122 Cal.App.5th 1036
Court of Appeal, Second District, Division 8, California.

IN RE MARRIAGE OF
Candice and Scott TRAWEEK
Candice Traweek, Respondent,
v.
Scott Traweek, Appellant.

B336738
|
Filed 8/28/2026

Synopsis

Background: Wife petitioned for dissolution of marriage and sought spousal support, despite having been convicted of domestic violence against husband, which created statutory rebuttable presumption against such an award. The Superior Court, Los Angeles County, No. 21AVFL00445, Diane M. Goodman, J., found that wife rebutted presumption and awarded her spousal support. Husband appealed.

Holdings: The Court of Appeal, Stratton, P.J., held that:

in determining whether statutory presumption against award of spousal support to party who has been convicted of domestic violence is rebutted, "just and equitable" language of statute creating presumption permits consideration of entire marital context, including relevant factors set forth in separate spousal support statute, and

trial court did not abuse its discretion in finding that wife rebutted statutory presumption prohibiting award of spousal support to her based on her conviction of domestic violence against husband.

Affirmed.

Procedural Posture(s): On Appeal; Petition for Divorce or Dissolution; Motion for Temporary Alimony.

APPEAL from a judgment of the Superior Court of Los Angeles County, Diane M. Goodman, Judge. Affirmed. (Los Angeles County Super. Ct. No. 21AVFL00445)

Attorneys and Law Firms

Clunen & Oakman Law, Karen D. Oakman, San Diego; Ferguson Case Orr Paterson and Wendy C. Lascher, Ventura for Respondent.

Decker Law, James Decker, Griffin Schindler and Chris Jones for Appellant.

STRATTON, P. J.

*948 INTRODUCTION

The superior court dissolved the marriage of Scott Traweek (Scott) and Candice Traweek (Candace).[1] Appellant Scott appeals the judgment. He argues the trial court erred in its interpretation and application of Family Code [2] section 4325 when awarding Candice spousal support. He contends the trial court abused its discretion in finding that Candice rebutted Family Code section 4325's presumption prohibiting an award of support to a spouse convicted of domestic violence.

1 We refer to the parties by their first names because they share the same last name.

2 Undesignated statutory references are to the Family Code.

We find neither a misinterpretation of the statute nor abuse of discretion. The trial court properly considered various factors in finding Candice had successfully rebutted section 4325's presumption. The judgment is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

A. *Relevant Facts*

Scott and Candice married on May 10, 2003, and their date of separation is May 12, 2021.

On May 19, 2021, Candice filed a petition for dissolution of marriage. Scott initiated a separate action requesting a domestic violence restraining order (DVRO) against Candice; he obtained a DVRO against her on June 28, 2021. The DVRO requires Candice not to "[h]arass, attack, strike, threaten, ... follow, stalk, molest, destroy personal property, disturb the peace, keep under surveillance," "[c]ontact, either directly or indirectly, by any means, including but not limited to, by telephone, mail, e-mail, or other electronic means" with Scott, with the exception of "[b]rief and peaceful contact ... required for court-ordered visitation of children." The DVRO also required Candice to stay 100 yards away from Scott, his home, car, and place of work, with an exception for contact regarding the children. The DVRO is set to expire on June 28, 2026. We note here that we were not provided the request for DVRO nor any pleading filed in connection with the DVRO matter except the DVRO itself, issued on June 28, 2021; we were not apprised of the events or incidents leading up to the filing and granting of the DVRO request.

The DVRO includes a reference to a "Criminal Protective Order—Domestic Violence," set to expire on February 27, 2023, in case No. OAN03584. (Italics omitted.) We were not provided a copy of the criminal protective order.

949** B. ***Trial

Trial took place on June 5, August 11, 21, 24, and September 1, 2023, on the issues of child custody, child support, spousal support, division of assets and debts, and attorney fees. Scott and Candice both testified. The parties' corrected joint settled statement, filed on December 6, 2024, provides a summary of the following relevant testimony.

