

10 Years of Alimony For 9-Years of Marriage.

June 28, 2012 | by Matheu Nunn

The State of New Jersey has been discussing the issue of “Lifetime Alimony” lately. However, in this blog post, we are discussing “limited duration alimony” which most people think is for a term less than the length of a marriage.... Except in this case:

In [J.E.V. v. K.V.](#), the Appellate Division allowed the trial court’s award of 10 years of limited duration alimony to the dependent spouse of a 9 year marriage (although the spouse was looking for a longer term to receive alimony).

The facts, in a nutshell are as follows: The parties were married in 1996 and had two children. Shortly after getting married, the couple moved to California so that plaintiff could pursue a fellowship; they then moved to New Jersey, where the plaintiff accepted a position as director of surgical service at a major hospital in central New Jersey. The plaintiff next opened his own dermatology practice in central New Jersey in July 2001 and the defendant, although not “employed” became involved in numerous charitable and fundraising events and sought to promote her husband’s practice.

Unfortunately, in 2002, the defendant began to experience mental health problems and was ultimately diagnosed as bi-polar. The defendant’s psychiatrist testified that she might be able to get a job but expressed reservations about her ability to retain a job. The defendant’s vocational expert reported that defendant had difficulty focusing and was deeply troubled by the test-taking portion of an employability analysis she asked defendant to perform.

Relying on the statutory alimony factors of New Jersey law, the trial judge awarded defendant limited duration alimony of \$25,527 per month for the first two years and \$23,403 per month for the next eight years. The trial court ordered alimony to cease in August 2019, when the youngest child turns eighteen.

The judge found permanent alimony was not warranted because:

- (1) of the intermediate term of the marriage,
- (2) defendant's age, (3) her failure to prove a permanent disability,
- (4) her ability to earn income in the future, and
- (5) her success in past employment endeavors.

The judge further found that defendant could earn approximately \$35,000 annually and would also have unearned income from the cash portion of her equitable distribution award. The defendant (the dependent spouse appealed).

On appeal, the Appellate Division affirmed the alimony award and concluded that the marriage was one of intermediate duration and that "[b]ut for the mental health issue that arose in 2003 and became acute in 2005, the decision to award limited duration alimony would be unremarkable." The Appellate Division also found persuasive that the record demonstrated that the defendant would be able to return to the workforce. In reaching this conclusion, the panel relied on: medical evidence that the vast majority of persons with the same diagnosis are able to work; the trial court's observations that defendant throughout the eighteen-day trial and the evidence of defendant's various activities. Specifically that the defendant had been fully involved in the life of her children and community, had traveled widely, played tennis, and engaged in fundraising, all of which "require skill and dedication of time, energy and attention." The panel also considered that the defendant had been attentive and fully engaged emotionally and intellectually during the litigation process. Thus, according to the Appellate Division, a term of limited duration alimony – and not permanent – was appropriate.

So, to those of you thinking that limited duration alimony is always for a term less than the duration of the marriage, here is the Appellate Division, in a published case, once again dispelling that notion. This case also provides a good discussion of how the alimony factors should be analyzed in light of the

facts of the case and to what extent counsel fees should be awarded in matrimonial cases.