

FILED
SUPREME COURT
STATE OF WASHINGTON
2/27/2019 9:32 AM
BY SUSAN L. CARLSON
CLERK

S. Ct. No. 96896-9
COA No. 35748-1-III

SUPREME COURT OF THE STATE OF WASHINGTON

In the Matter of the Marriage of:

ROGER L. ALDRICH,

Petitioner,

and

MARY BETH ALDRICH,

Respondent.

PETITION FOR REVIEW

Kenneth H. Kato, WSBA # 6400
Attorneys for Petitioner
1020 N. Washington St.
Spokane, WA 99201
(509) 220-2237

TABLE OF CONTENTS

A. IDENTITY OF PETITIONER.....	1
B. COURT OF APPEALS DECISION.....	1
C. ISSUES PRESENTED FOR REVIEW.....	1
1. Did the court commissioner abuse her discretion by not terminating Mr. Aldrich’s monthly spousal support obligation?.....	1
2. Did the court commissioner abuse her discretion by not awarding a judgment for overpayments and not terminating the insurance requirement?.....	1
D. STATEMENT OF THE CASE.....	1
E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED.....	1
F. CONCLUSION.....	6
APPENDIX.....	A-1

TABLE OF AUTHORITIES

Table of Cases

<i>In re Estate of Lint</i> , 135 Wn.2d 518, 957 P.2d 755 (1998).....	2
<i>In re Estates of Palmer</i> , 145 Wn. App. 249, 187 P.3d 758 (2008)...	2
<i>In re Marriage of Coyle</i> , 61 Wn. App. 653, 811 P.2d 244, <i>review denied</i> , 117 Wn.2d 1017 (1991).....	2, 3
<i>In re Marriage of Glass</i> , 67 Wn. App. 378, 835 P.2d 1054 (1992)...	5
<i>In re Marriage of Katare</i> , 175 Wn.2d 23, 283 P.3d 546 (2012).....	5

In re Marriage of Mathews, 70 Wn. App. 116, 853 P.2d 462, review denied, 122 Wn.2d 1021 (1993).....3

In re Marriage of Spreen, 107 Wn. App. 341, 28 P.3d 769 (2001).....6

State v. Turner, 156 Wn. App. 707, 235 P.3d 806 (2010).....4

Statutes

RCW 26.09.060.....5

RCW 26.09.090.....6

Rules

RAP 1.2(a).....4

RAP 13.4(b)(2).....2, 3, 4, 5, 6

A. IDENTITY OF PETITIONER

Roger L. Aldrich asks this Court to accept review of the Court of Appeals opinion designated in Part B.

B. COURT OF APPEALS DECISION

The unpublished Court of Appeals opinion which Mr. Aldrich wants reviewed was filed December 20, 2018, and the order denying reconsideration and amending opinion was filed January 31, 2019. A copy of the opinion and order are in the Appendix.

C. ISSUES PRESENTED FOR REVIEW

1. Did the court commissioner abuse her discretion by not terminating Mr. Aldrich's monthly spousal support obligation?

2. Did the court commissioner abuse her discretion by not awarding a judgment for overpayments and not terminating the insurance requirement?

D. STATEMENT OF THE CASE

Mr. Aldrich incorporates by reference the statement of facts in his opening brief of appellant. Further facts will be referred to as the discussion necessitates.

E. ARGUMENT WHY REVIEW SHOULD BE ACCEPTED

Before addressing the issues before it, the Court of Appeals stated the facts first had to be determined. In doing so, the court

decided Mr. Aldrich did not contest the challenged findings of fact in any organized manner so it treated the findings as verities. To the contrary, he did clearly contest the findings so they were easily discernible by the court and were supported with citation to the record. (Brief of Appellant). Stating there was no clear challenge, the court refused to consider Mr. Aldrich's challenges to the findings of fact. The court's refusal is in conflict with *In re Estates of Palmer*, 145 Wn. App. 249, 265, 187 P.3d 758 (2008), another decision of the Court of Appeals. The court should have considered the challenges to the findings on the merits rather than treat them as verities under *In re Estate of Lint*, 135 Wn.2d 518, 532, 957 P.2d 755 (1998). Review is thus warranted under RAP 13.4(b)(2).

