currently not receiving that payment as UNUM is applying it toward her account balance that accumulated when UNUM overpaid her previously. Further, those payments are contingent upon her disability status which, in turn, is subject to periodic reviews by the company.

Christina's treating physician, Dr. Larry C. Burns, reported that she has chronic poor balance, suffers from persistent double vision and headaches, and requires a cane for walking. She also has abdominal problems with recurring symptoms of nausea and diarrhea. In his estimation, Christina

⁶ In a letter of February 15, 2000, an associate from the Human Resources department at Toyota explained that overtime is "normally worked on a daily basis." Although the "overtime is mandatory," it is "not guaranteed," but, rather, "is worked on an as-needed basis." Likewise, neither the bonus amount nor the payment itself is guaranteed as it is "based on numerous factors dealing with the company's success." In a letter of March 15, 2000, the same associate clarified that the performance award payments are given in May and November each year and are "based on the individual's earnings for the qualified period." At that point, the award was "guaranteed to be at 10% of eligible earnings." Although the payments had remained at 12% since they began, there was "no guarantee" that the additional 2% would continue.

has probably reached maximum medical improvement as her physical condition had not improved in more than one year as of June 2000.

In his status report of June 28, 2000, Dr. Burns concluded that Christina "cannot return to work in the position she previously held. In order to return to the work force, if that is even possible, [she] will require significant retraining and specific accommodations at the work site." Dr. Burns imposed restrictions of no driving, no operating machinery, no "close eye work," no prolonged standing or walking, and no working "at heights." He described her prognosis for recovery as poor.

At the hearing, the DRC heard testimony from both parties and reviewed documentary evidence including their respective projections of monthly income and expenses as well as medical reports from Dr. Burns. While acknowledging Christina's restrictions, Lloyd nonetheless argued that Christina is not "totally" disabled⁷ but, rather, is capable of performing four hours of sedentary to heavy activity per day meaning she could work in a limited or part-time capacity. In his view, this potential income along with her disability benefits and the

⁷ In contrast, on appeal Lloyd acknowledges that when the medical evidence was received, "it was evident that Christina was permanently and totally disabled and was eligible to receive maintenance if needed."

child support are sufficient to provide for her reasonable needs and, therefore, she is not entitled to maintenance. Christina disagreed with that contention as did the DRC.

In a report filed on January 16, 2001, the DRC submitted proposed of fact consistent with the foregoing factual summary. Of particular significance here, he observed that the parties had entered into a partial settlement agreement and "further agreed" that Christina was entitled to receive \$902.00 per month in child support based on their respective monthly incomes and the statutory guidelines. Having set forth the relevant facts, the DRC then engaged in an analysis of the law governing awards of maintenance.

To begin, the DRC noted that Kentucky courts "are reluctant to refuse maintenance to a disabled or seriously ill spouse."⁸ Citing Russell, the court observed that an increase in disability benefits results in a decreased maintenance award although "[t]his approach of offsetting Social Security Supplemental Income (SSI) or other disability awards against maintenance has not always been followed as evidenced by Williams v. Williams and Calloway⁹ v. Calloway¹⁰. Again relying

⁸ In support of this proposition, the DRC relied upon Russell v. Russell, Ky. App., 878 S.W.2d 24 (1994); Leitsch v. Leitsch, Ky. App., 839 S.W.2d 287 (1992); and James v. James, Ky. App., 618 S.W.2d 187 (1981).

⁹ Ky., 789 S.W.2d 781 (1990).

upon James, the DRC further observed that “when a spouse seeking maintenance had a present injury or disability, the amount and duration of maintenance could be subjected to the [court’s] continuing supervision.”

Next, the DRC correctly explained that prior to considering an award of maintenance the court, “lacking agreement of the parties, must assign non-marital property and equitably divide the marital property between the parties.” In their partial settlement agreement, Lloyd and Christina divided their marital personal property and agreed that they owned “no real property in common.” According to the DRC, the only marital property of significant value that Christina received was a pickup truck that the parties had purchased for \$6,500.00. As a result of the bankruptcy proceedings, “most of the marital debts had been discharged.”

Citing Clark v. Clark,¹¹ the DRC observed that under Kentucky Revised Statutes (KRS) 403.200, awarding maintenance is a matter within the discretion of the court and, as the party seeking maintenance, Christina had the burden of proof. To prevail, she “must satisfy the two-part test contained in KRS 403.200(1)(a) and (b).”

