

State of New Hampshire
Supreme Court

NO. 2016-0606

2017 TERM

APRIL SESSION

In the Matter of

Coleen Walsh and Steven Walsh

RULE 7 APPEAL OF FINAL DECISION OF THE
DERRY FAMILY DIVISION COURT

BRIEF OF PETITIONER/APPELLEE COLEEN WALSH

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TABLE OF CONTENTS

TABLE OF AUTHORITIES. ii

STATEMENT OF FACTS. 1

 I. Met and Married. 1

 II. Problems in the Marriage Lead to Separation. 2

 III. Upon Separation, Steven Took the Couple’s Money. 3

 IV. Upon Separation, Steven Stopped Supporting His Family.. . . . 5

 V. Coleen Was Stranded With Few Resources for Her and The
 Child. 6

STATEMENT OF THE CASE. 7

SUMMARY OF ARGUMENT.. . . . 9

ARGUMENT. 10

 I. Court Regarded Coleen’s Retirement Asset as Expended for
 Family Purposes.. . . . 10

 II. Court Awarded Coleen the Value of the House Because it
 Equaled Her Share of Marital Assets. 12

 III. Modest Alimony Award was Appropriate and Justified. 14

 IV. Court Awarded Guidelines Child Support.. . . . 15

CONCLUSION. 17

REQUEST FOR ORAL ARGUMENT. 17

CERTIFICATIONS.. . . . 17

ADDENDUM.. . . . 18

TABLE OF AUTHORITIES

New Hampshire Cases

Aranosian Oil Co. v. State,
168 N.H. 322 (2015). 10

Baker v. Baker,
120 N.H. 645 (1980). 12

In re Costa,
156 N.H. 323 (2007). 11, 13

In re Crowe,
148 N.H. 218 (2002). 16

In re Letendre,
149 N.H. 31 (2002). 13

In re Nassar,
156 N.H. 769 (2008). 14

New Hampshire Statutes

RSA 458:16-a. 13

RSA 458:19. 14

RSA 458-C:5(h)(1). 15, 16

RSA 458-C:5(h)(2)(A). 15

RSA 458-C:5(h)(2)(B). 15

RSA 458-C:5(h)(2)(C). 15

STATEMENT OF FACTS

I. Met and Married

Coleen Walsh¹ met Steven Walsh in 1996, and married him in 2002. They are both 50 years old, and have an 8-year old son. COLEEN'S FOF-ROL ¶¶ 1, 9, 10 (Apr. 7, 2016), *Appx.* at 39; STEVEN'S FOF-ROL ¶1 (Apr. 7, 2016), *Appx.* at 46; *Trn.*² at 17; 145.

Coleen is a nurse assistant, and has been employed for 14 years as a home health aid for a disabled woman in Massachusetts. *Trn.* at 7-8, 10. Before the parties' child was born, Coleen worked full time, but she agreed to scale back her hours to care for the child. *Trn.* at 11-13, 62. Since then she has worked part time, and makes between \$25,000 and \$28,000 per year with no benefits. *Trn.* at 9, 16-17; DECREE (Aug. 11, 2016) at 1, *Addendum* at 20, *Appx.* at 50. Since the separation Coleen has sought more work hours and looked for other positions, but because of the pay-rate at her current job, and the difficulty of getting full-time work in her occupation, she has so far discovered that with her qualifications, she is not able to improve much on her current earning. *Trn.* at 12, 25, 40, 71.

Steven works for a Massachusetts-based office equipment distributor. *Trn.* at 108. He is compensated about two-thirds in commissions, which are paid as part of his weekly paycheck. Although he has concerns regarding retaining sales accounts, *Trn.* at 106-09, 159-60, 173-75, 204, and fluctuation of income depending upon sales, STEVEN'S FOF-ROL ¶ 17; *Trn.* at 173, he has consistently made about \$100,000 per year for the past several years, as much as \$125,000 in 2015, and at the time of trial was on track to earn similar amounts in 2016. TAX RETURNS (Dec. 31,

¹Because of shared last names, the parties are referred to by their first names, Coleen (petitioner) and Steven (respondent). No disrespect is intended.

