

**COURT OF APPEALS
DECISION
DATED AND FILED**

February 24, 2000

Cornelia G. Clark
Acting Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

No. 99-1476

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

GERALD HUFFMAN,

PETITIONER-APPELLANT,

V.

DORLA HUFFMAN,

RESPONDENT-RESPONDENT.

APPEAL from a judgment of the circuit court for Juneau County:
JOHN W. BRADY, Judge. *Affirmed.*

Before Dykman, P.J., Eich and Roggensack, JJ.

¶1 PER CURIAM. Gerald Huffman appeals from a judgment of divorce. The issue is whether the trial court misused its discretion in making the property division. We affirm.

¶2 Gerald and Dorla Huffman were married for eleven years. At the time of divorce, the trial court found that Gerald was earning \$4,000 per month and that Dorla had the capacity to earn \$2,000 a month, although she had not yet earned that amount because she had recently obtained her R.N. degree with Gerald's help. The trial court also found that there was a net marital estate of \$80,000. From that estate, the trial court awarded \$31,000 to Gerald and \$49,000 to Dorla and denied Dorla's request for maintenance.

¶3 Gerald argues that the trial court erroneously exercised its discretion in making an unequal property division. A property division at divorce is committed to the sound discretion of the trial court. *See Weiss v. Weiss*, 122 Wis. 2d 688, 692, 365 N.W.2d 608 (Ct. App. 1985). A trial court may order a disparate property division after considering whether maintenance payments will be granted to either party and whether the property division is in lieu of such payments. *See* WIS. STAT. § 767.255(3)(i) (1997-98).¹

¶4 We conclude that the trial court properly exercised its discretion in ordering an unequal property division. Noting that the issues of property division and maintenance were interrelated, the court denied maintenance to Dorla because she had received the home that Gerald brought to the marriage and she had been relieved from paying him \$9,000 to equalize the property division. The trial court's decision to order an unequal property division in lieu of maintenance was a reasonable one based on the length of the marriage and Dorla and Gerald's health, age and earning capacity. There was no erroneous exercise of discretion.

¹ All references to the Wisconsin Statutes are to the 1997-98 version unless otherwise noted.

¶5 Gerald contends that the trial court did not consider the fact that he made substantial marital debt payments while the divorce was pending. This claim is not supported by the record. The trial court specifically stated that it had considered the fact that Gerald had paid marital debts while the divorce action was pending.

¶6 Gerald also contends that the trial court erroneously exercised its discretion in awarding Dorla the home that he brought into the marriage. The trial court determined that as an over-the-road truck driver, Gerald had less need of a house than Dorla. This decision is based on the facts of record, the appropriate law and is reasonable; thus, there was no erroneous exercise of discretion.

¶7 Finally, Gerald contends that the trial court should have considered as property \$14,000 in child support Dorla is owed from a prior marriage. Gerald did not, however, raise this argument in the trial court. Therefore, we will not now consider it. *See Meas v. Young*, 138 Wis. 2d 89, 94 n.3, 405 N.W.2d 697 (Ct. App. 1987) (we will not consider arguments raised for the first time on appeal).

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