¹⁰ Ky. App., 832 S.W.2d 890 (1992).

¹¹ Ky. App., 782 S.W.2d 56 (1990).

A determination of whether Christina lacked “sufficient property” necessarily required the court to evaluate whether the property allotted to her was adequate to provide for her “reasonable needs.” Relying upon Newman v. Newman,¹² the DRC noted that Kentucky has defined “reasonable needs” as the standard of living enjoyed during the marriage. In concluding that Christina lacks sufficient property to provide for her reasonable needs, the DRC engaged in the following analysis:

The parties had an extravagant lifestyle and both were employed at Toyota Manufacturing in good[-]paying jobs with a [combined] yearly income that exceeded \$100,000.00. They took expensive vacations, acquired a boat and accumulated expensive non-essential personal property.

[Christina], since the onset of her tumor and the resulting surgery in 1997, finds herself in financial circumstances radically different from those of her [Lloyd]. [Lloyd] is thirty-four years of age, in good health, and employed at Toyota Manufacturing with an annual salary of approximately \$60,000.00. [Lloyd], because of his employment, can sustain [the] standard of living enjoyed during the marriage. There was

¹² Ky., 597 S.W.2d 137 (1980).

little marital property to allocate, with [Christina] receiving only a vehicle valued at approximately \$6,000.00. Obviously, she has insufficient property to provide for her reasonable needs. Because of [her] disability, her lack of property, and her inability to work, a significant disparity in standard of living is certain to result.

Equity would dictate that a spouse who contributed [substantially to the family income], through [both] her employment [and] performing homemaker chores, should not be left in circumstances radically disparate from those of her former spouse. In fact, the Kentucky Court of Appeals has required trial [c]ourts to remedy significant disparity through maintenance awards.^[13] Therefore, it is the finding of the Court that [Christina] has established she lacks sufficient property to provide for her reasonable needs.

Upon determining that Christina had satisfied the first prong, the DRC then evaluated whether Christina is able to support herself through appropriate employment as follows:

¹³ Roberts v. Roberts, Ky. App., 744 S.W.2d 433 (1988); Atwood v. Atwood, Ky. App., 643 S.W.2d 263 (1982); Combs v. Combs, 622 S.W.2d 679 (1981).

[Christina] is thirty-three years of age with a high school education and one and one-half years of college. Her employment history includes clerical positions at the University of Kentucky and as a computed operator at W.T. Young Storage Company. Prior to her disabling illness, she was employed in a well[-]paying job at Toyota Manufacturing in the body-weld department.

It is undisputed that she is disabled from working her previous job at Toyota. The Court had the opportunity to observe [Christina's] physical condition at the hearing of this matter. Observation revealed that [Christina] ha[s] severe functional disabilities. She exhibited an unsteady gait with slow movement. Her movement was poorly coordinated and she walked with the aid of a cane. The Court has carefully reviewed the medical records of her treating physician, Dr. Larry Burns, and his assessments of [her] functional abilities, limitations, and the restrictions he has placed on her because of her physical condition. Even employment of a sedentary nature would pose problems for [Christina] because of her impaired vision and chronic dizziness with the accompanying nausea and vomiting.

Based upon the foregoing, the DRC concluded that Christina is presently unable to support herself through appropriate full or part-time employment because of her disabilities. Accordingly, Christina met the requirements of KRS 403.200(1) thereby satisfying her burden of proof which entitled her to maintenance with the amount and duration of the award to be determined. In resolving this question, the DRC properly considered the enumerated factors of KRS 403.200(2):

The parties have been married for over twelve years. [Christina], prior to the onset of her illness and disabilities, contributed substantially to the financial marital estate and to the family's standard of living through well[-]paying employment at Toyota Manufacturing. She is now disabled and, through no fault of her own, is unable to support herself through gainful employment. She has no financial resources other than disability benefits.

The Court has considered the parties' independent living expenses and given consideration to [Lloyd's] ability to meet his own needs while supplementing [Christina's] needs through maintenance.