Scott's testimony: "[T]here was an incident in 2020 where he called the police and had [Candice] arrested." He filed for a DVRO and for divorce, but "dismissed the divorce case, dismissed the request for [DVRO], allowed [Candice] to move back into the home, told the DA not to file charges, took her and the children on a family vacation, sent her flirty messages, shared a bedroom, had [Candice] make his lunches, went out to dinner together, and they had sexual relations.... While living together in 2020 and 2021, [Scott] 'allowed' [Candice] to use an ATM card."

Scott "sought a restraining order in May 2021 against Candice, which was granted *based upon the actions in 2020*. After the restraining order was issued, he took a cake to Candice's home for [their child] Sam's birthday. Scott testified on cross that after this restraining order he would write Candice messages stating that he loved her and other flirty messages." (Italics added.)

Candice's testimony: "In 2020, ... Scott had left [Candice] with no access to funds when Scott closed their joint account with no warning.... [E]ven once reconciled[,] Scott would 'allow' her to use his debit card when she was purchasing items for the home, but she never was given access to a bank account." Candice "would receive the family bills to the home and would pay them from the joint account. In 2018/2019, she noticed they no longer appeared to have the funds to pay the mortgage.... Candice only learned after a subpoena in 2022 (after multiple motions to compel), that Scott had been taking some of his earnings and gave this money to his brother in the amount of $38,500. She was not aware he had switched his bank statements to his brother's address and he only told her that it was her fault there was no money."

Candice testified to "how toxic the relationship became when she found Scott's drugs. She originally thought the money was missing for drug money, not being sent to his brother. Candice testified to Scott's abusive behaviors such as yelling, taking away the mail key so she could no longer get the mail, and the pattern of abuse of taking away money."

Candice "admitted she was convicted and sentenced for committing domestic violence against Scott." "After being arrested in May 2020, Candice pled guilty to avoid her children having to testify since she and Scott reconciled[,] so she did not see the point in fighting it further. She testified that they had started talking, started exchanging flirtatious messages, started meeting up, and she moved back into the home in 2020. She testified to them having sexual relations, sleeping in the same bed, going on trips together, meeting for dinner, and holding themselves out as a married couple." "After the 2021 [DVRO], Candice testified that Scott would come to her home frequently and would ask to change the exchange location to her home instead of the police station. He also would send her flirtatious messages and they had dinner after this restraining order. Candice testified that Scott invited her to the vet when he had to put down his dog, so she could comfort him and the[n] spent hours together. Candice showed evidence in Talking Parents and in text messages."

***950** The Talking Parents communications and text messages between Scott and Candice were flirty in nature. For instance, a text message exchange on July 23, 2021—just 3 weeks after Scott obtained the DVRO against Candice—provides:

Candice: "We're home now. Thank you for tonight, it was another incredible night ♥♥♥♥"

Scott: "Thank you....it was nice to see you and the girls, our family. I enjoyed making us dinner tonight too...hey, guess what??? I am STILL in love with you!!"

Candice: "Wow..... You seriously just made my heart start racing AGAIN..... Just like the last few times we've seen each other because..... I am undoubtedly STILL in love with you too..... Feels incredible."

The next day, on July 24, 2021, the following text message exchange took place:

Candice: "Made it home babe. Thank you for another great day/night!"

Scott: "Great... I'm happy to hear that. And thank you for a great day and night. I had a great time... I gotta say, you are driving me crazy with your HOTNESS...lol"

Candice: "Hahaha, good, because I seriously can't get enough of you, so the feeling is MORE than mutual!!!! Want so much more of you!!"

Scott: "Oh yeah.... Feeling the need to feel ALL of you..."

The next morning, on July 25, 2021, Scott texted Candice, "Should I text, wait for you to text... wait 3 days? Wait 3 minutes? Ohhhh.... I don't know how this works??? LOL Good morning babe and how is the most beautiful woman in the world doing this fine ass day?" Later that morning, Candice texted and asked Scott what type of beverage he would want from Smart & Final, to which he replied, "The kind that makes your panties drop..."

C. ***Statement of Decision and Judgment***

On November 2, 2023, the trial court issued a lengthy statement of decision. As for spousal support, the trial court ruled:

"[Candice] was arrested for domestic violence against [Scott]. [Candice] admitted that she was convicted and sentenced for domestic violence against [Scott]." The trial court "reviewed the five cases interpreting Family Code [s]ection 4325."