The Court of Appeals' opinion does not reflect consideration of the rule that lifetime maintenance is disfavored in this state. *In re Marriage of Coyle*, 61 Wn. App. 653, 657, 811 P.2d 244, *review denied*, 117 Wn.2d 1017 (1991). By overlooking this rule and thereby ignoring the unfair financial effects the award of lifetime maintenance caused Mr. Aldrich, the court's decision conflicts with other appellate decisions. RAP 13.4(b)(2).

Spousal maintenance cannot be ordered to be paid out of Mr. Aldrich's separate property, *i.e.*, assets the court previously awarded to him. *In re Marriage of Mathews*, 70 Wn. App. 116, 125, 853 P.2d 462, *review denied*, 122 Wn.2d 1021 (1993). The Court of Appeals nonetheless decided that because his net wage income was greater than \$1300, the reduced spousal maintenance, it did not require him to pay it from his separate property. This conclusion is unsupported by the undisputed facts.

Even if he had no expenses, the \$1666 wage income Mr. Aldrich was receiving left him with only \$366 after paying the \$1300 maintenance. He also was required to pay for life insurance at a premium of \$477/month to secure the maintenance award. These payments were over his income from wages so the maintenance necessarily had to come from his separate property. (CP 590-98, 600-01, 604-06). The decision of the Court of Appeals conflicts with *Coyle* and *Mathews*, thus justifying review under RAP 13.4(b)(2).

He requested that the lifetime maintenance be terminated as Ms. Aldrich had no need. The Court of Appeals determined he failed to raise the issue sufficiently below to consider it. But the record shows Mr. Aldrich prayed for termination of any further

spousal maintenance payments or, in the alternative, lowering the amount. (CP 36). His appellate brief also argued the termination issue because it had been fairly raised below.

Furthermore, in the hearing triggering the first appeal, Mr. Aldrich argued there was no need for continued maintenance. (CP 227-29). This issue was certainly raised before the trial court and continued to be raised on remand. The Court of Appeals improperly refused to consider the issue of terminating spousal maintenance. Its refusal runs counter to the principle that a case should be decided on its merits rather than being dismissed for a procedural error that is simply not borne out by the record in any event. RAP 1.2(a); *State v. Turner*, 156 Wn. Ap. 707, 711, 235 P.3d 806 (2010). Review is warranted under RAP 13.4(b)(2) on this issue as well.

As the spousal maintenance was reduced from \$2500/month to \$1300/month, Mr. Aldrich contended the commissioner abused her discretion by failing to award him a judgment for spousal maintenance overpayments. Instead, the commissioner modified maintenance retroactively to September 1, 2015, the date 24 months earlier when Mr. Aldrich filed his petition. The Court of Appeals observed this benefitted him greatly.

But the supposed benefit paled due to his much reduced income and only getting a monthly \$300 credit until over \$32,000 in overpayments was satisfied. (CP 580, 610, 613, 615). Mr. Aldrich is 70 and a credit of about 1% of the overpayments is manifestly unreasonable, particularly when Ms. Aldrich has considerable financial assets and greater monthly income than he. This is an abuse of discretion. *In re Marriage of Katare*, 175 Wn.2d 23, 35, 283 P.3d 546 (2012). At minimum, this situation calls for a moratorium on the collection of spousal maintenance as an appropriate alternative to a judgment for the overpayments. *In re Marriage of Glass*, 67 Wn. App. 378, 389, 835 P.2d 1054 (1992). There was clearly an abuse of discretion by the trial court and the Court of Appeals decision conflicts with both *Katare* and *Glass*. RAP 13.4(b)(2).

