

The Virginia Court of Appeals ruled that a Chesterfield County Circuit Court judge in a divorce case did not err in declining to impute income to a mother of four children, ages 2 to 10 years old, when her decision to do so was the result of an agreement with her husband that she stay home to care for the children.

The husband argued the trial court should have awarded the wife a spousal support award with a defined duration. Wife was 37 years old at the time of the final hearing and she was in good health. The parties' youngest child is expected to enter kindergarten in 2010. Wife has a college degree and worked full-time prior to the birth of her children, and hopes to return to work after her youngest child enters school and she receives the necessary training.

The trial court explained that the parties had agreed that wife would leave the workforce to take care of the children, which she has been doing for over 10 years. The trial court also stated that the care of the children will necessitate the wife's continued absence from the workforce, and that the parties' custody arrangement and the father's work requirements will necessitate a great degree of personal oversight. Considering the parties' circumstances, the trial court did not abuse its discretion in awarding wife spousal support with an undefined duration. The Court of Appeals agreed with the trial Court's rulings in this regard.

The higher court also found the trial court did not err in declining to impute \$30,000 annual income to wife, who last held a job earning that amount before the birth of the children, or in declining to award husband credit for paying for marital liabilities during the separation, or in declining to award him more than 50 percent of the marital property.