²Trial was held on April 7, 2016. Pages of the transcript are cited herein as *Trn.* at ##.

2013), Exh. 6, *Appx.* at 144; PAY STATEMENT (Jan. 22, 2016), Exh. H, *Appx.* at 123; PAY STATEMENT (Apr. 1, 2016), Exh. 19, *Appx.* at 131; COLEEN'S FOF-ROL ¶ 13; STEVEN'S FOF-ROL ¶¶ 9, 17; TEMP. ORDER (Jan. 5, 2015) at 2, *Appx.* at 22; *Trn.* at 128-31, 167-71, 190, 192-93, 202.

II. Problems in the Marriage Lead to Separation

Coleen and Steven experienced problems in their marriage for several years. At some point she moved out for six months, and they had discussed divorce. *Trn.* at 18-20. After Coleen filed a petition for divorce in March 2014, they continued living in the marital home with their child, until an incident of domestic violence a few weeks later, which ended their house-sharing. Steven was charged and pleaded guilty to one count of assaulting Coleen, and to one count of obstructing report of a crime stemming from him smashing the phone while she was calling 911. CRIMINAL HISTORY RECORD (Apr. 13, 2014), Exh. 24, *Appx.* at 93; DERRY POLICE INCIDENT REPORT (Aug. 27, 2015), Exh. M, *Appx.* at 110; PETITION FOR DIVORCE (Mar. 26, 2014), *Appx.* at 1; DECREE at 1, 2-3; COLEEN'S FOF-ROL ¶ 4; STEVEN'S FOF-ROL ¶ 2; *Trn.* at 20-22, 179-85.

Coleen and Steven entered a court-approved stipulation providing for joint parenting, the child residing "primarily with Coleen," and Steven exercising parenting on alternating weekends and every Wednesday. PARENTING PLAN (July 16, 2014), *Appx.* at 12. Pursuant to Steven's criminal sentence, he was prevented from having "contact [with] Colleen [sic] Walsh other than by phone regarding child support and parenting issues." CRIMINAL HISTORY RECORD at 1-2. He later served three days of the suspended sentence because he texted coarsely-worded non-parenting messages to Coleen and because he had not completed the required batterer's program. ADULT ORDER OF COMMITMENT (Nov. 20, 2015), Exh. 21, *Appx.* at 117. Beyond that, and excepting emails mainly regarding the child, the parties have had essentially no communication

since separation. *Trn.* at 31-32, 63, 82, 97, 99, 103-104, 147.

Coleen believes much of the marital discord can be traced to Steven's alcohol consumption. She testified "Steven drinks a lot," credits the domestic violence incident which ended their cohabitation to his drinking, *Trn.* at 19-20, is saddened that the child is aware of it, *Trn.* at 24, unwittingly witnessed Steven buying beer while he was caretaking the child, *Trn.* at 26-28, and has reason to believe there is drunken chaos at Steven's residence in the presence of the child. *Trn.* at 28; SUBSTANCE USE EVALUATION (Nov. 10, 2015) (Steven "will be given a primary diagnosis of Alcohol Use Disorder, Mild, in Partial Remission."), Exh. 22, *Appx.* at 113; *Trn.* at 115-18, 185-86. Steven lost his license due to an incident involving alcohol in 1986, *Trn.* at 185, and did not regain it until after the parties separated. Compare CRIMINAL HISTORY RECORD (no license as of August 22, 2015), *with Trn.* at 127 (possession of license at time of trial).

Nonetheless, Steven blames Coleen for his separation-day arrest, alleging it was staged to get rid of him, *Trn.* at 117-18; DECREE at 2-3, and blames his lawyer for his criminal convictions. *Trn.* at 112-14, 173-75, 179-85, 186.

