

FILED

June 1, 2026

C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**Donald Elam II,
Petitioner Below, Petitioner**

v.) **No. 25-87** (24-ICA-216)

**Patti Jo Elam,
Respondent Below, Respondent**

MEMORANDUM DECISION

Petitioner, Donald Elam II, appeals the memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”) that affirmed the Family Court of Boone County’s April 25, 2024, order awarding the respondent, Patti Jo Elam, spousal support.¹ *See Elam v. Elam.*, No. 24-ICA-216, 2024 WL 5201441, at *3 (W. Va. Ct. App. Dec. 23, 2024) (memorandum decision). The respondent filed a timely response. The issue on appeal is whether the ICA erred in affirming the family court’s award of permanent spousal support to the respondent in the amount of \$600 per month.

On appeal of a final order of a family court from the ICA, this Court reviews the family court’s findings of fact for clear error, the family court’s application of law to the facts for an abuse of discretion, and questions of law de novo. *See* Syl. Pt. 3, *Christopher P. v. Amanda C.*, 250 W. Va. 53, 902 S.E.2d 185 (2024). A careful review of the appendix record and the parties’ briefs indicates that the family court, in making its award of spousal support, thoroughly considered the statutory factors contained in West Virginia Code § 48-6-301(b) and properly included the petitioner’s overtime pay when calculating his income. *See* Syl. Pt. 1, *Rexroad v. Rexroad*, 186 W. Va. 696, 414 S.E.2d 457 (1992) (“In determining the amount of alimony . . . that may be obtained, consideration may be given not only to regular wages earned, but also to the amount of overtime pay ordinarily obtained.”); *see also* W. Va. Code § 48-6-301(b)(3) (stating that “in determining the amount . . . of spousal support” to order, a family court shall consider “[t]he present employment income and other recurring earnings of each party from any source”). We discern no reversible error and summarily affirm. *See* W. Va. R. App. P. 21(c).

Affirmed.

ISSUED: June 1, 2026

¹ The petitioner is represented by Alan L. Pritt. The respondent is represented by Claude S. Smith III.

CONCURRED IN BY: June 1, 2026

Chief Justice C. Haley Bunn
Justice Charles S. Trump IV
Justice Thomas H. Ewing
Justice Gerald M. Titus III

DISSENTING:

Justice William R. Wooton

Wooton, Justice, dissenting:

This case concerns an award of permanent spousal support. By a 2-1 vote, the ICA affirmed the family court’s ruling which granted Respondent Wife \$600 per month in permanent spousal support. I agree with Judge Greear’s dissent in which he concluded that the family court erred by making this award. *Elam v. Elam*, No. 24-ICA-216, 2024 WL 5201441, at *3 (W. Va. Ct. App. Dec. 23, 2024) (memorandum decision) (Greear, J., dissenting). As Judge Greear explained in his dissent, this permanent spousal support award was “inequitable, clearly wrong, and an abuse of the family court’s discretion given the particular facts and circumstances present in the underlying case.” *Id.* Because I agree with Judge Greear’s analysis and ultimate conclusion that the family court erred, I respectfully dissent from the majority’s decision to affirm the ICA.