Mr. Aldrich also challenged the basis for the commissioner's decision where she erroneously relied on and cited RCW 26.09.060, addressing temporary spousal maintenance or child support. This error in law is undisputed. The Court of Appeals even noted in its opinion that the commissioner cited the wrong statute in her decision and again in her findings and conclusions. A

legal error is itself an abuse of discretion. *In re Marriage of Spreen*, 107 Wn. App. 341, 349-50, 28 P.3d 769 (2001).

Nonetheless, the court ignored the error and refused to consider the challenge:

The citations were unintended and had no bearing on the decision. The decision itself notes that Mr. Aldrich requested modification of spousal maintenance. The court commissioner no doubt intended to cite RCW 26.09.090. (Op. at 8).

By ignoring this legal error and supplying the correct statutory citation on its own, the Court of Appeals failed to consider Mr. Aldrich's argument on the merits. Because of perceived procedural errors, the court had already dismissed out-of-hand issues he had rightfully raised. Although the commissioner's error here was one of law and not procedural, the court again failed to meaningfully consider the point. The legal error is an abuse of discretion. *In re Marriage of Spreen, supra*. The Court of Appeals decision conflicts with *Spreen* and calls for review under RAP 13.4(b)(2).

F. CONCLUSION

Based on the foregoing, Mr. Aldrich respectfully asks this Court to grant his petition for review.

DATED this 27th day of February, 2019.

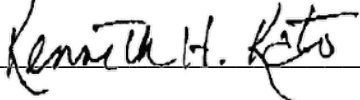
Respectfully submitted,



Kenneth H. Kato, WSBA # 6400
Attorneys for Petitioner
1020 N. Washington St.
Spokane, WA 99201
(509) 220-2237

CERTIFICATE OF SERVICE

I certify that on February 27, 2019, I served a copy of the petition for review through the eFiling portal on Heather Hoover at her email address.



APPENDIX

Renee S. Townsley
Clerk/Administrator

(509) 456-3082
TDD #1-800-833-6388

*The Court of Appeals
of the
State of Washington
Division III*



500 N Cedar ST
Spokane, WA 99201-1905

Fax (509) 456-4288
<http://www.courts.wa.gov/courts>

January 31, 2019

Dennis Charles Cronin
The Law Office of DC Cronin
724 N Monroe St
Spokane, WA 99201-2108
dc@dccronin.com

Heather Hoover
David J. Crouse & Associates
422 W Riverside Ave Ste 920
Spokane, WA 99201-0305
hhoover@crouselawgroup.com

Kenneth H Kato
Attorney at Law
1020 N Washington St
Spokane, WA 99201-2237
khkato@comcast.net

CASE # 357481

In re the Marriage of: Roger L. Aldrich and Mary Beth Aldrich
SPOKANE COUNTY SUPERIOR COURT No. 083007063

Counsel:

Enclosed is a copy of the Order Denying Motion for Reconsideration and Amending Opinion. A party may seek discretionary review by the Supreme Court of the Court of Appeals' decision. RAP 13.3(a). A party seeking discretionary review must file a Petition for Review electronically through the court's e-filing portal or, if in paper format, only the original motion need be filed in this court within 30 days after the Order Denying Motion for Reconsideration is filed. RAP 13.4(a). The Petition for Review will then be forwarded to the Supreme Court.

If the party opposing the petition wishes to file an answer, that answer should be filed in the Supreme Court within 30 days of the service.

Sincerely,

Renee S. Townsley
Clerk/Administrator

RST:pb
Enc.

FILED
JANUARY 31, 2019
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

**COURT OF APPEALS, DIVISION III, STATE OF
WASHINGTON**

In the Matter of the Marriage of)	No. 35748-1-III
)	
ROGER L. ALDRICH,)	
)	
Appellant,)	ORDER DENYING
)	MOTION FOR
and)	RECONSIDERATION
)	AND AMENDING
MARY BETH ALDRICH,)	OPINION
)	
Respondent.)	

The court has considered appellant's motion for reconsideration of the court's decision filed on December 20, 2018, and is of the opinion the motion should be denied. Therefore,

IT IS ORDERED the motion for reconsideration of this court's decision of December 20, 2018, is denied.