III. Upon Separation, Steven Took the Couple's Money

During their marriage, Coleen deferred most money matters to Steven. Although Coleen routinely signed checks for household bills, the couple did not talk about finance. *Trn.* at 89, 132-33. When they bought the house, for instance, Steven's parents gave them each \$20,000, but Coleen never saw her share. Her understanding is that her share went into Steven's sole bank account, and was surprised the purchase necessitated a second mortgage. CHASE MORTGAGE STATEMENT (Apr. 1, 2016), Exh. J, *Appx.* at 128; COLEEN'S FOF-ROL ¶ 18; STEVEN'S FOF-ROL ¶¶ 27-29; *Trn.* at 37, 40-41, 76-77, 89-90, 121 (Steven explaining second mortgage for purchase price). Similarly, Coleen thought the house was jointly titled to her, but later learned it was in

Steven's name only. COLEEN'S FOF-ROL ¶ 17; STEVEN'S FOF-ROL ¶¶ 23-24; *Trn.* at 76-77, 120.

Upon separation, without Coleen being aware, Steven appropriated much of their money. The couple had long-standing joint checking and savings accounts, *Trn.* at 42, from which, when Steven left in April 2014, he made a series of withdrawals as cash or as transfers to his personal accounts. BANK OF AMERICA STATEMENT (March/April 2014), Exh. 9, *Appx.* at 159 (showing withdrawals from joint accounts: \$14,000 on March 26, \$1,000 on April 18, \$2,830 on April 22, \$4,000 on April 23, \$9,834.86 on April 24, \$5,000 on April 24) (showing deposits to Steven's personal account: \$9,834 on April 24, \$5,000 on April 24). Coleen testified the unilateral withdrawals were in excess of \$33,000, *Trn.* at 42, 43-48, and Steven did not deny it. *Trn.* at 148-56; COLEEN'S FOF-ROL ¶ 36.

The money was used for a variety of purposes. Steven went gambling in Las Vegas. BANK OF AMERICA STATEMENT (Nov. 5, 2014), Exh. 18, *Appx.* at 175; COLEEN'S FOF-ROL ¶ 38; *Trn.* at 153-56, 156-57, 193-202. He used money to pay his personal legal fees, and for general living expenses. BANK OF AMERICA STATEMENT (March/April 2014); BANK OF AMERICA STATEMENT (Nov. 5, 2014); COLEEN'S FOF-ROL ¶ 37; *Trn.* at 46, 123-24, 153, 156; DECREE ¶ 7D.

Steven also bought a pleasure boat. Coleen never wanted a boat, did not approve buying one, never went for a ride on it, and wanted it sold. *Trn.* at 43, 48, MOTION FOR TEMPORARY RELIEF ¶ g (June 23, 2014), *Appx.* at 7. Nonetheless, a few months before separation, she assented to Steven buying it. RECEIPT FOR BOAT (Jan. 7, 2014), Exh. K, *Appx.* at 91, 92. COLEEN'S FOF-ROL ¶ 34; *Trn.* at 43-44, 54-59, 134-35. At the time, she did not know how Steven planned to pay for the boat, but later learned through the divorce litigation that the money used to purchase it came from two loans totaling \$25,000, which Steven took against their retirement savings. FIDELITY NETBENEFITS BALANCE SUMMARY (Apr. 6, 2016), Exh. C; COLEEN'S FOF-ROL ¶¶ 35, 40-43, 44-47, 48-49; *Trn.* at 42-45, 48-50, 123-24, 140-41, 147-52.

IV. Upon Separation, Steven Stopped Supporting His Family

Meanwhile, upon separation Steven ceased supporting the family home. On a temporary basis the court had ordered him to pay the mortgage, insurance, and taxes for the marital home. TEMPORARY ORDER ¶ 14 (Jan. 5, 2015), *Appx.* at 22; STEVEN'S FOF-ROL ¶ 12. He did not pay the real estate taxes, resulting in the town imposing a tax lien, of which he was aware. TAX BILL (Dec. 22, 2015), Exh. 15; NOTICE OF ARREARAGE (Feb. 5, 2016), Exh. 15, *Appx.* at 208; NOTICE OF IMPENDING TAX LIEN (Mar. 18, 2016), Exh. 16, *Appx.* at 125; COLEEN'S FOF-ROL ¶ 63; *Trn.* at 120-23, 165. He also did not pay the mortgage, resulting in at least one foreclosure attempt, of which he was also aware. NOTICE OF INTENT TO FORECLOSE (Apr. 26, 2016), Exh. 2, *Appx.* at 135; *Trn.* at 120-23, 134. Steven admitted letting lapse the home insurance. *Trn.* at 120-23. This resulted in a finding of contempt. ORDER ON CONTEMPT (Nov. 17, 2015), *Appx.* at 37; *Trn.* at 63-64, 165-66.

