COURT OF APPEALS
DECISION
DATED AND RELEASED

September 28, 1995

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

NOTICE

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

No. 94-1542

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT IV

IN RE THE MARRIAGE OF:

JILL L. SCHWENKHOFF
n/k/a JILL L. VAN TASSEL,

Petitioner-Appellant

v.

RONALD O. SCHWENKHOFF,

Respondent-Respondent.

APPEAL from a judgment of the circuit court for Sauk County: DONN H. DAHLKE, Judge. *Affirmed in part; reversed in part and cause remanded with directions.*

Before Eich, C.J., Dykman and Vergeront, JJ.

PER CURIAM. Jill L. Van Tassel appeals from a divorce judgment. The issues are whether the trial court erroneously exercised its

discretion in setting child support and denying maintenance. We affirm the child support determination, but reverse the maintenance determination.

The parties have one minor child. Van Tassel argues that the trial court erroneously exercised its discretion in setting child support because the record does not support the income figure it used for her former husband, Ronald O. Schwenkhoff. Neither party introduced evidence of Schwenkhoff's gross income from the employment he held at the time of trial. Schwenkhoff provided one pay stub which showed a figure of $475 per week. He testified that he believed that his employer was deducting taxes and insurance before paying him that amount, but he said that he was unable to determine what his gross pay was before those deductions. In its memorandum decision, the court appeared to accept that $475 was Schwenkhoff's weekly gross income, but then adjusted it upward on the ground that Schwenkhoff was earning below his potential. The court set his income at approximately $587 per week and ordered him to pay $100 per week, which is seventeen percent of that amount, as child support.

Given the meager information provided to the trial court, we cannot say that it erred in setting child support. Although the court likely erred in accepting $475 as Schwenkhoff's weekly gross income, it is not clear that this error had a significant effect on its ultimate decision. The practical effect of the court's analysis was to use a weekly gross income higher than $475. Without proper information being provided by either party, the court could, at best, have only made a rough approximation of Schwenkhoff's weekly gross income by extrapolating from $475. Whether this figure would have been greater or lesser than the amount ultimately set cannot be determined from this record. Neither this court nor the trial court are obligated to become certified public accountants so as to be able to make such calculations independently of the parties' evidence. ***Liddle v. Liddle***, 140 Wis.2d 132, 150, 410 N.W.2d 196, 203 (Ct. App. 1987).

Van Tassel argues that in the absence of evidence, the trial court should have used Schwenkhoff's tax returns and applied the child support guidelines to his average income over four years. However, the court was not compelled to use that methodology. The court stated that Schwenkhoff had explained his current, lower income to the court's satisfaction.

The trial court declined to order maintenance. Determination of maintenance is within the discretion of the trial court. ***LaRocque v. LaRocque***, 139 Wis.2d 23, 27, 406 N.W.2d 736, 737 (1987). We affirm a discretionary determination if the trial court examined the relevant facts, applied a proper standard of law and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach. ***State v. Gudenschwager***, 191 Wis.2d 432, 441, 529 N.W.2d 225, 229 (1995).

Van Tassel argues that this decision was erroneous for several reasons. We agree. In denying maintenance, the trial court wrote:

> In determining the financial status of each of the parties, the Court has very thoroughly gone through each of their financial statements. There are some items on each of the statements that the Court questions. Both of the statements, however, have been prepared by the parties and sworn to as being correct, so the Court, for the purpose of comparing the financial status of both parties, has taken each of the statements at their face value on the figures submitted by the parties.

Schwenkhoff indicated on his statement that he received weekly gross income of $475, from which he then deducted "estimated" taxes. However, as discussed above, he testified at trial that he believed $475 to be his weekly net income. In setting child support, the trial court used a weekly gross income figure higher than $475. The court provided no explanation for why it did not also use that higher figure for maintenance purposes. This was an erroneous exercise of discretion.

The trial court also concluded that Van Tassel is self-supporting and living at a standard comparable to that enjoyed during the marriage. This finding does not appear to be supported by the record. The court found that Van Tassel is working seventeen and one-half hours per week. Van Tassel and the parties' child are living in a one-bedroom apartment in the basement of her mother's ranch house, which does not appear to be comparable to the home in

which the family lived before the divorce. The court should reconsider these findings on remand.

In summary, we affirm the trial court's conclusions as to child support, but reverse as to maintenance.

By the Court.—Judgment affirmed in part; reversed in part and cause remanded with directions.

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