IT IS FURTHER ORDERED that the opinion filed on December 20, 2018, shall be amended as follows: On page 5, in the paragraph that begins "Mr. Aldrich lists 17 separate assignments of error," the following two sentences shall be deleted:

The court commissioner struck that expert's opinion. Mr. Aldrich has not assigned error to this or otherwise explained why the court commissioner erred in this regard.

PANEL: Judges Lawrence-Berrey, Fearing, and Korsmo

FOR THE COURT:


ROBERT E. LAWRENCE-BERREY
CHIEF JUDGE

FILED
DECEMBER 20, 2018
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

In the Matter of the Marriage of)	No. 35748-1-III
)	
ROGER L. ALDRICH,)	
)	
Appellant,)	
)	UNPUBLISHED OPINION
and)	
)	
MARY BETH ALDRICH,)	
)	
Respondent.)	

LAWRENCE-BERREY, C.J. — Roger Aldrich appeals the court commissioner’s decision reducing, instead of terminating, his monthly obligation to pay lifetime spousal maintenance to Mary Beth Aldrich. We affirm.

FACTS

Mr. Aldrich and Ms. Aldrich were divorced on June 4, 2010. As part of the divorce decree, the trial court entered detailed findings related to Ms. Aldrich’s request for lifetime maintenance. In essence, the trial court found that Mr. Aldrich’s earning capacity was greater than his current \$60,000 salary, he had unique skills as a security

expert, and those skills “should be in demand for the foreseeable future.” Clerk’s Papers (CP) at 10. On the other hand, Ms. Aldrich had chronic depression and 30 years of mental health treatment. These conditions made it “difficult for her to work full time and she is presently not employable.” CP at 10. The trial court ordered Mr. Aldrich to pay Ms. Aldrich lifetime spousal maintenance in the monthly amount of \$2,500, plus 35 percent of any net monthly income over \$5,000 per month. In 2010, Mr. Aldrich was 62 years old.

In February 2015, Mr. Aldrich’s employer, Center for Personal Protection and Safety (CPPS), notified him of a decrease in his salary from \$140,000 to \$105,000 due to less demand for its services. In May 2015, CPPS informed Mr. Aldrich that his position with the company had been eliminated and offered him a new position at a further-reduced salary of \$70,000 per year. Eventually, this position was eliminated on August 1, 2015.

Mr. Aldrich filed a petition for modification of spousal maintenance on September 1, 2015. At that time, he continued to work for CPPS, but as an independent contractor. CPPS paid him \$1,000 per day on an “as needed” basis. CP at 580. Income from this arrangement totaled \$20,500 between January 2016 and June 2016.

The matter was heard by a court commissioner on May 9, 2016. The court commissioner dismissed Mr. Aldrich's petition to modify. He appealed the dismissal, and we reversed with instructions to reconsider his request.

On September 11, 2017, the parties reargued their positions to the court commissioner. The court commissioner issued a letter decision that was incorporated by reference into the commissioner's later findings and conclusions. We number and summarize the pertinent findings:

1. Since the 2010 order, there have been changes in the security industry, and CPPS specifically, in which Mr. Aldrich's circumstances have substantially changed.

2. Ms. Aldrich's argument that Mr. Aldrich is purposefully unemployed is not supported by actual evidence.

3. Mr. Aldrich makes \$7,682.00 in gross monthly income: \$2,149.79 from Air Force Retirement, \$2,198.44 from a Federal Civil Service Annuity, \$1,668.00 from Social Security and approximately \$1,666.00 from income from CPPS. Deductions of \$1,934.00 bring his net income to \$5,748.00. His stated expenses total \$4,430.00, which leaves an excess of \$1,318.00 each month.

4. Ms. Aldrich lists gross income of \$6,034.00 per month: \$970.41 in retirement, \$1,630.00 from Social Security, and \$3,425.00 from other sources. Deducting approximately \$1,300.00 in taxes (22 percent), her net income is approximately \$4,734.00 per month. Based on her stated monthly expenses of \$6,512.00, the commissioner determined that Ms. Aldrich has a need for an additional \$1,700.00 each month.