Steven also ceased supporting his family. During the nine months between the time of separation until the court issued temporary orders, even though he had entered a stipulation giving Coleen primary childcare responsibilities, Steven made no voluntary payments for support of the child. *Trn.* at 157. Even after the court issued temporary orders providing for guidelines child support in January 2015, TEMPORARY ORDER (Jan. 5, 2015), *Appx.* at 22; UNIFORM SUPPORT ORDER (Jan. 5, 2015), *Appx.* at 27, Steven consistently ran arrearages. He admitted owing \$3,500, admitted paying no child support for a year following separation, and admitted paying no child support after being ordered. He forced Coleen to have his wages assigned, and placed blame on his lawyer. COLEEN'S FOF-ROL ¶¶ 65-67; *Trn.* at 110-11, 157.

Steven said he thought they were sound financially before separation, suggested Coleen's boyfriend should be helping support her and Steven's child, and blamed Coleen for his budgeting woes. *Trn.* at 69-72, 106-08, 122-23, 128-31.

V. Coleen Was Stranded With Few Resources for Her and The Child

Having taken their money, upon separation Steven left Coleen with few resources for her and the child's sustenance – “he cleared out our joint checking account so that I had no funds available to myself.” *Trn.* at 42. She stayed in the house and wished to preserve it because the child has friends in the neighborhood and it is the only home he knows, but she had insufficient income for its maintenance. She also testified that she bears the miscellaneous costs for the child's school, clothing, shoes, entertainment, and enrichment. *Trn.* at 6-7, 37-39, 91-92. Consequently Coleen turned to credit cards, and exhausted loans from family and friends. *Trn.* at 39, 52-53, 60, 63; CHECKS OF MONEY BORROWED (Aug. 3, 2014), Exh. 14, *Appx.* at 107; TD BANK STATEMENTS (May 7, 2016), Exh. 13, *Appx.* at 202.

Coleen also liquidated her 403(b) retirement plan, worth about \$10,000 after taxes, which its documents indicate was established in 1986 or 1988, long before the marriage. HOME HEALTH FOUNDATION STATEMENT (June 30, 2014), Exh. 11, *Appx.* at 96; NOTICE FROM IRS (Dec. 28, 2015), Exh. 5, *Appx.* at 196; *Trn.* at 52-53.³ She testified she used its proceeds to help support herself and the child, and to pay her divorce attorney. *Trn.* at 15, 16, 52-53, 81-82; *but see* COLEEN'S FOF-ROL ¶¶ 54, 68-69.

Coleen testified that since then, she has begun to implement a credit plan, and believed she could afford the house if the court would grant her two years to refinance it. *Trn.* at 39, 86, 146; COLEEN'S FOF-ROL ¶ 7. Although Coleen's boyfriend is at her house intermittently, he maintains a separate residence in Massachusetts, and does not substantially contribute to her household expenses. *Trn.* at 72, 79-80.

³The IRS document shows the withdrawal from the 403(b) yielded \$12,740, but that Coleen paid a tax penalty of \$2,546, leaving her with \$10,194 from the transaction. COLEEN'S FOF-ROL ¶ 55.

STATEMENT OF THE CASE

The Derry Family Division (*Elizabeth M. Leonard, J.*), held a one-day trial in April 2016, at which Coleen and Steven testified. In its order, the court reviewed each party's job, their earnings, and the domestic violence incident which prompted separation. The court decreed a divorce based on irreconcilable differences. DECREE (Aug. 11, 2016) at 1, *Addm.* at 20 *Appx.* at 50.