"This court understands that the public policy behind Family Code [s]ection 4325 is to not further injure the injured spouse by making them support the convicted spouse. However, in this case, [Candice] did not work the entire marriage and she has no current marketable skills. Her last employment was as a pharmacy technician at the beginning of their marriage. [Candice] has devoted her entire marriage to taking care of the home and their children. The parties maintained a middle-class lifestyle. [Scott] contends that he earned enough to support the family without [Candice] needing to work. However, this court finds that the parties lived beyond their means as [Scott] refinanced the house twice to pay off debt and [Candice] used her inheritance to support the family. Further, during the last year of the parties' marriage, [Candice] ran up substantial credit card debt as either [Scott] was holding back funds from [Candice] or there wasn't enough income to maintain their lifestyle. The court finds that the latter was probably more accurate. [*Scott's*] *withholding of funds to pay bills during the marriage is a form of coercive control (see Family Code [s]ection 6320(c)(3).*

"[Scott] was able to work, including overtime, due to the fact that [Candice] ***951** was taking care of the household and the children. The court notes that one of the parties' children has finished high school but she is still living with and being supported solely by her mother [Candice]. This is a marriage of long duration as it is 18 years long. That is a long time for [Candice] to be out of work and then be expected to support herself.

"These factors distinguish this case from [*In re Marriage of Brewster & Clevenger* (2020) 45 Cal.App.5th 481, 258 Cal.Rptr.3d 745]. This case is a long marriage like in *Brewster & Clevenger*, but the wife in that case was a medical doctor who was employed during the entire marriage, even though she claimed that she had medical issues that impaired her ability to work. [Candice] didn't work the entire marriage and is still unemployed. Thus, *this court finds that the Family*

 © 2026 Thomson Reuters. No claim to original U.S. Government Works.

Code [s]ection 4320 factors outweigh the domestic violence conviction, in light of all of the circumstances that are set forth below.

"[Candice] testified that she pled guilty to keep her children from testifying. The court or her attorney should have explained the consequences to [Candice] on future custody or support orders if she pled guilty .... The court isn't convinced that [Candice] pled guilty to keep the children from testifying. Nonetheless, [Scott] and [Candice] reconciled after her conviction. During that period of reconciliation, [Scott] had the benefit of [Candice] caring for the household, cooking his meals, etc. [Scott] also invited [Candice to] join him at the vet when the dog died.

"Based on the testimony of the parties, there was substantial dysfunction in their relationship. In the [DVRO] hearing, both parties admitted to drug use during the marriage. *[Scott] hid money from [Candice] by opening a separate bank account and sending the statements to his brother's house, a form of coercive control as noted above*. This was during the same period when [Candice] contends that there wasn't enough money to pay the mortgage and their expenses. [Candice] hid credit card charges from [Scott]. [Candice's] spending seems to have been an issue throughout their marriage. *The court does not find that [Scott] filed criminal charges and a restraining order against [Candice] to get out of paying support. On the other hand, the court finds that [Scott] is not completely innocent for the arguments during their marriage and clearly isn't afraid of [Candice] based on his conduct in reconciling with her after her criminal conviction.* The children are also not afraid of their mother, by their insisting to live with her and to have minimal contact with their father. In fact, the Judge hearing the restraining order found that Family Code [s]ection 3044 was rebutted and awarded [Candice] joint custody of the children[,] finding she had been their primary caretaker during the marriage. *The text messages of flirting between the parties and [Scott's] written acknowledgement that he had a good time with her on a number of occasions are evidence that he wasn't enforcing the DVRO until it became convenient when the marriage finally ended*.

"[*Candice] has not received any spousal support for the last two years. The court finds that is enough time for [Scott] to be relieved of paying spousal support. The court balanced the rebuttable presumption in Family Code [s]ection 4325 and the Family Code [s]ection 4320 factors that clearly warrant long term support. As such, the court is not going to make a retroactive support order as requested by [Candice].*

"[¶] ... [¶]

"The court [awarded Candice] spousal support" and found that "based on all of the circumstances of this case, ... [Candice] has rebutted the Family Code [s]ection ***952** *4325 presumption."* (Underscoring omitted, italics added.)

