

Workman, Justice, concurring:

While I agree with the result reached by the majority, they engage in unnecessary mental gymnastics in reaching their conclusion when there is a simple mechanism to do so set forth in the statute. The statutory language found in West Virginia Code § 48-2-15(b)(4) provides that "[a]s an incident to requiring the payment of alimony or child support, the court may grant the exclusive use and occupancy of the marital home to one of the parties. . . ." The majority dismissed West Virginia Code § 48-2-15(b)(4) as authority for permitting appellee to continue residing in the former marital home based on the language in that statute that generally limits the use and occupancy of a former marital home "to those situations where such use and occupancy is reasonably necessary to accommodate the rearing of minor children of the parties." Id. However, that same statutory provision provides a clear exception "in extraordinary cases supported by specific findings set forth in the order granting relief. . . ." Id.

The circuit court obviously found the existence of such extraordinary circumstances. These parties had been married for twenty-two years, during most of which Mrs. Martin had devoted herself

to child rearing and homemaking. The most significant extraordinary circumstance, however, is that, subsequent to the divorce, appellant's business had flourished such that his income had more than tripled and permitted him to accumulate substantial investments while appellee had such nominal income from her position as a school cook that she was forced to use food stamps. Another fact which elevates this case to extraordinary within the meaning of West Virginia Code § 48-2-15(b)(4) is the residency of the parties' adult daughter and their grandchild with appellee in the former marital home. While the appellant has no legal obligation to provide shelter for his daughter, now past the age of majority, and his grandchild (despite the fact that they were in necessitous circumstances), the fact that appellee lent such assistance certainly adds to the extraordinary nature of these circumstances. This combination of factors, when viewed as a whole, does rise to the necessary level of extraordinary circumstances to permit appellee's continued residency in the former marital home "[a]s an incident to requiring the payment of alimony. . . ." Id. at § 48-2-15(b)(4).

West Virginia Code § 48-2-15(b)(4) does require that the court make specific findings to support use of the exception and requires that the use of the marital home be limited to a definitive period of time. Such findings and time limitation on use were not included in the circuit court's order. Consequently, this case should have

been remanded to require the court to make specific findings and to set such a time limitation.