Coleen sought to maintain the same parenting schedule as the temporary orders, or restrict Steven's time further due to her concern for his alcohol abuse. *Trn.* at 22, 25, 32-34, 70; DECREE at 2-3. Steven advocated for a "50-50 shared parenting arrangement" based on a week-on/week-off schedule. DECREE at 3; STEVEN'S PROPOSED PARENTING PLAN (June 15, 2015); *Trn.* at 187-88. While the court did not implement that, it adopted a plan which expanded Steven's time from the temporary order, and places the child in Steven's house on alternating weekends, plus every Wednesday and Thursday. PARENTING PLAN (Aug. 11, 2016), *Appx.* at 59. In total, the plan gives each party the same parenting time during the school year, with Coleen having roughly 10 extra parenting days in the summer. The court ordered that Steven cannot drink during or within eight hours before his parenting time, and agreed with Coleen that the child should have an opportunity to get counseling. DECREE at 4; *Trn.* at 29-30, 142-43.

Regarding child support, the court understood Coleen wanted an amount certain, "in order to minimize her contact with him about the amount of his commissions." DECREE at 4; *Trn.* at 34-37. But to avoid putting Steven in a weekly bind, the court instead ordered guidelines child support "based on his weekly draw, with additional child support being paid on his commissions and bonuses within five days of receipt of the income." DECREE at 5; UNIFORM SUPPORT ORDER ¶ 4.1 (Aug. 11, 2016), *Addendum* at 29, *Appx.* at 68.

The court rejected Coleen's proposal of five years of alimony beginning at \$2,000 and

declining to \$1,000 per month, and also rejected Steven's suggestion of no alimony. *Trn.* at 61-62, 146-47. Rather, it awarded Coleen \$1,000 per month for one year. DECREE at 5; UNIFORM SUPPORT ORDER ¶ 4.4; STEVEN'S FOF-ROL ¶ 16; COLEEN'S FOF-ROL ¶¶ 14-15.

The court noted that in making an equitable distribution of property, it "considered that [Steven] inappropriately used approximately \$30,000.00 of joint marital funds after the Court entered into a non-hypothecation order." *See* IMPORTANT NOTICE TO PARTIES (Mar. 27, 2014); COLEEN'S FOF-ROL ¶¶ 44-47, 8-9. It noted that Steven wanted the house sold immediately, but that Coleen wanted several years to refinance it; the court gave Coleen six months to remove Steven from the mortgage. It then found that the house had \$71,500 of equity, which it awarded to Coleen. DECREE at 7; TOWN OF DERRY ASSESSMENT (2016), Exh. A; CHASE MORTGAGE BALANCE (June 20, 2016), Exh. A, *Appx.* at 128; COLEEN'S FOF-ROL ¶¶ 19-21; *Trn.* at 21-23, 41-42, 48, 54, 120.

The court gave Steven his boat, and its associated debt from his 401(k) retirement plan. It split the remainder of the retirement plan, such that Coleen gets one-half the amount which accrued during the marriage, and Steven gets the remainder. DECREE at 7-8; NOTICE OF DECISION (Oct. 12, 2016), *Appx.* at 90. The court also ordered that the decree go into effect pending appeal. DECREE at 9.

Both parties requested reconsideration, to which there was objection. STEVEN'S MOTION FOR RECONSIDERATION (Aug. 22, 2016), *Appx.* at 75; COLEEN'S MOTION FOR RECONSIDERATION (Aug. 26, 2016), *Appx.* at 80; COLEEN'S OBJECTION TO RECONSIDERATION (Sept. 1, 2016), *Appx.* at 84. Beyond one modification, the requests were denied, and Steven appealed.

SUMMARY OF ARGUMENT

Coleen Walsh notes that all four issues raised by Steven are within the discretion of the family court. She argues that the court appropriately considered her retirement asset to have been expended for family purposes. She then points out that awarding her the value of the house was the simplest and most effective way of producing an equitable property distribution, because its equity was just about double the amount with which Steven absconded. She notes the alimony order – 12 months at \$1,000 – is modest; and finally that the child support order – based on a guidelines calculation of Steven’s income which is four or five times greater than Coleen’s – was in accord with the statute and within the court’s discretion.

ARGUMENT

Steven poses four issues of fact, all within the discretion of the trial court.