The court ordered Scott to pay $4,000 per month in spousal support to Candice commencing November 1, 2023, and continuing until October 31, 2029, or upon the death of either party, Candice's remarriage, or further order of the court—whichever occurs first.

"*The court is not making an Ostler-Smith*[3] *order for spousal support regarding [Scott's] overtime*. The court notes that [Scott] earns at least $3,000 per month in overtime every month. *Although it is a long term marriage, but in light of the history of domestic violence, the court finds that it would be unjust to make an open ended support order. Therefore, spousal support will terminate on October 31, 2029*.... This gives [Candice] five years to get further training to maximize her earnings and become self-sufficient." (Italics added.)

3 *In re Marriage of Ostler & Smith* (1990) 223 Cal.App.3d 33, 272 Cal.Rptr. 560 [order for additional spousal support based on supporting spouse's bonuses is within the trial court's discretion].

On December 12, 2023, the trial court entered judgment. On January 18, 2024, Scott timely appealed.

DISCUSSION

Scott argues the trial court erred in its interpretation and application of section 4325. Scott argues the trial court "focused on Candice's supposed lack of marketable skills and longstanding absence from the workplace" and "committed legal error or otherwise abused its discretion in reaching this conclusion." He contends the section 4320 "factors are not meant to apply when there is a presumption under section 4325, at least not until after the presumption is rebutted—

based on factors independent from those set forth in section 4320." (Italics omitted.)

We disagree with Scott's position and affirm the judgment.

A. ***Standard of Review***

We review an award of spousal support for abuse of discretion. (*In re Marriage of Campi* (2013) 212 Cal.App.4th 1565, 1572, 152 Cal.Rptr.3d 179). "[W]e do not substitute our judgment for that of the trial court, and we will disturb the trial court's decision only if no judge could have reasonably made the challenged decision." (*In re Marriage of Cryer* (2011) 198 Cal.App.4th 1039, 1046–1047, 131 Cal.Rptr.3d 424.) " 'An abuse of discretion occurs "where, considering all the relevant circumstances, the court has exceeded the bounds of reason or it can fairly be said that no judge would reasonably make the same order under the same circumstances." ' " (*In re Marriage of Bower* (2002) 96 Cal.App.4th 893, 898–899, 117 Cal.Rptr.2d 520 (*Bower*).) However, questions relating to the interpretation of statutes are matters of law for the reviewing court, subject to de novo review. (*In re Marriage of Drake* (1997) 53 Cal.App.4th 1139, 1151, 62 Cal.Rptr.2d 466; *In re Marriage of Brewster & Clevenger*, *supra*, 45 Cal.App.5th at p. 514, 258 Cal.Rptr.3d 745 (*Brewster & Clevenger*).)

Additionally, " '[a] judgment or order of a lower court is presumed to be correct on appeal, and all intendments and presumptions are indulged in favor of its correctness.' " (*In re Marriage of LaMoure* (2011) 198 Cal.App.4th 807, 829, 132 Cal.Rptr.3d 1.) It is appellant's burden to "demonstrate, on the basis of the record presented to the appellate court, that the trial court committed an error that justifies reversal of the judgment." (***953** *Jameson v. Desta* (2018) 5 Cal.5th 594, 608–609, 234 Cal.Rptr.3d 831, 420 P.3d 746; Cal. Rules of Court, rules 8.120, 8.122(a)(3) & 8.224; see *Bower*, *supra*, 96 Cal.App.4th at p. 898, 117 Cal.Rptr.2d 520 [the appellant bears the burden to affirmatively show error].)

B. ***Applicable Law***

Section 4320, subdivision (i), together with section 4325, embody the principle that an award of spousal support to a party who has engaged in domestic violence is disfavored. (See *In re Marriage of MacManus* (2010) 182 Cal.App.4th 330, 335–336, 105 Cal.Rptr.3d 785 [discussing history of section 4320, subdivision (i), and section 4325].)

