

DOCKET NO: HHD-FA23-6164420-S : SUPERIOR COURT
EDUARDO CALDERON : JUDICIAL DISTRICT OF HARTFORD
V. : AT HARTFORD
TAYLOR RYER CALDERON : JUNE 12, 2024

FILED
JUN 12 2024
HARTFORD J.D.

MEMORANDUM OF DECISION

This action seeks the dissolution of the parties' four-year marriage, commenced by a complaint filed on January 11, 2023. The parties appeared at trial represented by counsel on January 9, 2024, March 25, 2024, March 26, 2024, May 13, 2024 and May 28, 2024. The court has fully considered the rules of practice; full exhibits; testimony from the parties; the demeanor and credibility of the witnesses; applicable case law; and all of the criteria set forth in General Statutes §§ 46b-56, 46b-56c, 46b-81, 46b-82, 46b-84, and 46b-215b in reaching the decisions reflected herein. The court also reviewed the parties' financial affidavits, child support guidelines and proposed orders.

As financial matters were in dispute, the court unsealed the financial affidavits pursuant to Practice Book § 25-59a (h).

FINDINGS OF FACT

The court makes the following findings of fact by a preponderance of evidence and by clear and convincing evidence on all contempt matters. All valuations of assets are made as of the date of dissolution unless otherwise set forth herein.

The court has jurisdiction over this matter. The parties were married on September 21, 2019, in Portsmouth, Rhode Island. The parties have resided in Connecticut for twelve months prior to the entry of this final decree. The marriage of the

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RJD jmp 6-12-24

parties has broken down irretrievably with no possibility of reconciliation. The allegations in the complaint have been proven and are found to be true.

There are two children born of the marriage: Leo Calderon and Ryer Calderon, both born May 7, 2020. The twins have both been diagnosed with autism spectrum disorder. Neither party, nor the children, have received financial assistance from the State of Connecticut.

The plaintiff is thirty-six years old and in good health. He emigrated from the Dominican Republic as a young child and graduated from Wethersfield High School. He attended two years of classes at Manchester Community College but did not obtain a degree. As his work history since high school graduation demonstrates, he has been quite financially successful, primarily as a business manager for car dealerships. He is currently employed by Hoffman Audi/Porsche. His gross annual income for 2023 was \$404,704.57. His gross annual income for 2022 was \$328,382. His income is subject to volatility as he is only guaranteed a minimum wage salary, and the remaining entirety of his income is commission-based. His employment through Hoffman is his sole source of income.

The defendant is thirty-seven years old and primarily in good health. She has historically dealt with alcoholism, along with anxiety, depression and an eating disorder. She obtained an undergraduate degree from Vanderbilt University and subsequently obtained a degree as a registered nurse from Goodwin University. She is employed as a registered nurse for Manchester Memorial hospital. Currently, she works as a per diem employee and earns \$55 per hour, and a higher wage for overtime hours. She is

currently working an average of 10 hours per week. She is the children's primary caretaker in terms of their medical and special education needs.

The parties currently have a birdnesting arrangement for custody and care of the twins. They alternate being the parent in the family home with the twins on an almost daily basis. This arrangement was reached through agreement of the parties entered as a court order on April 4, 2023 (#111). On the third trial date, March 26, 2024, the parties reached a final agreement regarding joint custody and a shared parenting plan. Pursuant to the agreement (#139), the parties have continued to bird nest at the family home until this court makes any further decision regarding the marital home. The family home is located at 1053 Hopewell Road in Glastonbury, Connecticut. The parties purchased the home in November of 2021 and moved in with their children at that time. Title to the property is held in both parties' names. The mortgage is solely in the plaintiff's name. The current appraised value of the property is \$506,000. The outstanding mortgage is \$363,000. The court finds the equity in the marital home is approximately \$133,000. The monthly mortgage payments are approximately \$2,800. According to the plaintiff, the parties utilized approximately \$100,000 of funds that came from the sale of a property he owned pre-maritally as the down payment for this property. He also testified that he spent approximately \$50,000 cash on repairs to the property including paint, a new water heater, a new patio, a playground, and a radon system, among other things. He estimates that future repairs which will be needed are a new furnace, air conditioning system, septic tank and well pump. The defendant's mother, a trial witness, testified that she will provide the funding for the defendant to retain the marital home if the court orders that she should retain it.

