

FAMILY LAW: SUPREME COURT HOLDS THAT PETITIONS TO TERMINATE ALIMONY BASED ON MERETRICIOUS RELATIONSHIP DO NOT HAVE TO BE FILED WHEN THE EX-WIFE STILL LIVES WITH HER PARAMOUR

By November 2, 2017

Charles M. Medlin, Winfield L. Pollidore, and Erica F. Byrd get a favorable ruling from the Supreme Court of Georgia in a modification of alimony case of Provenzano (formerly Jones) v. Jones before the Fulton County Superior Court.

In the modification of alimony case, the Jones' were divorced in April, 2014. Pursuant to a Final Decree, Mr. Jones was to pay Ms. Jones alimony in the amount of \$3,000 per month for sixty months. In addition, Mr. Jones was to pay one-third of any net bonuses or commissions earned through his employment during the sixty-month period.

On January 25, 2016, Mr. Jones filed a Petition for Modification of alimony pursuant to O.C.G.A. § 19-6-19(b) on the ground that Ms. Jones had voluntarily cohabitated with her boyfriend "since at least the second half of 2014." Before the petition was filed, Ms. Jones moved out of her boyfriend's residence into her own residence. The trial court held a hearing on June 27, 2016 and found Ms. Jones was admittedly in a meretricious relationship that was continuing, and reduced Husband's alimony obligation to \$2,000 per month for the remaining term of the payment and also eliminated the requirement that any bonuses be paid to Ms. Jones. Ms. Jones appealed.

The Supreme Court of Georgia granted Ms. Jones' application for discretionary appeal. The Supreme Court of Georgia affirmed the trial court's ruling and held that evidence "was presented that Wife and her boyfriend shared expenses while residing together, and that their relationship had been sexual even prior to her moving in with him."

Ms. Jones claimed in her appeal that since she was no longer living with her boyfriend by the time Mr. Jones filed his Petition for Modification, he filed too late and that there was no ongoing meretricious relationship at that time, requiring the rejection of his petition to modify alimony. The Supreme Court of Georgia held that "O.C.G.A. § 19-6-19 (b) does not apply only to those instances where cohabitation is occurring when the modification action is filed. Rather it applies to voluntary cohabitation that occurs "subsequent to a final judgment of divorce awarding periodic payment of alimony, without any such limitation..."

This case is a guide for future alimony cases where a party's alimony may be terminated or modified after they were caught cohabitating and then moves out in an attempt to skirt modification or termination of alimony.