

2014 IL App (2d) 130796-U
No. 2-13-0796
Order filed March 13, 2014

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> MARRIAGE OF)	Appeal from the Circuit Court
TRACIE COOK,)	of McHenry County.
)	
Petitioner-Appellee,)	
)	
and)	No. 2010-DV-664
)	
PHILIP COOK,)	Honorable
)	James S. Cowlin,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justices McLaren and Hudson concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court's finding that the former spouse was not *de facto* remarried so as to disqualify her from receiving maintenance payments was not against the manifest weight of the evidence.
- ¶ 2 Respondent, Philip Cook, petitioned the court pursuant to section 510(c) of the Illinois Marriage and Dissolution of Marriage Act (Dissolution Act) (750 ILCS 5/510(c) (West 2012)) for the termination of maintenance payments. The court denied the petition, finding that petitioner, Tracie Cook, was not cohabitating with another on a resident, continuing, conjugal basis. Philip appeals. We affirm.

¶ 3

I. BACKGROUND

¶ 4 Philip and Tracie married in 1993. They had one daughter, born in 1998. Tracie petitioned for divorce in 2010, citing irreconcilable differences. On February 22, 2012, the trial court entered a judgment of dissolution, which incorporated the parties' settlement agreement. The parties essentially divided the marital assets in half (for example, Tracie received one-half the value of Philip's business, or approximately \$200,000). The agreement provided that Philip would pay \$4,000 in monthly child support (a deviation downward from the statutorily recommended amount) and an additional \$4,000 in monthly maintenance. The support and maintenance were based, in part, on Philip's annual gross income of \$488,826 as a business owner and Tracie's annual gross income of \$80,000 as a nurse practitioner. The maintenance term was 60 months. It was to terminate upon Tracie's cohabitation with another person on a resident, continuing, conjugal basis (as set forth in section 510(c) of the Dissolution Act (750 ILCS 5/510(c) (West 2012)).

¶ 5 Approximately one year later, in February 2013, Tracie became engaged to a new man, Daniel. Later that month, Philip moved to modify (or terminate) maintenance, alleging: (1) Tracie cohabited with Daniel on a resident, continuing, conjugal basis; and (2) his own income had decreased. Philip later withdrew the second basis.

¶ 6 On July 1, 2013, the trial court heard the cohabitation issue. Tracie was the only person to testify. Each party presented exhibits in the form of bank statements and charts marking Tracie's time spent with Daniel.

¶ 7 Tracie began dating Daniel in January 2011. Their relationship was romantic and exclusive from the beginning. However, Daniel lived in Colorado with his minor son from a previous marriage. Daniel also had a job in Colorado with Tetrattech Construction. Tracie lived

with her minor daughter in McHenry, Illinois. Tracie and Daniel saw each other primarily on alternate weekends (usually Friday night to Sunday afternoon), though they spent two separate weeks together in 2012 and one in February 2013 (which culminated in their engagement).

¶ 8 Tracie testified to each day or partial day spent with Daniel since the dissolution:

<u>Dates</u>	<u>Location</u>
1. February 24 to 26, 2012 (weekend)	Illinois
2. March 9 to 11(weekend)	Colorado
3. March 22 to 27 (short week)	Tennessee
4. April 6 to 8 (weekend)	Illinois
5. April 27 to 29 (weekend)	Las Vegas
6. May 11 to 13 (weekend)	Colorado
7. May 25 to 28 (long weekend)	Omaha
8. June 8 to 10 (weekend)	Colorado
9. June 22 to 25 (long weekend)	Colorado
10. July 13 to 15 (weekend)	Illinois
11. July 19 to 22 (long weekend)	Colorado
12. July 27 to 29 (weekend)	Illinois
13. August 10 to 12 (weekend)	Colorado
14. August 24 to 26 (weekend)	Tennessee
15. August 31 to September 9 (week)	Las Vegas
16. September 28 to 30 (weekend)	Colorado
17. October 12 to 14 (weekend)	Illinois
18. October 26 to 28 (weekend)	Colorado
19. November 9 to 11 (weekend)	Illinois
20. November 22 to 25 (long weekend)	Colorado
21. November 30 to December 2 (long weekend)	Illinois
22. December 8 to 9 (weekend)	Colorado
23. December 14 to 16 (weekend)	Colorado
24. December 29 to 31 (weekend)	Colorado
25. January 11 to 13, 2013 (weekend)	Colorado
26. January 25 to 27 (weekend)	Illinois
27. February 8 to 16 (week <i>leading to engagement</i>)	Dominican Republic
28. March 8 to 9 (weekend)	Colorado
29. March 22 to 24 (weekend)	Illinois
30. April 19 to 21 (weekend)	Illinois
31. May 3 to 5 (weekend)	Colorado
32. May 17 to 19 (weekend)	Illinois
33. May 24 to 27 (long weekend)	Omaha
34. June 7 to 9 (weekend)	Illinois
35. June 21 to 23 (weekend)	Illinois