The children attend a special needs preschool program through the Glastonbury public schools each weekday, other than Wednesdays, from 12:40 p.m. to 3:30 p.m. They are transported to and from the program by the school system. On Wednesdays and Fridays, the children attend daycare at the Goddard School, a private program in Glastonbury, from 8 or 9 a.m. to 5 p.m. The defendant drops them off there in the morning and retrieves them in the evenings. The defendant does not work outside the home during the time that the children attend Goddard. On those days, the school system transports the children to and from their school program from Goddard. The plaintiff fully funds the children's attendance at Goddard. The plaintiff's weekday off is Tuesday, and he is with the children on Tuesdays.

The parties also own a condominium in Glastonbury where they resided as a family prior to purchasing the Hopewell property. The condominium, a three-bedroom townhouse, is located at 70 Willieb Street, close to the Hopewell property and to the children's school program. The parties purchased the condominium in February of 2020. They are both on the title to the property. The mortgage is solely in the defendant's name. The current appraised value of the condominium is \$300,000. The current outstanding mortgage is approximately \$137,000. The court finds the equity in the condominium is approximately \$162,000. The monthly mortgage and association fees are approximately \$1800, inclusive of all utilities except for electricity. The paternal grandmother rented the condominium from the defendant and paid \$1800 monthly to the defendant for the mortgage and condominium association fees. She vacated the apartment on May 1, 2024 in anticipation of a decision in this case. When the parties

are not at the Hopewell home with the children, they have each been staying primarily at the condominium.

According to the plaintiff, the parties' marriage was initially strong. He explained that the defendant's drinking became an issue in 2022. She behaved differently when she drank, becoming physically and verbally aggressive. He found her to be drinking in the daytime and found empty bottles around the home and the defendant hungover. He expressed that between June and December of 2022, the marriage was terrible. He described her drinking, police involvement and referenced another man being at the home. The parties did engage in marriage counseling from the spring of 2022 through the end of 2022. He explained that her progress with alcohol was inconsistent – that there were steps both forward and backward. He took new employment with Hoffman in East Hartford in the fall of 2022 because it was closer to home than his previous position in North Haven and he needed to be close to home because of the defendant's alcoholism. He disclosed the defendant's condition to his employer at Hoffman. The defendant participated in an outpatient treatment program which began in the fall of 2022 and a nanny assisted in caring for the twins during this time period. In January of 2023, he filed for divorce.

The defendant testified that the plaintiff has continued a cycle of abuse throughout the marriage. She found him to be uncaring, insulting, blameful and rude. He called her names and treated her disrespectfully. He has been a good provider and paid the bills. However, she testified that he dissipated marital assets by spending excessive amounts on his credit cards toward unnecessary personal expenses, such as spa treatments, vacations, clubs and restaurants.

The presumptive amount of weekly child support payable by the plaintiff pursuant to the child support guidelines is \$567, based upon the plaintiff's current income and the defendant working 25 hours weekly at \$55 hourly. For unreimbursed medical and childcare expenses, the plaintiff is responsible for 70% and the defendant responsible for 30%. (#159).

Unless otherwise stated herein, the court relied on the financial affidavits filed in this matter by the parties.

The court finds the following values for the parties' expenses, assets, and liabilities as of the date of dissolution. The court accepts the value as stated on the parties' respective financial affidavits for their assets, expenses and liabilities as they were not in dispute.

The court finds as a matter of fact that it is more likely than not that the parties would have provided support to their children for the expenses of higher education or private occupational school if the family were intact based on the parties' testimony and their respective proposed orders. The parties have requested that the court retain jurisdiction over their right to file a motion or petition regarding educational support for the benefit of the minor children pursuant to Connecticut General Statutes Section 46b-56c.

Additional findings of fact are stated or incorporated as applicable in the discussion, conclusion and orders set forth in this decision.