From these findings, the court commissioner concluded:

Based on consideration of the factors that play into maintenance, namely RCW 26.09.060 . . . it appears that Ms. Aldrich has the need and Mr. Aldrich has the ability to pay continuing maintenance in the amount of \$1,300 each month, under the same terms as previously ordered, for the lifetime of Ms. Aldrich or until she remarries.

CP at 581.

The court commissioner required the maintenance award to be covered by an appropriate life insurance policy on Mr. Aldrich with Ms. Aldrich listed as the beneficiary. The reduction in maintenance was ordered retroactive to September 1, 2015, the date Mr. Aldrich filed his petition for modification. To account for overpayments made since September 1, 2015, the court reduced Mr. Aldrich's monthly payment to \$1,000 until such time as the full amount is credited back to him.

Mr. Aldrich appeals.

ANALYSIS

Mr. Aldrich raises two central arguments on appeal: (1) The court commissioner abused its discretion in not terminating his monthly spousal support obligation, and (2) the court commissioner abused its discretion in not awarding a judgment for overpayments and not terminating the insurance requirement. Before we can address Mr. Aldrich's two central arguments, we need to determine the facts before us.

Mr. Aldrich lists 17 separate assignments of error. Of these, 8 relate to contested findings. The contested findings pertain to the parties' income and expenses set forth above in items 3 and 4. Mr. Aldrich does not contest the challenged findings in any organized manner. Instead, he reargues the evidence he presented, including the expert opinion he offered concerning his current and future earning capacity. The court commissioner struck that expert's opinion. Mr. Aldrich has not assigned error to this or otherwise explained why the court commissioner erred in this regard.

An appellant must demonstrate why specific findings of the trial court are not supported by the evidence and cite to the record in support of that argument. *In re Estate of Lint*, 135 Wn.2d 518, 532, 957 P.2d 755 (1998). In the absence of a clear challenge, we treat findings of fact as verities on appeal. *In re Estates of Palmer*, 145 Wn. App.

No. 35748-1-III
Marr. of Aldrich

249, 265, 187 P.3d 758 (2008). For this reason, we accept the court commissioner's findings relating to the parties' incomes and expenses.

A. DECISION NOT TO TERMINATE SPOUSAL MAINTENANCE

We review a modification order to determine if the trial court's findings are supported by substantial evidence and whether it made legal error. *In re Marriage of Hulscher*, 143 Wn. App. 708, 713, 180 P.3d 199 (2008). We review the trial court's decision of whether or how much to modify for an abuse of discretion. *In re Marriage of Drlik*, 121 Wn. App. 269, 274, 87 P.3d 1192 (2004).

Mr. Aldrich raises four arguments to support his contention that the court commissioner erred by not terminating spousal maintenance: (1) spousal maintenance was ordered to be paid out of his separate property award, (2) the decision was based on 2010 income and expense information, (3) the decision was erroneously based on RCW 26.09.060 instead of RCW 26.09.090, (4) the decision failed to consider his ability to meet his own financial needs while meeting those of his former spouse, and (5) Ms. Aldrich has no continual need for spousal maintenance.

1. *The record is unclear whether Mr. Aldrich is required to pay spousal maintenance out of his separate property award*

Mr. Aldrich argues the court commissioner erred by requiring him to pay the reduced spousal maintenance out of his separate property award.

No. 35748-1-III
Marr. of Aldrich

In *In re Marriage of Mathews*, 70 Wn. App. 116, 125, 853 P.2d 462 (1993) and *In re Marriage of Barnett*, 63 Wn. App. 385, 388, 818 P.2d 1382 (1991), we held that spousal maintenance cannot be ordered to be paid from sources awarded to the obligor spouse as that spouse's separate property.

