

This interpretation of the Master's Summary is understandable. However, it is not what the Master intended. A close reading of the Report reveals that the Master wanted the practical effect of the decision to be exactly the scheme set forth under the Equitable Distribution section, pages 12 -14. In essence, Wife is to receive the assets allotted to her and to pay no more debt than she has already paid. Husband is to receive the assets allotted to him and to pay all the debt remaining at the date of the Master's hearing. No money is to exchange hands.

The language that led the attorneys astray, namely "divide the Marital property" such that Wife receives 61.85%, was intended to mean that Wife should receive the assets set forth in the Report, and the Husband is to pay a sufficient amount of the debt to make up for the difference between the value of Wife's assets and 61.85% of the total assets, plus the amount Wife already paid on the debt. This is misleading because it adds together hard assets and debt relief, and considers the sum to be assets. That is rather like adding apples and oranges and considering the sum to be apples. However, the intent is clear when one closely reads the report, and we do not find that result to be unfair or inequitable.

The actual, practical result of the distribution is: (1) Wife receives 28% of the hard assets, and Husband receives 72%, and (2) Wife pays 28% of the debt and Husband pays 72%. This amounts to a roughly 72/28 split of the marital estate in favor of Husband.² At first blush this result seems absurd, in light of the Master's statement that

² The total marital estate (assets minus debt) is \$2856.48. Wife received \$3261.03 in hard assets and has paid \$2413.02 on the debt, leaving her with \$848.01. Husband received \$8356.70 in hard assets and will pay \$6348.23 of the debt, leaving him with \$2008.47.

“the scales tip in favor of Wife.” Master’s report, p. 12. However, a close examination of the parties’ situation shows otherwise.

Normally in this type of situation, the Wife would receive a larger percent of the assets to tip the scales in her favor. Here, however, there are very few assets. In fact, neither party received much of anything.³ There was no cash left over. The only asset of any significant value the Master could have given Wife was the 1996 Ford Ranger (\$5890), and there was no indication Wife even wants that vehicle. In fact, neither party filed exceptions complaining about the division of the hard assets, which means both are happy with that part of the report. Therefore, although Husband received a larger share of the assets, that statement is rather meaningless, because his primary asset is a 1996 Ford Ranger, worth \$5890.

The Master wanted to tip the scales in favor of the Wife and she did so in the only practical way she could: by making Wife pay only 28% of the debt.⁴ It is also important to recognize there is some indication Wife paid this debt in part with money given to her by Husband, although the evidence is not entirely clear on that issue and in any case, the money was provided at least in large part as spousal support, before an order assigning

³ Wife got her pension plan (\$1062.39), her 403(6) (\$728), the Plymouth Voyager (\$1000), the Christmas Club account (\$220.64), and guns (\$250). Husband got stocks (\$335), his pension (\$1191.70), the Ford Ranger (\$5890), and guns (\$940).

⁴ The court acknowledges that the Master stated Husband would be responsible for 100% of the debt. However, that is not exactly what she meant. The Master never required Husband to reimburse Wife for the \$2413.02 she had paid on the debt. She simply considered that amount as a credit to Wife when calculating what amount would bring her to the equivalent of 61.85% of the hard assets, as explained above. The practical effect, however, is that Husband pays all of the debt remaining at the time of the hearing.

such a payment was entered.

While it is true the Master could have required Husband to pay cash to Wife, she chose not to do so and we do not find that decision unreasonable, for the following reasons. First, there was no evidence Husband has any extra cash, and the assets he received are not liquid assets. Second, Husband is saddled with over \$6000 in debt to pay off, as well as the additional charges that have accumulated because of late fees and interest.⁵ Third, since August 1998 Wife has received spousal support and APL amounting to \$18,569.88. Fourth, Husband will be paying Alimony of \$1200 per month for two years. And lastly, the debt was acquired while the marriage was still intact. Wife benefitted from the goodies purchased on credit, and should not completely escape all responsibility for payment. Under the Master's decision, Wife is not actually compensated for the \$2413.02 she paid on the debt. However, she is not required to pay a penny more on the debt. Her slate is now wiped clean. She walks away with her car, her meager pensions, her guns, a few dollars toward a Merry Christmas, and \$1200 a month alimony for two years.⁶ That is not a bad deal for her, and in fact is very fair.

If the parties had refrained from spending beyond their means, there would have been more assets for both spouses upon the dissolution of their marriage. As it is, the Master made the best of a sad situation caused by both parties, and we see no reasons to disturb the Master's distribution scheme.

⁵ This is fair, for the evidence indicates Husband was responsible for these charges.

⁶ Wife also must pay her educational loan, but that is a different matter, and will be discussed separately.