RELEVANT CASE LAW

Trial Court's Role

"It is well established that [i]n a case tried before a court, the trial judge is the sole arbiter of the credibility of the witnesses and the weight to be given specific testimony. . . . The credibility and the weight of expert testimony is judged by the same standard, and the trial court is privileged to adopt whatever testimony [it] reasonably believes to be credible." (Internal quotation marks omitted.) *Caciopoli v. Lebowitz*, 131 Conn. App. 306, 327, 26 A.3d 136 (2011), *aff'd*, 309 Conn. 62, 68 A.3d 1150 (2013). "Nothing in our law is more elementary than that the trier is the final judge of the credibility of witnesses and of the weight to be accorded their testimony." *Morande v. Newman Lincoln-Mercury, Inc.*, 5 Conn. App. 423, 423, 499 A.2d 78 (1985), citing *Morgan v. Hill*, 139 Conn. 159, 161, 90 A.2d 641 (1952).

"The factfinding function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties, which is not fully reflected in the cold, printed record which is available to [appellate courts]." *Lupien v. Lupien*, 192 Conn. 443, 445, 472 A.2d 18 (1984).

Best Interest of the Child

In deciding the best interest of the child, the court may consider, but is not limited to, sixteen factors set forth in Section 46b-56(c)¹: "[I]n matters involving child

¹ General Statutes Section 46b-56 (c) provides: "In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors: (1) The temperament and developmental needs of the child; (2) the capacity and the disposition of the parents to understand and meet the needs of the child; (3) any relevant and material information obtained from the child, including the informed preferences of the child; (4) the wishes of the child's parents as to custody; (5) the past and current interaction and relationship of the child with

custody, and, by implication, visitation rights, [although] the rights, wishes and desires of the parents must be considered it is nevertheless the ultimate welfare of the child [that] must control the decision of the court.” (Internal quotation marks omitted.) *Ridgeway v. Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801(1980).

Distribution of Assets

General Statutes § 46b-81² “confers broad powers upon the court in the assignment of property, and the allocation of liabilities and debts is a part of the court’s broad authority in the assignment of property.” (Internal quotation marks omitted.) *Roos v. Roos*, 84 Conn. App. 415, 420, 853 A.2d 642, cert. denied, 271 Conn. 936, 861 A.2d 510 (2004). “Indeed, § 46b-81 (a) permits the farthest reaches from an equal division as is possible, allowing the court to assign to either the husband or wife all or any part of

each parent, the child’s siblings and any other person who may significantly affect the best interest of the child; (6) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (7) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents; dispute; (8) the ability of each parent to be actively involved in the life of the child; (9) the child’s adjustment to his or her home, school and community environments; (10) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child’s family home pendente lite in order to alleviate stress in the household; (11) the stability of the child’s existing or proposed residences, or both; (12) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (13) the child’s cultural background; (14) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child; (15) whether the child or a sibling of the child has been abused or neglected, as defined respectively in Section 46b-120; and (16) whether the party satisfactorily completed participation in a parenting education program established pursuant to Section 46b-69b. The court is not required to assign any weight to any of the factors that it considers but shall articulate the basis for its decision.”

² General Statutes Section 46b-81 (c) provides: “In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.”

the estate of the other.” (Internal quotation marks omitted.) *Kaczynski v. Kaczynski*, 124 Conn. App. 204, 213, 3 A.3d 1034 (2010). A trial court has discretion to remedy a party’s “violations of a court order through its distribution of the parties’ marital property.” *O’Brien v. O’Brien*, 326 Conn. 81, 103, 161 A.3d 1236 (2017). An unequal distribution of assets may be warranted where one party is abusive and responsible for the breakdown of the marriage. See *Desai v. Desai*, 119 Conn. App. 224, 238, 987 A.2d 362 (2010). “There is no . . . requirement that the court specifically state how it weighed the [§ 46b-81 (c)] factors or explain in detail the importance it assigned to these factors.” *Id.*

DISCUSSION

The parties met at a bar in Glastonbury in 2016. The plaintiff was residing at a home in Glastonbury at the time, which he had purchased in 2011. The defendant was residing in an apartment in Glastonbury. They dated and lived together on and off during 2016-2017 and became engaged in February of 2018. They enjoyed a couple of years together maritally and through the birth of their twins. The twins were born prematurely in May of 2020. It was a stressful time physically and emotionally for both parties, but particularly for the defendant. The birth was difficult as the defendant had some medical complications and the twins were both in the neonatal intensive care unit before returning home. The defendant then felt somewhat isolated and had newborn twins to take care of, who were subsequently identified to have significant special needs. The parties’ marriage broke down over time, but particularly in 2022. The plaintiff was working to support the family. He was also verbally insulting and emotionally abusive to the defendant, calling her selfish, an alcoholic, and accusing her of responsibility for

the twins' autism. The defendant was primarily home and overwhelmed with the twins, their needs and the plaintiff's behavior. She did turn to alcohol, which exacerbated the stressful situation.