[Lloyd] is employed at a well[-]paying job at Toyota Manufacturing with an annual salary of approximately \$60,000.00. The parties have little or no marital debt,

having discharged most of their debt through bankruptcy proceedings.^[14]

Kentucky, in adopting the Uniform Marriage and Divorce Act, embraced the Act's "rehabilitative maintenance" [provision pursuant to which] a maintenance award [is] to be made for a limited period to enable a spouse to acquire needed education or job skills that would permit financial independence and self[-]support. [In James, however, the Court] seemed to indicate a reluctance to award limited duration maintenance to a seriously ill or disabled spouse. Also see Russell, supra.

Presently, [Christina's] physical condition and disabilities would limit her ability to acquire new skills and become self-sufficient. Likewise, her physical condition presently makes her basically unemployable.

Having considered the statutory factors and governing case law, the DRC recommended that Christina be awarded permanent maintenance until she either dies or remarries, whichever occurs first. Because her physical condition could improve, however, the DRC further recommended that the amount

¹⁴ Christina objected to this statement, explaining that she "has not requested relief in bankruptcy and has been paying credit card balances from marital debt which have outstanding balances of approximately [\$6,000.00]."

and duration of maintenance should be subject to the court's continuing supervision consistent with James. Specifically allowing for the child support that Christina receives as custodian of the parties' two minor children as well as her monthly disability benefits, the DRC concluded that Christina is entitled to receive \$400.00 per month in maintenance.

Both Lloyd and Christina filed objections to the findings of fact, conclusions of law and recommendations of the DRC. Relevant for present purposes,¹⁵ Lloyd filed the following two objections:

1. The [DRC] erred in finding that [Christina] was entitled to an award of maintenance of \$400.00 per month to be paid by [Lloyd]
2. The [DRC] erred in finding that [Christina] was in need of maintenance.

According to Lloyd, the DRC "erred in not taking into account the fact that the parties had been enjoying a lifestyle that was not realistic and actually resulted in [Lloyd]" filing for bankruptcy. Lloyd further argued that although Christina's itemized list of monthly expenses reflected that she required

¹⁵ Christina objected to the "assignment of marital debt and division of 401K property between the parties." Because she did not appeal from the supplemental recommendations, however, further elaboration as to those issues is unnecessary.

\$2,969.00 per month to provide for her reasonable needs, her testimony on cross-examination revealed that “the items listed were inflated and incorrect in many instances.” In his view, the recommendations “skipped over the ‘needs’ and concentrated on the disability of [Christina], which was not contested.”

Noticeably absent from Lloyd’s objections is any mention of child support. Since Lloyd did not object to the DRC’s finding that he and Christina had agreed that she would be entitled to receive \$902.00 per month in child support, he is precluded from doing so on appeal. Even if Lloyd had properly preserved this argument for review, however, the outcome would be the same as there is substantial evidence to support the determination regarding his income and the court properly applied the statutory guidelines in calculating the award.¹⁶

Following oral arguments on the parties’ objections, the court directed the DRC to make additional findings. On October 10, 2001, the DRC conducted a hearing at which the testimony and exhibits were limited to those objections. In a supplemental report entered on November 15, 2001, the DRC observed that the parties had offered no new proof “that would alter the Court’s original findings in regard to maintenance.”

¹⁶ See KRS 403.210 et seq. and Keplinger v. Keplinger, Ky. App., 839 S.W.2d 566 (1992).

According to the DRC, although the extent of Christina's disability was originally the subject of debate, it was "apparently undisputed" at the time of the rehearing. In relevant part, the DRC summarized his prior reasoning as follows:

The Court has given consideration to the factors required [by] KRS 403.[200](2), considering the length of the marriage (12 years), [] the financial contribution that both parties have made to the marital estate (both worked at Toyota Manufacturing and earned fairly equal [salaries] of \$50,000.00-\$60,000.00 each), the [current] financial circumstances of each party (husband employed earning \$60,000.00-62,000.00 with little debt), the health of the parties (wife disabled) and the expenses of the parties.

With respect to marital property, the DRC again observed that the only item of value Christina received as a result of the agreement was the pickup truck, "which had apparently decreased in value and was valued for tax purposes at \$3,000.00 and currently the engine is blown." Based upon the foregoing, the DRC declined to alter his original findings, "specifically indicating" that Christina had sustained her

burden of proof under KRS 403.200(1)(a) and (b) by establishing that she lacks sufficient property, including marital property, to provide for her reasonable needs and is totally disabled. Accordingly, he made the same recommendation as to the amount and duration of maintenance, reiterating that "there is a great disparity" between the financial resources of the parties.