Section 4325, subdivision (a) provides: "In a proceeding for dissolution of marriage where there is a criminal conviction for a domestic violence misdemeanor or a criminal conviction for a misdemeanor that results in a term of probation pursuant to section 1203.097 of the Penal Code perpetrated by one spouse against the other spouse entered by the court within five years prior to the filing of the dissolution proceeding or during the course of the dissolution proceeding, *there shall be a rebuttable presumption* that the following shall apply: [¶] (1) *An award of spousal support to the convicted spouse from the injured spouse is prohibited*." (§ 4325, subd. (a)(1), italics added.) Section 4325, subdivision (b) sets out the "conditions for rebutting this presumption": "The court *may consider documented evidence of a convicted spouse's history as a victim of domestic violence*, as defined by section 6211, perpetrated by the other spouse, *or any other factors the court deems just and equitable, as conditions for rebutting this presumption*." (*Id.*, subd. (b).) (Italics added.) "The rebuttable presumption created in this section may be rebutted by a preponderance of the evidence." (*Id.*, subd. (c).)

Section 4320 provides:

"In ordering spousal support ..., the court *shall* consider all of the following circumstances:

> "(a) The extent to which the earning capacity of each party is sufficient to maintain the standard of living established during the marriage, taking into account all of the following:
>
> > "(1) The marketable skills of the supported party; the job market for those skills; the time and expenses required for the supported party to acquire the appropriate education or training to develop those skills; and the possible need for retraining or education to acquire to acquire other, more marketable skills or employment.
> >
> > "(2) The extent to which the supported party's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported party to devote time to domestic duties.
>
> "(b) The extent to which the supported party contributed to the attainment of an education, training, a career position, or a license by the supporting party.

"(c) The ability of the supporting party to pay spousal support, taking into account the supporting party's earning capacity, earned and unearned income, assets, and standard of living.

"(d) The needs of each party based on the standard of living established during the marriage.

"(e) The obligations and assets, including the separate property, of each party.

"(f) The duration of the marriage.

"(g) The ability of the supported party to engage in gainful employment without unduly interfering with the interests of ***954** dependent children in the custody of the party.

"(h) The age and health of the parties.

"(i) *All documented evidence of any history of domestic violence, as defined in Section 6211, between the parties* or perpetrated by either party against either party's child, including, but not limited to, consideration of:

"(1) A plea of nolo contendere.

"(2) Emotional distress resulting from domestic violence perpetrated against supported party by the supporting party.

"(3) *Any history of violence against the supporting party by the supported party*.

"(4) Issuance of a protective order after a hearing pursuant to Section 6340.

"(5) A finding by a court during the pendency of a divorce ... proceeding, ... that the spouse has committed domestic violence.

"[¶] ... [¶]

"(k) The balance of the hardships to each party.

"[¶] ... [¶]

"(m) *The criminal conviction of an abusive spouse shall be considered in making a reduction or elimination of a spousal support award in accordance with Section 4324.5 or 4325*.

"(n) Any other factors the court determines are just and equitable." (§ 4320, italics added.)

C. ***Analysis***

The question on appeal is whether the trial court erred in finding Candice rebutted the section 4325 presumption. We find no error in the trial court's implementation of section 4325 and conclude that the trial court carefully weighed the evidence and acted within its discretion in finding the presumption rebutted.

Scott first contends the trial court's implementation of the statute "is at odds with the rules of statutory interpretation" in that the trial court's weighing of section 4320 "factors are *not meant to apply* when there is a presumption under section 4325, at least not until after the presumption is rebutted—based on factors *independent* from those set forth in section 4320." (First italics added.)

Section 4325 does not automatically bar or prohibit spousal support when the supported party has been convicted of domestic violence against the supporting spouse within the statutory time period; it creates a presumption that can be rebutted. Section 4325's subdivision (b) is especially important, as it directs the court to consider, in lieu of documented evidence of a convicted spouse's history as a domestic violence victim perpetrated by the other spouse, "*any other factors the court deems just and equitable*, as conditions for rebutting this presumption." (§ 4325, subd. (b), italics added.) The language of the statute expressly vests the trial court with broad equitable authority in evaluating "any other factors" relevant to its determination to prohibit (or award) spousal support to the restrained spouse.

