

In re the Marriage of De Guigne (4/30/02 – 97 Cal.App.4th 1353)

Husband's substantial wealth and history of liquidating his assets to support the family's lifestyle during the marriage provides basis for ordering child and spousal support exceeding his total income.

This was a 12-year marriage which produced two children. Husband inherited, among other assets, an estate consisting of a mansion situated on 7.5 acres in Hillsborough (which the family lived in) along with an attached 40-acre parcel.

The parties did not work during the marriage and thus, no community property was produced. Husband consistently liquidated his separate property investments to support the family's "opulent" lifestyle. Husband's income averaged \$240k from his investments while the marital spending averaged \$450k.

Husband argued that guideline child support based on his income should be used. The court disagreed stating that the children should be shielded as much as possible from the financial impact of the divorce. They pointed out that Husband now expected the children's lifestyle to be significantly reduced while he continues a lifestyle that includes \$1,470/mo. for memberships in six private clubs.

It appears the court determined the child support amounts by imputing income to a 40-acre parcel of land attached to Husband's family home. The court summarized that the order was in the best interests of the children in enabling them to continue to live at the lifestyle that their father will continue to live in.

The appellate court also upheld a spousal support award of \$150k per year based on the parties' marital standard of living and Husband's estimate of the costs to maintain the family household.

This is an unusual case involving extraordinary wealth. Furthermore, the wealth was not in the form of income but in the form of inherited assets from which the parties were able to sustain an "opulent" lifestyle. Had Husband not liquidated his assets during the marriage to create this lifestyle, it appears the court would not have had forced him to do so after separation.