

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 25, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

NOTICE

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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. 00-0839

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

NAVNEET LUTHAR,

PETITIONER-APPELLANT,

V.

KAMINI LUTHAR,

RESPONDENT-RESPONDENT.

APPEAL from a judgment of the circuit court for Dane County:
DANIEL R. MOESER, Judge. *Affirmed.*

Before Vergeront, Deininger and Hue, JJ.¹

¹ Circuit Judge William F. Hue is sitting by special assignment pursuant to the Judicial Exchange Program

¶1 PER CURIAM. Navneet Luthar appeals a judgment of divorce. The issue is whether the court properly awarded maintenance to his ex-wife, Kamini Luthar. We affirm.

¶2 The parties agree that the award of maintenance is a discretionary decision made by applying the factors described in WIS. STAT. § 767.26 (1999-2000).² The court in this case awarded Kamini monthly maintenance of \$400 until emancipation of the couples' youngest child, which will be in approximately eight years. The parties have equal custody of the children. Kamini works 70% time, based on a year-round work schedule, while Navneet teaches at a technical college on a traditional two-semester schedule, with summers off.

¶3 Virtually all of Navneet's arguments boil down to a claim that Kamini would not require maintenance if she chose to work more than 70% time. The trial court addressed this issue in its decision. It noted that both parties are working approximately the same number of hours per year, and that both have the opportunity to work more hours. The court wrote that one of the "major benefits" of their schedules is the flexibility and the time it permits the parents to be with the children. The court stated that the parties might voluntarily increase their hours, but the court would not impute extra income to either party. The court concluded that there was not a sufficient basis to order equal distribution of their total income, but that "while the children are in their minority fairness requires some payment to more equitably distribute the total income of the parties." In terminating maintenance on emancipation of the youngest child, the court implied that maintenance would no longer be appropriate after that point because Kamini

² All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

could increase her work hours, without that decision having any potential effect on the children.

¶4 On appeal, Navneet claims that he is working full-time, but he makes no specific argument that the trial court erred by finding that he and Kamini each work approximately the same number of hours per year, and that they did so for the last several years of their marriage. With that finding unchallenged, we conclude that the trial court was reasonable in its decision not to impute income to Kamini or require her to increase her work hours. Furthermore, the trial court considered other relevant statutory factors and adequately addressed them in its decision. The trial court reasonably concluded that it was fair to award maintenance in light of the parties' equal custody of the children and the lifestyle they chose to establish during the marriage, including the amount of time devoted to employment, and the amount of time they devoted to the custody and care of their children.

¶5 Navneet also argues that the trial court failed to consider the tax consequences of maintenance. His argument is based on the absence of a finding as to what the parties' net incomes were. Without that finding, he argues, the trial court could not properly calculate Kamini's need for maintenance. However, we have difficulty seeing how this finding would have affected the court's decision. The court's decision to award maintenance was not based on Kamini's numerical need for financial support, but was instead based on fairness and achieving a more equitable distribution of the total income during the children's minority. In doing so, the trial court relied on gross income figures which are not disputed by Navneet. Navneet does not explain how consideration of net income should have led to a different result.

¶6 Finally, we note that virtually all statements of fact in Kamini's brief are unsupported by citations to the record, contrary to WIS. STAT. RULE 809.19(1). The absence of record citations makes the work of the court and opposing counsel more difficult, results in a less convincing argument, and may be grounds to strike a brief.

By the Court.—Judgment affirmed.

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

