

In re Marriage of Shaughnessy (139 Cal.App.4th 1225, 43 Cal.Rptr. 3d 642)

Greg and Michelle Shaughnessy separated in 1995 after fifteen years of marriage. In 1995 Michelle was 35 years old.

In 2003, the court entered a judgment indicating that Greg will pay \$2,000 per month in spousal support and that the court would retain jurisdiction on the matter of spousal support.

In 2004, Greg filed an OSC requesting that either the court terminate or step-down spousal support.

In April 2005, the court entered an order that spousal support would be reduced to \$1,000 per month beginning January 1, 2006 and that it would terminate on June 30, 2006. Michelle appealed arguing that the court had abused its discretion. The Court of Appeal affirmed the lower court's order.

The primary item considered to be a change of circumstances was Michelle's failure to diligently seek to become self-supporting. In the 2003 judgment the court found that Michelle needed to be retrained and obtain computer skills in order to be self-supporting. Michelle continued to be a self-employed florist and claimed that she was only making \$650 per month. This was considered to be a change of circumstances since "if a court's initial spousal support award contemplates that a supported spouse will take some action to decrease the need for spousal support following the issuance of the order and the supported spouse fails to take that action, the court may modify the award on the ground of change circumstances".

The Appellate Court also ruled that it was not an abuse of discretion for the trial court to consider the fact that Michelle's parents gave her monetary gifts of \$20,000 per year. On this issue the Appellate Court found,

"In holding that a trial court may exercise its discretion to consider third party gifts to a supported spouse in determining a spousal support award, we emphasize that we do not hold that the trial court must mechanically decrease a supported spouse's award by the amount of the gifts received, or even that the trial court should in every case consider such gifts in determining the appropriate level of support. Rather, we hold only that it is within the trial court's broad discretion to consider evidence of monetary gifts as one factor,

together with evidence pertaining to all of the other section 4320 factors, in determining the appropriate spousal support award.”

In addition, the Appellate Court ruled:

1. That the recent medical finding that Michelle’s illness would not affect her ability to become self-supporting constituted a change of circumstance.
2. The concept of being self-supporting is a flexible term to be determined by the trial court.
3. Although the marriage was a lengthy one, that fact alone does not justify an unlimited spousal support award.