I. Court Regarded Coleen's Retirement Asset as Expended for Family Purposes

Steven first argues that the court did not take into account Coleen's liquidation of her 403(b) retirement plan. He neglects, however, the events preceding her use of the \$10,000.

First, Coleen established the retirement account a decade before she met Steven. Coleen's employer, who was the same employer throughout the marriage, did not provide these benefits. Coleen thus brought the asset to the marriage, and nothing in the record suggests continuing contributions during the marriage. Not giving Steven a share of the account is comparable to how the court handled the pre-marital portion of Steven's 401(k) plan.

Second, when they separated, Steven took what appears to be all or most of the couple's liquid assets, leaving Coleen with little to support herself, and nothing to meet the new mortgage and tax obligations which Steven's income had previously covered. Coleen used her only available asset.

Third, for an entire year after separation, Steven paid no child support and made no voluntary payments. Coleen thus paid much of the cost of child-rearing with no assistance, and was forced to use her only available asset.

Fourth, the family court has wide discretion⁴ in counting or not counting assets in order

⁴In his brief Steven makes a reference to "plain error." STEVEN'S BRF. at 11. It is not clear what error is alleged to be plain, but is clear that the plain error rule, SUP.CT.R. 16-A, does not apply here. *See Aranosian Oil Co. v. State*, 168 N.H. 322, 331 (2015) ("Plain error review is an exception to the contemporaneous objection rule and provides us with the discretion to review unpreserved error on appeal for plain error that affects substantial rights. To find plain error: (1) there must be an error; (2) the error must be plain; (3) the error must affect substantial rights; and (4) the error must seriously affect the fairness, integrity or public reputation of judicial proceedings.") (quotations and citations omitted).

to produce an equitable result. *In re Costa*, 156 N.H. 323, 327, 330 (2007).

Steven assaulted Coleen, smashed her phone, took her money on his way out the door, and made no family contribution for a year. Steven created Coleen's money squeeze, and forced her to deplete her resources. The court did nothing wrong in considering Coleen's 403(b) retirement plan as expended for family purposes.

II. Court Awarded Coleen the Value of the House Because it Equaled Her Share of Marital Assets

Steven argues that the court should not have awarded Coleen the value of the marital home. He ignores, however, why the court allowed her that asset.

First, who paid for the house initially or who made the mortgage payments is irrelevant. *Baker v. Baker*, 120 N.H. 645, 647 (1980) (“Once the article in question is found to be properly within a party’s estate, the trial court has broad discretion in determining and ordering an equitable distribution of that property.”). It is a marital asset, regardless of whether Steven’s parents helped purchase it, whether half of the money his parents gave to help purchase the house disappeared into Steven’s private accounts, or whether his parents gave the couple other gifts during the marriage.

Second, the court found that the value of the house was \$71,500. The amount of money Steven took when the couple separated is about half that. The court thus used the value of the house to balance the equities.

Third, Steven ignores the fact that the court awarded him his boat, his camper, his cars, and all the value of his 401(k) that accrued outside the marriage.

Fourth, as the court recognized, the most significant assets in the marital estate were the house and Steven’s 401(k) retirement account. If the court did not award Coleen the house value, it would have had to find another (and perhaps more complicated and less equitable) way to produce a similar result.

Fifth, Coleen wishes to remain in the house for the benefit of the child. Although the court gave her only six months to refinance, which is unlikely given her level of income and indebtedness, it is sensible to award her the value of the asset she seeks to preserve.

Sixth, despite Steven’s efforts during this proceeding to minimize the appearance of how

much he earns, the record shows he has been steadily making between \$100,000 and \$125,000 for the past several years, while Coleen's income has been between \$25,000 and \$28,000, and she does not have the ability to earn much more in the short term. It is thus apparent that Steven has the ability to accumulate, more, quicker. RSA 458:16-a, II(c) (court to consider "[t]he opportunity of each party for future acquisition of capital assets and income"). Even if the award of the house-value favored Coleen – and it does not – that does not make it inequitable. *In re Letendre*, 149 N.H. 31, 35 (2002) (distribution of marital assets 68% to 32% not inequitable).