The parties are fortunate to have two residences between them which are close together and habitable for the twins. They are also both employed. The plaintiff has been earning substantial income and has the capacity to continue to do so. The defendant has the capacity to significantly increase her income as a registered nurse over time.

The defendant claims that the plaintiff spent indiscriminately during the course of the marriage on himself and continues to do so. Thus, she is looking for recompense for his spending. However, the court does not find that the plaintiff spent substantially differently on himself once the dissolution process commenced than he did previously, nor that he spent money with the intent of dissipating marital assets. The Supreme Court in *Gershman v. Gershman*, 286 Conn. 341, 350-51, 943 A.2d 1091, 1096-97 (2008), stated that, "at a minimum, dissipation in the marital dissolution context requires financial misconduct involving marital assets, such as intentional waste or a selfish financial impropriety, coupled with a purpose unrelated to the marriage." The Supreme Court further explained that courts have traditionally recognized dissipation in the context of support of a paramour. *Id.* At 346. The court cannot agree that the plaintiff dissipated marital assets in continuing to spend money on the personal luxuries he enjoyed, nor that he did so with any purpose other than the enjoyment of those luxuries.

The defendant argues that the plaintiff should receive no financial credit for the approximately \$100,000 which he put toward the down payment of the Hopewell home. Yet, she argues that she should retain any identifiable pre-marital funds in her retirement

account. This is not an equitable or reasonable position. The defendant believes that the plaintiff's selfish and unkind behavior to her means that she should receive maximal financial benefit through this dissolution process as a form of equitable distribution. The defendant testified that she can only work 16 hours weekly until at least the fall of 2025, when the twins are in all-day school. The court does not find it reasonable that the defendant should only work 16 hours weekly. She has a shared parenting plan, school and childcare for the children a significant amount of the time, and an advanced degree through which she can earn an excellent living. Based upon all of the facts and circumstances of the case, it is reasonable to attribute a work schedule of 25 hours weekly to the defendant.

The defendant wants to retain the marital home because she spends the majority of daytimes with the children there and feels they would be too constricted in the condominium. She and the children have also put down roots there and have established a routine and a community with neighbors and the nearby pool club. She confirmed that her parents have secured the funding to buy out the plaintiff and the existing mortgage on the Hopewell property. She is unsure if they would be doing so as a gift. Her parents did pay her attorney's fees in this case, and there is no established plan between them for the repayment of those fees.

The plaintiff also wants to retain the marital home. He is more able to manage it financially on an ongoing basis without reliance upon a family member. He has put significant sweat equity and funding into the home and desires to make it his longtime residence with the children.

The defendant is seeking alimony from the plaintiff based upon the disparity of their incomes. However, the parties were married for only four years and the defendant has the full ability to support herself with her nursing degree. The court does not view this as a case in which alimony should be paid from either party to the other after consideration of the factors set forward in General Statutes 46b-82.

CONCLUSION

The court finds each party's testimony to be partially credible. This marriage collapsed due to the stress of the twins and their special needs, the plaintiff's abusive behavior and the defendant's mental and physical battles.

As to the issues of child support, alimony, the assignment of assets, and liabilities, the court has entered orders that it finds to be fair and equitable under all the facts and circumstances as presented. In the case of custody and parenting, the court has entered orders that are in the best interest of the minor child.

ORDERS

1. Dissolution of Marriage

The marriage of the parties is hereby dissolved on the grounds of irretrievable breakdown. The parties are declared to be single and unmarried.

2. Custody

The parties shall have joint legal custody of the twins pursuant to the specific terms outlined in their Final Custody Agreement (Docket # 139).

3. Child Support

The defendant shall pay weekly child support to the plaintiff in the amount of \$567, which is the presumptive amount of child support pursuant to the Child Support

Guidelines. Child support shall be subject to a contingent income withholding order. All uninsured and unreimbursed medical expenses, dental expenses and work-related childcare for the minor child shall be paid 70% by the plaintiff and 30% by the defendant. The plaintiff shall continue to be solely responsible for the cost of the children's tuition at the Goddard School. The children's time at the Goddard School may be increased by agreement of the parties.