The court commissioner found that Mr. Aldrich's monthly income from CPPS was approximately \$1,666. The finding is unclear whether this is gross or net monthly income. In reviewing the September 11, 2017 argument, it is clear this is a net figure. *See CP at 593.* Because Mr. Aldrich's net income from CPPS is greater than \$1,300, the reduced spousal maintenance, we conclude that the court commissioner did not require him to pay spousal maintenance from his separate property.

2. *The court commissioner's 2017 decision was based on the most current income and expense information provided by the parties*

Mr. Aldrich argues the court commissioner erred in basing its decision on 2010 income and expenses. The record does not support his argument. The court commissioner's 2017 decision was based on the most recent income and expense information provided by the parties.

3. *The court commissioner's decision shows it was based on RCW 26.09.090, and its references to RCW 26.09.060 were unintended and had no bearing on the decision*

Mr. Aldrich argues the court commissioner erred when it based its decision on RCW 26.09.060, which pertains to temporary spousal maintenance or child support.

Mr. Aldrich correctly notes that the court commissioner cited RCW 26.09.060 in its decision and again in its findings and conclusions. The citations were unintended and had no bearing on the decision. The decision itself notes that Mr. Aldrich requested modification of spousal maintenance. The court commissioner no doubt intended to cite RCW 26.09.090.

4. *The decision did not fail to consider Mr. Aldrich's ability to meet his own needs*

Mr. Aldrich argues the court commissioner erred by failing to consider whether he could meet his financial needs while meeting those of his former spouse.

RCW 26.09.090 requires a court to consider various factors when determining whether and how much spousal maintenance to award. One factor is the ability of the obligor to meet his or her needs after paying the obligee. RCW 26.09.090(1)(f). We conclude that the court commissioner considered this factor.

Mr. Aldrich is paid \$1,000 per day by CPPS, and works on an as-needed basis. The court commissioner found that Mr. Aldrich's average gross monthly earnings from CPPS were \$1,666. This equates to him working less than two days per month.

The court commissioner found that Mr. Aldrich's total monthly net earnings exceeded his monthly expenses by \$1,318. It then set Mr. Aldrich's monthly spousal maintenance obligation at \$1,300, which is less than \$1,318. This establishes that the court commissioner considered RCW 26.09.090(1)(f).

5. *Ms. Aldrich's lack of need for continued spousal maintenance was not sufficiently raised below*

Mr. Aldrich argues the court commissioner erred by not terminating spousal maintenance because Ms. Aldrich lacks the need for continued maintenance. Ms. Aldrich responds, "Mr. Aldrich's entire Petition was based on his *inability to pay maintenance* and not Ms. Aldrich's [lack of] need for maintenance. *No one* argued that there was a change in circumstance for Ms. Aldrich." Resp't's Br. at 14. Mr. Aldrich, citing Clerk's Papers 359 to 360, argues that he raised the issue in his July 25, 2017 declaration.

Mr. Aldrich's two-page declaration is a response to Ms. Aldrich's request to continue the hearing on his petition. In his declaration, Mr. Aldrich emphasizes his efforts to have the hearing occur promptly and Ms. Aldrich's efforts to delay the hearing. He argues that delay is causing him "serious and irreparable damage" because spousal

maintenance should be terminated. CP at 360. He then re-emphasizes that Ms. Aldrich has continually delayed the matter and notes her lack of financial need as shown by her habit of depositing monthly payments quarterly instead of monthly. In the declaration, Mr. Aldrich never argues that his petition should be granted because Ms. Aldrich lacks the need for continued spousal maintenance.

The parties argued the matter to the court commissioner on September 11, 2017. Mr. Aldrich's argument was that his ability to earn had substantially decreased. He did not argue that Ms. Aldrich lacks the need for continued spousal maintenance.

Under RAP 2.5(a), an appellate argument not first made in the trial court generally is waived. The purpose of the rule is to encourage the efficient use of judicial resources. *State v. O'Hara*, 167 Wn.2d 91, 98, 217 P.3d 756 (2009). When arguments are not raised below, the trial court is deprived of an opportunity to make necessary findings for appellate review.