Upon reviewing the supplemental recommendations of the DRC, the court found that Christina "acknowledged specific amounts with regard to her list of expenses which have not been challenged as inflated." As the "amounts acknowledged were of record, and considered by the [DRC]," the court found no error in that regard. In its view, the DRC had recognized that the parties had been living beyond their means, contrary to Lloyd's assertion, and also gave due regard to the effect of the bankruptcy as well as Christina's disability in formulating his recommendations. Further, the DRC correctly determined that Christina had satisfied her burden of proof with respect to maintenance by satisfying the statutory requirements and properly considered the factors contained in KRS 403.200(2) in determining the amount and duration of the award. On February 26, 2002, the court "affirmed and adopted in full" both the initial and supplemental findings of fact, conclusions of law and recommendations of the DRC.

On appeal, the sole issue preserved for review is whether Christina is entitled to maintenance or, as alleged by Lloyd, the lower court erred in awarding \$400.00 per month to Christina "when she failed to show that her needs were not being met by her income." While admitting that Christina is "in a dire situation," Lloyd argues that the DRC was "swayed by [Christina's] permanent disability to the complete disregard of the evidence, the burden of proof, and the evidence" establishing that Christina does not currently need that support nor is he able to provide it. Likewise, Lloyd acknowledges that "courts have recently insisted" that maintenance awards can be used to remedy disparity in the lifestyles of the parties but contends "there is little or no disparity" between his lifestyle and that of Christina at this point.¹⁷

Our standard of review in this context is well-established. "Since this case was tried before the court without a jury, its factual findings 'shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.'"¹⁸ If a factual finding is supported by substantial

¹⁷ According to Lloyd, "the only difference is that Christina has money left over at the end of them month" while he is being forced to operate at a \$50.00 deficit each month.

¹⁸ Cole v. Gilvin, Ky. App., 59 S.W.3d 468, 472 (2001); Ky. R. Civ. Proc. (CR) 52.01.

evidence, it is not clearly erroneous.¹⁹ “Substantial evidence is evidence of substance and relevant consequence sufficient to induce conviction in the minds of reasonable people. ‘It is within the province of the fact-finder to determine the credibility of witnesses and the weight to be given the evidence.’”²⁰

With respect to the report of the DRC, the court “may adopt, modify or reject it, in whole or in part, and may receive further evidence or may recommit it with instructions. In sum, the trial court has the broadest possible discretion with respect to the use it makes of reports of [DRCs].”²¹ A trial court is entitled to reevaluate the evidence and reach a different conclusion than the DRC. As an appellate court, we are not authorized to substitute our judgment for that of the trial court on the weight of the evidence, where the trial court’s decision is supported by substantial evidence.²²

In applying KRS 403.200, we have said that

the trial court has dual responsibilities: one, to make relevant findings of fact; and two, to exercise

¹⁹ Id. at 472-473.

²⁰ Id. at 473.

²¹ Eiland v. Ferrell, Ky., 973 S.W.2d 713, 716 (1997).

²² Leveridge v. Leveridge, Ky., 997 S.W.2d 1, 2 (1999). See also Clark, supra, n. 11.

its discretion in making a determination on maintenance in light of those facts. In order to reverse the trial court's decision, a reviewing court must find either that the findings of fact are clearly erroneous or that the trial court has abused its discretion.²³

Thus, our function is limited to ascertaining whether there is substantial evidence to support the factual findings of the circuit court and determining whether the circuit court abused its discretion in awarding maintenance of \$400.00 per month to Christina in light of those findings.

It is the responsibility of the circuit court to determine whether the spouse seeking maintenance lacks sufficient property to meet her reasonable needs and is unable to support herself through appropriate employment according to the standard of living established during the marriage.²⁴ When a spouse is unable to support herself in accord with the same standard of living that she enjoyed during the marriage and the property awarded to her is insufficient to provide for her

²³ Weldon v. Weldon, Ky. App., 957 S.W.2d 283, 285 (1997), citing Perrine v. Christine, Ky., 833 S.W.2d 825 (1992); Russell, supra, n. 8, at 26.

²⁴ Id.

reasonable needs, an award of maintenance is appropriate.²⁵ However, the court must also consider “the ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.”²⁶ Here, the circuit court did exactly that.