4. Alimony

Neither party shall receive alimony from the other.

5. Health Insurance

The plaintiff shall maintain medical and dental insurance for himself and the minor child. The defendant shall be responsible for her own medical and dental insurance coverage and all related costs.

6. Assets

- a. Real Estate. The plaintiff shall retain all right, title and interest in 1053 Hopewell Road in Glastonbury, Connecticut, free and clear of any claim by the defendant. The defendant shall execute a quit claim deed transferring ownership to the plaintiff, which shall be recorded on the land records, within 30 days of the date of this judgment. The plaintiff shall be solely responsible for all mortgage and household related expenses, including taxes. The defendant shall retain all right, title and interest in 70 Willieb Street in Glastonbury, Connecticut, free and clear of any claim by the plaintiff. The plaintiff shall execute a quit claim deed transferring ownership to the defendant, which shall be recorded on the land records, within 30 days of

the date of this judgment. The defendant shall be solely responsible for all mortgage and household related expenses, including taxes.

- b. Securities/Pension/Retirement. The plaintiff shall retain his retirement assets held solely in his name and the defendant shall retain her retirement assets held solely in her name.
- c. Motor Vehicles. The parties shall each retain the cars they are currently driving. They shall assume and indemnify the other from all expenses pertaining to the vehicles, including any loans, taxes, insurance, registration, or other costs associated with their respective vehicles.
- d. Bank Accounts. The parties shall each retain their respective individual bank accounts as listed on their financial affidavits. The defendant shall retain the balance of any jointly held bank accounts and immediately close those accounts.
- e. Personal Property. Within 14 days of judgment, the parties shall each make a list of any household items which they wish to retain. Any disputed items shall be submitted to binding arbitration by an arbitrator agreed to by the parties. The cost of the arbitrator shall be shared equally by the parties.

7. Liabilities

The parties shall each be solely responsible for the debts and liabilities as listed on their respective financial affidavits as filed herein.

8. Attorneys' Fees

Each party shall be responsible for their own attorney's fees.

9. Life Insurance

The plaintiff shall maintain a life insurance policy in the minimum amount of \$1,000,000 naming the children as the equal beneficiaries. The coverage shall remain in effect until the children attain the age of 23 years old. Written proof of the existence of the coverage shall be provided by the plaintiff to the defendant annually. The defendant shall name the children as equal co-beneficiaries on her Ethos life insurance policy as listed on her current financial affidavit. Written proof of the existence of the coverage shall be provided by the defendant to the plaintiff annually.

10. Educational Support

The court shall retain jurisdiction to enter an educational support order pursuant to § 46b-56c.

11. Taxes

The plaintiff shall claim the minor child Leo and the defendant shall claim the minor child Ryer for each year as a tax exemption/credit for their respective state and federal income tax returns each and every year for as long as the benefit is available.

12. Guardian ad Litem

The appointment of the guardian ad litem is hereby vacated. Motion #143 is denied.

13. Parenting Education

The plaintiff shall complete an appropriate in-person or internet-based parenting education program within 60 days after the date of this judgment. Except in emergency circumstances, no post judgment motions shall be filed by either party until the certificate of completion of the parenting education class is filed by that party.

14. Dissemination

Neither party shall allow their minor child to review or receive a copy of this decision.

15. Indemnification

Each of the parties shall indemnify and hold the other harmless with respect to any debt, or portion thereof, ordered to be paid herein.

16. Motions

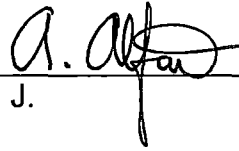
This order results and denies all seven of the defendant's pendente lite motions (#102, #117, #120, #126, #127, #142, #143). The court did not find by clear and convincing evidence that the plaintiff willfully violated clear and unambiguous court orders during the pendency of the case. The balance of the motions are rendered moot by the issuance of this decision.

Each party is ordered to sign whatever documents are necessary and presented to them by the other party to effectuate these orders within ten days of presentment unless otherwise ordered herein.

Unless otherwise specifically set forth herein, these orders are effective immediately.

SO ORDERED.

BY THE COURT,

A handwritten signature in black ink, appearing to read "A. Alfano", written over a horizontal line.

Alfano, J.