

ARKANSAS COURT OF APPEALS

DIVISION I

No. CA08-1142

ROBERT L. EDWARDS

APPELLANT

V.

DIANE C. EDWARDS

APPELLEE

Opinion Delivered March 10, 2010

APPEAL FROM THE COLUMBIA
COUNTY CIRCUIT COURT
[NO. DR-04-320-5]

HONORABLE LARRY CHANDLER,
JUDGE

AFFIRMED

JOHN MAUZY PITTMAN, Judge

Appellant filed this appeal following a 2008 “Supplemental Divorce Decree.” He contends that the trial court erred in awarding alimony to appellee, in ordering that the alimony be paid retroactive to the date of the 2006 original divorce decree, and in refusing to grant him a new trial. We find no error, and we affirm.

A divorce decree was entered on August 18, 2006. On August 28, 2006, appellee filed a motion for reconsideration and amendment of the decree on the grounds that the trial court had failed in its order to address the issue of alimony. The trial court granted the motion on September 15, 2006. Although the motion was granted, appellee filed a notice of appeal to this court on October 9, 2006. We dismissed the appeal for lack of a final order in an opinion rendered October 24, 2007. A hearing on the motion was then scheduled by the trial court for March 3, 2008. The parties appeared with their attorneys and “announced that the Court

could decide the issues that remained . . . on the record as it existed.” The trial court subsequently issued a “Supplemental Divorce Decree,” which was filed on June 18, 2008. Appellant filed a motion for new trial on June 23, 2008. Appellant filed a notice of appeal from the supplemental decree on July 1, 2008. The trial court never ruled on the motion for a new trial, and it was therefore deemed denied on July 23, 2008.

A trial court has broad discretion to enter an award of alimony appropriate under the facts and circumstances unique to the case, and the award will not be reversed absent an abuse of that discretion. *Myrick v. Myrick*, 339 Ark. 1, 2 S.W.3d 60 (1999). Appellant argues that the trial court erred in its supplemental divorce decree by awarding appellee alimony in the amount of \$300 per week retroactive to the date of the original decree. We find no abuse of discretion.

The primary factors to be considered in making an award of alimony are the need of one spouse and the ability of the other spouse to pay. *Herman v. Herman*, 335 Ark. 36, 977 S.W.2d 209 (1998). Appellant is a practicing medical doctor; appellee is trained as a nurse. Here, appellant admittedly earns \$3,094 per week and was ordered to pay alimony in the amount of \$300 per week. Appellant argues that this award is unjust, asserting that appellee does not “need” alimony because she has significant disposable income resulting from the award to her of child support and considerable marital property. We disagree. It is significant that the parties were married for eighteen years and that, for most of that time, appellee was a stay-at-home wife and mother. The length of the marriage and the couple’s past standard

of living are appropriate considerations when setting alimony. *Boyles v. Boyles*, 268 Ark. 120, 594 S.W.2d 17 (1980). Given that appellee appears to have devoted much of her youth and sacrificed opportunities for career enhancement in order to devote herself more fully to the laudable and important duties of wife and mother, we cannot say that imposing upon appellant the burden of paying appellee less than ten percent of his weekly earnings in alimony is so unjust as to constitute an abuse of discretion.

Nor do we agree with appellant's argument that the trial court erred in making the award of alimony retroactive to the date of the 2006 divorce decree. Alimony was originally requested, but the 2006 order failed to address the issue. The 2008 proceeding was in response to appellee's motion for reconsideration to address the alimony issue. Arkansas Code Annotated section 9-12-312(a)(1) (Repl. 2009) requires that orders concerning alimony be made when the divorce decree is entered. Here, the decree adjudicating the parties' marital status was the 2006 decree. The trial court merely corrected the initial oversight regarding the alimony issue in response to appellee's motion for reconsideration. It was within the trial court's discretion to order that alimony would begin to accrue as of the date of the parties' separation, *Franklin v. Franklin*, 25 Ark. App. 287, 758 S.W.2d 7 (1988), and thus the court did not err in making the alimony award announced in the 2008 supplemental decree retroactive to the date of the 2006 divorce decree.

Finally, appellant argues that the trial court erred in denying his motion for a new trial on the grounds of newly discovered evidence. We are without jurisdiction to address this

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issue. Appellant's notice of appeal, filed after the decree but before disposition of the new-trial motion, was effective only to appeal the decree; the record fails to show that appellant ever filed a new or amended notice of appeal after the new-trial motion was deemed denied. See Ark. R. App. P. –Civ. 4(b)(2).

Affirmed.

VAUGHT, C.J., and ROBBINS, J., agree.