With respect to marital property, the court found that the only item “of significant value” Christina received as a result of the settlement was a pickup truck with a blown engine currently valued at \$3,000.00. Lloyd does not contest this finding, arguing instead that Christina “inflated” her expenses and has sufficient income to meet her needs whereas he does not as a consequence of the maintenance obligation imposed by the court.

As observed by the court, Christina’s contribution to the parties’ annual income was comparable to Lloyd’s prior to the onset of her disability. Lloyd now concedes that Christina is totally disabled. When, as is the case here, the spouse seeking maintenance is unable to be self-supporting due to health problems, KRS 403.200 is appropriately utilized to

²⁵ McGowan v. McGowan, Ky. App., 663 S.W.2d 219, 224 (1983). See also Russell, supra, n. 8; Robbins v. Robbins, Ky. App., 849 S.W.2d 571 (1993); Calloway v. Calloway, Ky. App., 832 S.W.2d 890 (1992); Clark, supra, n. 11; Roberts, supra, n. 13; and Newman, supra, n. 12.

²⁶ McGowan, id.

prevent a drastic change in the standard of living experienced.²⁷ Contrary to Lloyd's assertion, the fact that Christina is eligible for and receives SSI disability benefits does not automatically preclude her from receiving maintenance.²⁸

During the proceedings below, the court heard testimony from Christina which, standing alone, constitutes substantial evidence to support its findings if believed. Upon reviewing both the medical evidence²⁹ and the parties' respective financial data and hearing the testimony of both parties on two separate occasions, the court concluded that Christina lacks sufficient property, including marital property apportioned to her, to meet her reasonable needs and is unable to support herself through appropriate employment. In other words, she satisfied both prongs of KRS 403.200(1), a prerequisite for an award of maintenance.

Although the evidence regarding the parties' respective monthly incomes and expenses and the implications of Christina's disability on her employment potential was conflicting, the court evaluated the credibility of the

²⁷ Russell, supra, n. 8, at 27 (citation omitted).

²⁸ Calloway, supra, n. 24, at 894.

²⁹ As the findings summarized previously are supported by the record and Lloyd is no longer challenging the extent of Christina's disability, further detail is unnecessary at this juncture.

witnesses and weighed all of the information in reaching its conclusion. Such functions are uniquely within the province of the circuit court in its role as the fact-finder and, absent an abuse of discretion, we "must maintain confidence in the decision" of the circuit court.³⁰

Having concluded that Christina was entitled to maintenance, the court then properly considered each of the enumerated factors contained in KRS 403.200(2) in determining the amount and duration of the award including the length of the parties' marriage (12 years), the standard of living enjoyed during the marriage as previously described and the parties' respective contributions to the marital estate (each earned approximately \$50,000.00-\$60,000.00). In reaching its conclusion, the court also considered the parties' current financial resources (Lloyd still earns approximately \$60,000.00 and has minimal debt while Christina's income consists of SSI benefits in the amount of \$1,566.00 per month, UNUM disability payments of \$606.12 per month and child support of \$902.00 per month) and the parties' respective monthly expenses (approximately \$1,711.00 and \$2,900.00 for Lloyd and Christina, respectively).

³⁰ Calloway, supra, n.24, at 894.

In addition, the court considered the related factors of Christina's physical condition and resulting inability to support herself and, contrary to his assertion, Lloyd's ability to meet his needs in light of the maintenance obligation. Although Lloyd argues that the court placed undue emphasis on Christina's disability, no single factor was determinative in its analysis. Based on the disparity in the lifestyles of Lloyd and Christina, the court awarded Christina the reasonable sum of \$400.00 per month in maintenance until she marries, turns 65 or dies, subject to the court's continuing supervision consistent with both James and KRS 403.250. On the facts presented, this result was not only permissible but equitable. Should Christina's ability to provide for her reasonable needs improve, "KRS 403.250 and the civil rules provide for mechanisms by which the maintenance award can be reduced or eliminated."³¹

Because the factual findings upon which the court based its conclusion that Christina is entitled to maintenance are supported by substantial evidence and the court properly considered the relevant statutory factors in determining the amount and duration of the award, the decree is affirmed.

ALL CONCUR.

³¹ Calloway, supra, n. 24, at 894.

BRIEF FOR APPELLANT:

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