In determining whether the presumption is rebutted, nothing in section 4325, subdivision (b) precludes the trial court from considering the relevant factors set forth in section 4320 as "any other factors the court deems just and equitable." In fact, subdivision (b) of section 4325 provides no restrictions or limitations in the trial court's consideration of any factor in making its determination, so long as the trial court finds it "just and equitable." Additionally, section 4320—entitled "considerations" for the "determination of amount due for

 © 2026 Thomson Reuters. No claim to original U.S. Government Works.

support"—sets forth the ***955** factors a trial court evaluates when ordering spousal support. (§ 4320 ["In ordering spousal support under [this section], the court shall consider all of the following circumstances"].) That includes, *inter alia*, documented evidence of any history of domestic violence between the parties. (*Id.*, subd. (i).) Subdivision (i) of section 4320 goes hand in hand with section 4325. Section 4325, subdivision (b)'s broad "just and equitable" language permits consideration of the entire marital context. We see no error in the trial court's interpretation of section 4325.

During oral argument, Scott argued California case law has specified that the trial court is not required to consider section 4320's factors when making a section 4325 determination. Scott cited *In re Marriage of Cauley* (2006) 138 Cal.App.4th 1100, 41 Cal.Rptr.3d 902. But Scott misinterprets the analysis in *Marriage of Cauley*, which provides: "Appellant next contends that the trial court abused its discretion in terminating spousal support without considering the factors of section 4320. We disagree. *When a supported spouse fails to rebut the presumption of section 4325, 'support to the abusive spouse otherwise awardable pursuant to the standards of this part should not be made.' Both sections 4320 and 4325 are included in part 3, chapter 2 of the Family Code."* (*Marriage of Cauley*, at pp. 1108–1109, fn., 41 Cal.Rptr.3d 902 omitted.) We conclude the analysis in *Marriage of Cauley* is expressly limited to circumstances where "a supported spouse fails to rebut the presumption of section 4325." (*Ibid.*) Here, the trial court concluded Candice successfully rebutted the section 4325 presumption, leaving no issue with the trial court's consideration of section 4320's factors.

Next, Scott argues the trial court abused its discretion in ruling that section 4325's presumption was rebutted. In reviewing a trial court's exercise of discretion, we consider whether or not the trial court "exceeded the bounds of reason, all of the circumstances before it being considered." (*In re Marriage of Connolly* (1979) 23 Cal.3d 590, 598, 153 Cal.Rptr. 423, 591 P.2d 911.) The burden is on the complaining party to establish abuse of discretion. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 331, 216 Cal.Rptr. 718, 703 P.2d 58.) The showing on appeal is insufficient if it presents a state of facts that affords only an opportunity for a difference of opinion. (*In re Marriage of Rothrock* (2008) 159 Cal.App.4th 223, 230, 70 Cal.Rptr.3d 881.)

We find no abuse of discretion. The trial court's detailed findings indicate that it considered the DVRO against Candice, both parties' trial testimony, and the admitted evidence (such as the parties' text messages and Talking Parents communications) in conjunction with section 4325's rebuttable presumption and section 4320's spousal support factors. The trial court acknowledged the DVRO and section 4325's presumption and indicated it "reviewed" the few cases interpreting section 4325. The trial court took into account that the parties had a "marriage of long duration as it is 18 years long" and that Candice "did not work the entire marriage," had "no current marketable skills," and "devoted her entire marriage to taking care of the home and their children." The trial court noted Scott "earned enough to support the entire family without [Candice] needing to work." The court found Scott "was able to work, including overtime, due to the fact that [Candice] was taking care of the household and the children" and the children are "still living with and being supported solely by [Candice]." The court further found there was "substantial dysfunction" in the parties' relationship and, at the DVRO hearing, both parties had ***956** admitted to drug use during the marriage. The court found Scott "is not completely innocent for the arguments during their marriage and clearly isn't afraid of [Candice] based on his conduct in reconciling with her after her criminal conviction"; the court referred to the parties' text messages as "evidence that [Scott] wasn't enforcing the DVRO until it became convenient when the marriage finally ended."

