

THE IMMORALITY OF NEW JERSEY SUPREME COURT JUSTICES EVIDENCED BY CREWS V CREWS, 751 A.2d 524 (2000)

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On May 31, 2000, the New Jersey Supreme Court issued its opinion in Crews v Crews, 751 A.2d 524 (2000). Ostensibly, the opinion manifests a blatant and flagrant judicial bias in favor of the non-earning spouse in a divorce, who is typically, although not always a woman. However, as a matter of practicality, the opinion has not functioned to the benefit of either the husband or wife in a divorce. Rather, the impact of the opinion has resulted in nothing more than a massive transfer of marital assets to lawyers and accountants. The Court's main holding is summed up in the following passages (emphasis added):

" . . . we reaffirm the . . . principle that the goal of a proper alimony award is to assist the supported spouse in achieving a lifestyle that is reasonably comparable to the one enjoyed while living with the supporting spouse during the marriage. The importance of establishing the standard of living experienced during the marriage cannot be overstated. . . .

This case illustrates the pitfalls associated with the failure to establish the marital standard of living. . . . That standard is: whether the supported spouse can maintain a lifestyle that is reasonably comparable to the standard of living enjoyed during the marriage. . . .

...

The factors that should be considered . . . during the initial analysis of an alimony award: the dependent spouse's needs, that spouse's ability to contribute to the fulfillment of those needs, and the supporting spouse's ability to maintain the dependent spouse at the former standard."

The Court's opinion gave rise to a new industry in New Jersey. That industry was the preparation of so-called lifestyle reports and I have personally prepared many of them. The cost imposed upon the parties, both husband and wife, is nothing short of astronomical because the time and complexity involved in preparing these reports is immense. Generally, obtaining the data needed to prepare the reports requires a great deal of work on the part of attorneys who make and oppose various discovery requests related to such. The issue of

determining exactly what the marital lifestyle was, is then litigated by the attorneys, after the accountants prepare the reports. If wife engages an accountant to prepare her version of the marital lifestyle, then husband typically also is compelled to engage an accountant. Thus, it is quite typical for there to be two accounting experts preparing the same type of report, and two opposing lawyers litigating the matters delineated in those reports. The marital assets are then divested to the extent of the time spent by four professionals in dealing with these so-called "lifestyle reports." And the bottom line is that the only reason this is occurring is because of the New Jersey Supreme Court's opinion in Crews v Crews, which unduly emphasized the need to establish the marital lifestyle.

Notably, absent from the Court's opinion in establishing the alimony award is sufficient concern or consideration for the ability of the earning spouse to maintain the lifestyle they enjoyed during the marriage. Rather, the primary focus of the opinion is upon the ability of the dependent spouse to maintain the marital lifestyle, subject to the earning spouse's ability to pay. Thus, the Court placed on the record as a matter of law an atrocious and immoral Judicial Bias in favor of the dependent spouse. This expressly stated Judicial Bias is in direct contravention to the alimony factors set forth in statutory law established by the New Jersey legislature. The applicable statute section violated by the Court in Crews is NJSA 2A:34-23(b)(4). It states as follows regarding factors to be considered in setting the alimony award (emphasis added):

"The standard of living established in the marriage or civil union and the likelihood that **each party** can maintain a reasonably comparable standard of living."

Whereas the statute expressly mandates consideration of the ability for each party to maintain the marital standard of living, the Court's opinion only stresses the consideration to be given to the dependent spouse's ability. That is totally unfair. It is a matter of practical reality that when two households need to be supported rather than one, divorce typically renders it impossible for both parties to enjoy the marital lifestyle.

Since issuance of the wholly biased Crews opinion, there has been a tendency among New Jersey Judges to include within the definition of the phrase "marital lifestyle" a "Savings" component. The concept is that if the earning spouse was not only making enough money to pay for a certain lifestyle of the couple, but also an excess amount that was put into savings or investments of the parties, then the dependent spouse is entitled to a fair share of such an additional amount after the divorce. This concept effectively negates the utilization of establishing the marital lifestyle for the following reason.

If the earning spouse is making more than the marital lifestyle requires, then the dependent spouse is being awarded alimony based on actual earnings, which includes the savings component. In contrast, if the earning spouse is making less than what is necessary to maintain the marital lifestyle, then even under Crews in the absence of having other assets, they are not required, nor would it be possible, for them to pay more than their earnings allow. Such being the case, it is easy to see that in either event it is the actual earnings of the supporting spouse that drives the determination of the alimony award. Thus, there is no reason for the Court to require the husband and wife to spend the enormous and excessive fees that both lawyers and accountants are charging to determine the marital lifestyle. Just base the alimony on the supporting spouse's earnings, whether they are higher or lower than the marital lifestyle. Effectively, that is what's occurring anyway.

The only critical distinction is that Crews has created a massive divestiture of the marital assets to the benefit of lawyers and accountants in the form of professional fees. These excessive professional fees have been substantively awarded on a "gratis" basis, to the detriment of both husband and wife, thanks to the immorality of the State Supreme Court's biased Crews opinion.

The Crews opinion is an abortion of morality, law, logic and equality. The Court expressly fails to adequately give equal weight to the statutory requirement of considering the ability of the supporting spouse to maintain a comparable lifestyle and is only interested in the dependent spouse. By so doing, they engaged in legislating from the bench. Additionally, the opinion does not even work to the advantage of the dependent spouse as it was intended to do, because ultimately the massive professional fees required to prepare useless lifestyle reports divests the marital assets to the detriment of both the husband and wife.

Lastly, I note the following. Divorce is one of the most traumatic emotional events that people can go through. It is inexcusable for the New Jersey Supreme Court to create a situation where both parties suffer, solely in order to ensure that lawyers and accountants make more money. By doing so, the Court has increased the height to which the emotional tensions can rise. Accordingly, the New Jersey Supreme Court must bear a certain degree of culpability for becoming the proximate causation in many instances for acts committed by either husband or wife that are not within the confines of the law, and which are caused by the heightened emotional state the Court created.