Finally, given the considerations listed in the property division statute, RSA 458:16-a, II, which the court addressed in its narrative and in its rulings on the parties proposed findings of fact, the court acted within its discretion. *Costa*, 156 N.H. at 328 (“[I]t was within the trial court’s discretion to award the petitioner the equity in the parties’ marital home.”).

III. Modest Alimony Award was Appropriate and Justified

Coleen sought five years of alimony, to decline from \$2,000 to \$1,000 per month over the period. Steven objected to any alimony. The court found that Coleen needed time to seek additional employment and (however unlikely) some household contribution from her boyfriend, even though he maintains a separate home. The court found that Steven could afford \$1,000 per month for one year, explaining that it considered the statutory factors, and also took into consideration other aspects of the decree.

“The trial court has broad discretion in determining and ordering the payment of alimony. Accordingly, absent an unsustainable exercise of discretion, we will not overturn its factual findings.” *In re Nassar*, 156 N.H. 769, 772 (2008) (quotations and citations omitted).

In his brief Steven makes a litany of allegations, but cannot explain away the basic facts: he makes four to five times as much as Coleen, Coleen interrupted her education and career to raise the couple’s child, and the amount and term of the alimony award is modest. RSA 458:19, IV(b) & (d). Moreover, as Steven admitted, he paid nothing – child support or spousal support – for a year after separation, undermining his claim that Coleen already had sufficient rehabilitative time.

Accordingly, the family court appropriately exercised its discretion.

IV. Court Awarded Guidelines Child Support

New Hampshire's child support statute allows the court to make adjustments to the guidelines child support amount to account for "special circumstances," including the "parenting schedule." It provides, however, that:

Equal or approximately equal parenting residential responsibilities in and of itself shall not eliminate the need for child support and shall not by itself constitute ground for an adjustment.

RSA 458-C:5(h)(1). The statute also says that "[i]n considering requests for adjustments to the application of the child support guidelines based on the parenting schedule, the court may consider" whether the obligor has undertaken any of the "variable expenses for the children," RSA 458-C:5(h)(2)(A); whether the equal parenting time "will result in a reduction of any of the fixed costs of child rearing incurred by the obligee parent," RSA 458-C:5(h)(2)(B); and whether the obligee can maintain "child rearing in a similar or approximately equal style to that of the other parent." RSA 458-C:5(h)(2)(C).

Coleen testified that she is the one who clothes and shoes the child, and pays for the child's school supplies, entertainment, and enrichment. Other than health insurance through his employer, Steven has not undertaken any of the "variable expenses" of the child. He cannot allege that Coleen's costs will decrease due to the shared parenting. He does not suggest that she can maintain a similar lifestyle: although Steven alleges that the parties have "approximately equal base pay," STEVEN'S BRF. at 16, that is misleading because his "base pay" is just one-third of his income, and his total income is four or five times Coleen's.

Steven's argument for reduced child support is based on nothing more than the approximately equal parenting time. That is a position, however, specifically annulled by the legislature, which directed that equal parenting "shall not by itself constitute ground for an

adjustment.” RSA 458-C:5(h)(1). Steven otherwise offers no argument to set aside the discretion of the family court in implementing guidelines child support. *In re Crowe*, 148 N.H. 218, 221 (2002).

CONCLUSION

For the foregoing reasons, this Court should defer to the findings and rulings of the family court, and uphold its judgment on all issues raised.

REQUEST FOR ORAL ARGUMENT

Coleen Walsh requests that her attorney, Joshua L. Gordon, be allowed oral argument in order to fully apprise the court of the facts.

Respectfully submitted,

Coleen Walsh
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Dated: April 24, 2017

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CERTIFICATIONS

I hereby certify that the decision being appealed is addended to this brief.

I further certify that on April 24, 2017, copies of the foregoing will be forwarded to Andrea Q. Labonte, Esq.

Dated: April 24, 2017

Joshua L. Gordon, Esq.

ADDENDUM

1. FINAL DECREE ON PETITION FOR DIVORCE (Aug. 11, 2016). 20

2. UNIFORM SUPPORT ORDER (Aug. 11, 2016)..... 29