Evidence of the foregoing facts matter, because section 4325 was enacted partly to protect victims of domestic violence from having to financially support their abuser. (See Assem. Com. on Judiciary, 3d reading analysis of Sen. Bill No. 1221 (2001–2002 Reg. Sess.) as amended Aug. 23, 2001, p. 3 ["The author argues that spousal support orders in such domestic violence cases potentially force victims of abuse to remain dangerously entangled in the abuser's web of violence and intimidation."].) However, if the protected party (Scott) repeatedly disregards the DVRO in place, voluntarily seeks contact from the restrained party (Candice), and flirts and behaves romantically towards the restrained party, the trial court could reasonably conclude that the equities of this particular case differ substantially from the ordinary domestic violence case. Scott's conduct subsequent to the issuance of his requested DVRO substantially diminished the weight of

the public policy concerns that section 4325 was designed to address.

Based on its weighing of factors, the trial court denied two years of retroactive spousal support, denied Candice an award of *Ostler-Smith* percentage of Scott's overtime income as additional spousal support, and reduced the spousal support term from permanent (to which Candice had a right since the parties had a long-term marriage) to only six years—set to expire on October 31, 2029. Thus, the trial court effectively imposed meaningful financial consequences for the domestic violence while still preventing extreme economic hardship to Candice. This ruling demonstrates the trial court gave meaningful effect to section 4325 as well as section 4320, based on the parties' trial testimony and evidence supporting rebuttal of the presumption. The trial court's weighing of all the facts is the polar opposite of abuse of discretion or legal error.

Besides the section 4325 considerations, the findings under section 4320 were particularly strong—an 18-year marriage, no employment by Candice throughout marriage, no current marketable skills, primary caregiver for the parties' children, complete dependence on Scott's earnings— and strongly implicate the Legislature's policy favoring support following long-term marriages. Candice's circumstances and earning capacity are in stark contrast to the circumstances of the restrained wife Mary Kay in *Brewster & Clevenger*, *supra*, 45 Cal.App.5th 481, 258 Cal.Rptr.3d 745, since Mary Kay was a physician and "had an obstetrics/ gynecology practice and provided medical weight loss services" whereas Candice had not worked in at least 18 years. (*Id*. at p. 485, 258 Cal.Rptr.3d 745.) Ignoring section 4320's factors would have itself constituted reversible error. The trial court instead exercised its broad equitable powers to balance them against section 4325's rebuttable presumption. (See § 4325, subd. (b); see also § 4320, subd. (i).)

Additionally, the trial court found Scott's intentional concealment and withholding of part of his income from Candice qualified as coercive control, which section 6320, subdivision (c)(3) expressly recognizes as domestic abuse. (§ 6320, subd. (c) ["Examples of coercive control include, but are not limited to, unreasonably engaging in any of the following: [¶] ... [¶] (3) Controlling, regulating ... the other party's ... finances, economic resources"].) The trial ***957** court reasonably considered Scott's own abusive conduct as an equitable factor and did not exceed the bounds of reason by finding Candice's financial circumstances sufficient to outweigh the public policy underlying the section 4325 presumption.

Scott argues that our affirmance of the underlying judgment would undermine the legislative policy of discouraging domestic violence. We disagree and believe that affirmance actually advances both legislative policies of protecting domestic violence victims and preventing a financially dependent spouse from becoming destitute after a long marriage. Rather than awarding permanent spousal support, the court limited Candice recovery by denying retroactive support and an *Ostler-Smith* share of Scott's overtime pay and setting a non-modifiable termination date, demonstrating that it gave meaningful effect to domestic violence considerations while still preventing an inequitable outcome.

DISPOSITION

The judgment is affirmed. The parties are to bear their own costs on appeal.

We concur:

WILEY, J.,

SCHERB, J.

All Citations

122 Cal.App.5th 1036, 347 Cal.Rptr.3d 946, 2026 Daily Journal D.A.R. 7661

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.