B. Credit for Debt Husband Paid

Husband claims the Master should have given him credit for paying more of the debt because the testimony showed that for a few months he was giving Wife money and Wife used some of that money to pay off their debts. The testimony on this point was inexact, and it is not at all clear how much money, if any, this involves. Moreover, even if it were a significant amount of money, it should not necessarily be credited to Husband, because the money he was giving to Wife was in place of spousal support and child support, and it is not clear that he ever give Wife money for the specific purpose of paying off the debts. But even specific evidence to that effect would probably not have altered the practical result of this decision: namely, that Husband is responsible for the remaining debt. After all, as discussed above, the 61.85% figure, which the Master arrived at when crediting Wife with paying part of the debt, is rather meaningless, and was obviously arrived at after the equitable distribution was made, and was meant as a summary of the effect of the distribution scheme. If Husband had satisfactorily shown he should be credited for paying a larger amount of the debt, perhaps the 61.85% figure would have been higher, but it would not have changed the actual result of the decision.

C. Back to School Full Time

Wife does not like the Master's conclusion that she should quit her job and go back to school full time to get her Bachelor's Degree. That is a bit ironic, given the fact that it was Wife who testified that she will not be able to advance at her current job, and indeed is in danger of losing it without a B.A. The Master has given Wife what she supposedly wants—the opportunity to receive alimony so she may attend school.

However, instead of dragging the process on for seven years while Wife attends school part time, the Master is urging her to go to school full time and complete her degree in three semesters, rather than seven years. The Master's reason for doing this is simple: waiting seven years would amount to a loss of a potential \$70,000 in extra income. The Master's decision will force Wife to get serious about her education, for she will have a mere two years to rely on alimony to meet her expenses. It will also allow Wife to become truly financially independent five years earlier, which both spouses should be happy about.

D. Wife's Student Loans

Wife contends she should not have the sole responsibility for paying off the \$9,551.99 student loan incurred during the marriage. We disagree. As the Master explained, under current caselaw, educational loans may be allocated to the spouse who will receive the benefits. Report, p. 14. Although Husband benefitted from an increase in Wife's salary for three years after she earned her Associate's Degree, he also helped her pay \$120 per month on the school loan during that period. But more importantly, the main benefit from the loans will arise after Wife has completed her Bachelor's Degree, when her salary may be expected to jump significantly. It will be Wife who benefits at that time. It will only be then that she greatly benefits from the courses she took during the marriage.

E. More Alimony

Wife wants more alimony than \$1200 per month for two years. After crunching the numbers, the Master found that amount would allow her to meet her expenses while

attending school full time, especially as she will not have to pay on her student loan during that period. After completing her B.A., Wife can expect to earn \$30,000-\$35,000, and she should certainly be able to support herself on that salary.

F. Marital Misconduct

Wife tried to show Husband was having an affair with a co-worker, but there was no hard evidence to establish that any hanky panky was occurring prior to separation.

G. Missing Assets

Husband argues that the Master did not credit to Wife all the assets she received. During argument, the attorney for Husband did not discuss this exception but based on the transcript, we suspect Husband is alluding to some jewelry which Husband claims Wife has squirreled away. This issue was hashed out ad nauseam during the hearing, and the Master believed the Wife, who testified she lost these items. The court will accept the Master's assessment of credibility on this point.

H. Wife's Contribution to Husband's Increased Earning Power

Wife contends she contributed to Husband's increased earning power, but she provided no evidence to support her contention. Husband had his Associate's Degree prior to the marriage and even though Wife may have helped him increase his earning power by taking care of the home front while he worked, this is not the type of situation where that contribution would significantly alter the distribution scheme.

I. Counsel Fees

Both parties want the other to pay their counsel fees. The Master refused to

award Wife counsel fees because Wife has been receiving APL, which is intended to permit her to pay the expense of litigation. Husband claims Wife should pay his expenses because Wife has continually delayed. This request must be denied, as Husband submitted no evidence Wife has delayed. Furthermore, both the Master and this court have duly noted that Wife has received a considerable amount of money in alimony and spousal support while this litigation was pending, and have taken that into consideration in arriving at and reviewing the conclusions set forth in the Report.

We do, however, like Husband's suggestion that a specific time limit be set for alimony, just in case Wife should be tempted to further delay the proceedings.

ORDER

AND NOW, this _____ day of July, 2001, for the reasons stated in the foregoing opinion, the exceptions and cross exceptions filed to the Master's Report of May 3, 2001 are dismissed except for plaintiff's exception number one, regarding time limit for alimony, which is granted. It is hereby ordered that the Master's Report is affirmed, with the additional provision, as follows: The alimony payment specified in the Master's Report shall begin on 3 May 2001 and shall continue for twenty-four months.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Clinton W. Smith
Janice Yaw, Esq.
Joy McCoy, Esq.
Jocelyn Hartley, Esq., Family Court Hearing Officer
Gary Weber, Esq., Lycoming Reporter