

**Washington Supreme Court Overturns Divorce Punishment of Wife Who Reported Abuse**

**In the Matter of the Marriage of DAWUD A. MUHAMMAD, Respondent, and CHERRY MUHAMMAD, Petitioner.**

**No. 75061-1**

**SUPREME COURT OF WASHINGTON  
153 Wn.2d 795; 108 P.3d 779; 2005 Wash. LEXIS 274**

**October 28, 2004, Oral Argument  
March 24, 2005, Filed**

PRIOR HISTORY: [\*\*\*1] Appeal from Superior Court. Honorable Bruce W. Cohoe. In re Marriage of Muhammad, 119 Wn. App. 166, 79 P.3d 483, 2003 Wash. App. LEXIS 2721 (2003)

DISPOSITION: Reversed and remanded with instructions.

**CASE SUMMARY**

PROCEDURAL POSTURE: Petitioner wife appealed a judgment of the Pierce County Superior Court (Washington), which divided the property owned by her and respondent husband. Division Two of the Court of Appeals (Washington) affirmed the trial court's distribution of the parties' assets and liabilities, finding that there was no improper consideration of fault.

OVERVIEW: The wife obtained a protection order against the husband based on charges of domestic violence. The order had a firearm prohibition in it, and, as a result, the husband lost his job as a deputy sheriff. The trial court noted the fact that the wife should have been aware of the economic consequences of her getting a protective order against the husband, and it awarded the husband his entire pension from that job. On appeal, the court held that the trial court's division of the parties' property was an abuse of discretion because the trial court improperly considered the wife's decision to obtain a protective order as "marital misconduct." The court accordingly reversed the decision of the Court of Appeals affirming the trial court and remanded the matter for new proceedings. The court stated that a trial court could not hold one spouse's assertion of his or her legal right to a protective order against that spouse during the property distribution where the order resulted in the loss of employment for the other spouse. The court declined to hold, however, that a job loss resulting from a domestic violence allegation or conviction could be weighed against the unemployed party.

OUTCOME: The court reversed and remanded for a new trial on the issue of the property division, and it instructed the Pierce County Superior Court to assign a new trial judge for the rehearing of the case.