

COURT OF APPEAL, FIRST CIRCUIT

STATE OF LOUISIANA

RE: Docket Number 2004-CA-0310

Mary Jo Mayfield Delahaye

-- Versus --

Michael T. Delahaye

Family Court of East Baton Rouge

Case #: 131983

East Baton Rouge Parish

On Application for Rehearing filed 01/13/2005

Rehearing . . . *Granted*

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*John M. Guidry*

John M. Guidry

*E. James Gaidry*

E. James Gaidry

*Page McClendon*

Page McClendon

Filed

*MAR 9 2005*

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*Christine L. Crow*

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Christine L. Crow, Clerk

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2004 CA 0310

MARY JO MAYFIELD DELAHAYE

VERSUS

MICHEL T. DELAHAYE

Judgment Rendered: MAR 9 2005

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Opinion Granting Rehearing for Limited Purpose

Appealed from the  
Family Court

In and for the Parish of East Baton Rouge  
State of Louisiana  
Suit Number 131,983

Honorable Annette M. Lassalle, Presiding

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BEFORE: GUIDRY, GAIDRY, AND McCLENDON, JJ.

*SMG*  
*ESG by SMG*  
*PMC by SMG*

**GUIDRY, J., on rehearing.**

This rehearing is granted for the limited purpose of clarifying our instructions to the trial court. In our original opinion, we remanded this matter for a hearing to determine if the criteria of Wright v. Wright, 99-1953 (La. App. 1st Cir. 11/3/00), 770 So.2d 524, and Halverson v. Halverson, 589 So.2d 1153 (La. App. 5th Cir. 1991), writ denied, 600 So.2d 655 (La. 1992), were met. The purpose of this determination is to ensure that permitting Ms. Mayfield the option of receiving retirement benefits immediately does not violate the goals of equity and fairness between the parties or operate to the detriment of Mr. Delahaye's future benefits under the plan. However, given the great variance in pension plans, we wish to emphasize that the criteria delineated in Wright and Halverson should be applied in a flexible manner. Cf. Hare v. Hodgins, 586 So.2d 118, 127 (La. 1991) (Due to the variations in pension plans and communal situations no one method can accomplish justice in every case.) Depending upon the specific provisions of the plan under consideration, it could be that one or more of the delineated factors is inapplicable herein, and will have no impact upon Mr. Delahaye's future retirement benefits. In such case, as long as it does not result in unfairness or inequality between the parties, it is unnecessary for Ms. Mayfield to establish the existence of such factors. Finally, we note that, if the trial court so chooses, it may appoint an expert to assist in the evaluation of the retirement plan, particularly considering the complexity of the plan and the possible ramifications of allowing Ms. Mayfield to receive immediate benefits. See La. R.S. 9:2801A(3).

**REHEARING GRANTED WITHOUT ORAL ARGUMENT FOR  
THE LIMITED PURPOSE OF CLARIFICATION OF INSTRUCTIONS.**