Here, Mr. Aldrich did not argue to the commissioner that spousal maintenance should be terminated because Ms. Aldrich lacked the need for continued maintenance. His failure to argue this resulted in the court commissioner not making necessary findings for appellate review. We, therefore, do not consider this argument on appeal.

B. NO JUDGMENT FOR OVERPAYMENTS AND REQUIRING CONTINUATION OF INSURANCE

1. *Set-off of overpayments not an abuse of discretion*

Mr. Aldrich argues that the court commissioner abused its discretion when it failed to award him a judgment for spousal maintenance overpayments.

RCW 26.09.170(1) authorizes a court to modify spousal maintenance only as to installments accruing after the petition to modify is filed and only upon a showing of a substantial change in circumstances. The statute does not direct a trial court how to compensate an obligor for overpayments made between the filing of the petition and the court's modification order.

Here, the court commissioner elected to modify the monthly spousal obligation retroactively to when Mr. Aldrich filed his petition, 24 months earlier. This benefitted him considerably. He now complains that the court commissioner abused its discretion in not allowing him to enter a judgment against Ms. Aldrich. A judgment would accrue 12 percent interest per annum, and would permit a full offset of spousal maintenance until the principal and interest is paid.

Mr. Aldrich cites *In re Marriage of Glass*, 67 Wn. App. 378, 835 P.2d 1054 (1992), and argues a court is required to enter judgment for a retroactive reduction of spousal maintenance. *Glass* stands only for the proposition that support payments that

have accrued become a vested judgment, and statutory interest must be added to those judgments. *Id.* at 389. Here, Ms. Aldrich received monthly spousal maintenance pursuant to a court order. The modification of that order did not result in a vested judgment for support paid prior to the modification.

The court commissioner, having benefitted Mr. Aldrich considerably by making the reduced spousal maintenance retroactive, did not abuse its discretion by not further benefitting him with a judgment.

2. *Mr. Aldrich may reduce the face value of the term life insurance*

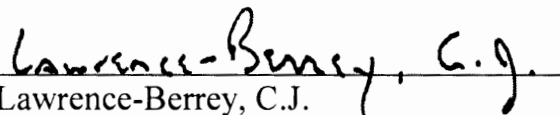
Mr. Aldrich argues that the face value of the term life insurance policy should be reduced because the monthly spousal maintenance obligation has been reduced. We direct Mr. Aldrich to Exhibit K of the 2010 Divorce Decree. “[Mr. Aldrich] may review the insurance coverage periodically, based on the average life expectancy, and adjust the coverage face value on the policy accordingly.” CP at 29.

Mr. Aldrich may adjust the face value of the term insurance policy. If Ms. Aldrich disputes the reduced face value, that issue can be resolved by the appropriate judicial officer.

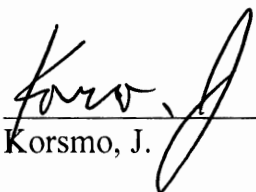
No. 35748-1-III
Marr. of Aldrich

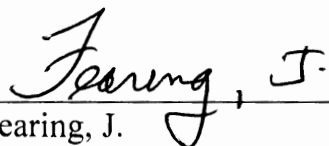
Affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.


Lawrence-Berrey, C.J.

WE CONCUR:


Korsmo, J.


Fearing, J.

February 27, 2019 - 9:32 AM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: In re the Marriage of: Roger L. Aldrich and Mary Beth Aldrich (357481)

The following documents have been uploaded:

- PRV_Petition_for_Review_20190227093202SC097672_9458.pdf
This File Contains:
Petition for Review
The Original File Name was rladrich prv 357481.pdf

A copy of the uploaded files will be sent to:

- dc@dccronin.com
- hhoover@crouselawgroup.com

Comments:

Sender Name: Kenneth Kato - Email: khkato@comcast.net
Address:
1020 N WASHINGTON ST
SPOKANE, WA, 99201-2237
Phone: 509-220-2237

Note: The Filing Id is 20190227093202SC097672