¶ 9 A. Testimony Regarding Colorado Visits

¶ 10 Tracie testified to several of the Colorado trips. On one Mother's Day weekend, Tracie and her daughter were together with Daniel, his mother, and his son. In honor of Mother's Day, Tracie purchased Daniel's mother a plant. Tracie has also bought Daniel's mother other presents: a mattress, a \$70 fishing lesson, and fishing supplies. On a different weekend, Tracie and Daniel celebrated Daniel's son's victory in a wrestling championship. Tracie bought Daniel's son a shirt and tie, and the three of them, along with Daniel's mother, went out to a nice restaurant. Tracie picked up the \$340 tab. On another occasion, Tracie and her daughter celebrated Daniel's and his son's birthdays. That day, Tracie picked up the \$350 tab from Fogo de Chao restaurant. In fact, Tracie often paid for dinners while in Colorado, at the Table Mountain Inn, Dillon Brewery, Johnny's Cigar Bar, and Busters (among other restaurants). Tracie also spent \$400 on concert tickets for Daniel and herself. On one occasion, Tracie bought groceries and made Daniel a meal.

¶ 11 Although Tracie does not keep her personal possessions in Colorado as a general rule, she did make two rather significant purchases there. First, she bought a \$27,000 Kia car. The car is in her name; she is the only one who drives it. Daniel has two cars of his own (a Kia and a work truck), but Tracie felt that she needed her own car while she was in Colorado. Additionally, Tracie bought a set of golf clubs that she leaves in Colorado and uses when she and Daniel golf together.

¶ 12 **B. Testimony Regarding Illinois Visits**

¶ 13 Tracie testified to several of Daniel's visits to Illinois. They went to hockey and baseball games together. Tracie often paid for Daniel's meals. Tracie may have made Daniel one meal in the home, although she tended not to do domestic work. She would prefer not to spend her limited time with Daniel doing chores. Daniel has met and socialized with Tracie's friends in

Illinois. Tracie paid for Daniel and his son to fly to Illinois to celebrate the 2013 New Year. Daniel stayed in her room, and his son stayed in a guest room. Tracie also paid for Daniel's flights to Illinois in March and April of 2013.

¶ 14 C. Testimony Regarding Vacations

¶ 15 On the April 2012 weekend vacation to Las Vegas, Tracie paid approximately \$500 for the shared hotel room, \$550 for two tickets to a Bon Jovi concert, and \$180 for a shared dinner at a steakhouse. In October 2012, Tracie and Daniel again went to Las Vegas, this time with Tracie's daughter. Tracie and her daughter drove to Colorado to pick up Daniel. They stopped to share a meal with Daniel's son before continuing to Las Vegas. Along the way, they stopped at many sights, including Glenwood Hot Springs, Carlson Vineyards, and Utah state parks. While in Las Vegas, Tracie's daughter shared a hotel room with Tracie and Daniel. Tracie paid the \$815 hotel bill. Tracie paid for many meals on the trip. On the way home, Tracie and her daughter flew back to Colorado, and Daniel took the car.

¶ 16 In May 2012, Tracie and Daniel took a trip to Omaha. Tracie took her daughter and Daniel took his son. The four of them shared one hotel room. Tracie spent approximately \$350 on food for the group during the trip. It is unclear who paid the hotel bill. In May 2013, Tracie, her daughter, and Daniel made a second trip to Omaha. Tracie paid that \$520 hotel bill.

¶ 17 The trips to Tennessee were to visit Tracie's aunt and uncle. Tracie testified in particular to the March 2012 trip. Tracie purchased two plane tickets (presumably for herself and her daughter). Daniel joined them on the trip. Tracie and Daniel shared one guest room, and Tracie's daughter stayed in another room. The group often went out to eat. When asked who was included on Tracie's \$84 breakfast bill, Tracie answered, "My whole family: my aunt, my uncle, myself, my [now] fiancé, my daughter." At other meals, Tracie paid for just herself and

her daughter. On the second trip to Tennessee, Tracie paid for Daniel's flight.

¶ 18 Tracie spent \$7,300 on the trip to the Dominican Republic (including Daniel's plane ticket). It was on this trip that Daniel proposed to Tracie. Philip submitted into evidence Facebook posts concerning the engagement, which contained comments such as: "I am so happy for you both. I will be anxious to meet her. Love you," and "I couldn't be happier for you and your new family!" Tracie and Daniel have not yet set a date for their wedding.

¶ 19 D. Testimony Regarding the Intermingling of Affairs

¶ 20 Tracie keeps her finances and official documents separate from Daniel. She has two bank accounts, one at Chase and one at Capital One. She is the only account holder. No one else is authorized to use the accounts. Statements are sent to Tracie's Illinois address. Tracie receives mail only at her Illinois address. She is the only named party on her \$150,000 mortgage and on her utilities. She has an Illinois driver's license. Her daughter is the sole beneficiary of her will, her life insurance, her bank accounts, and her 401(k). Tracie does not help Daniel with his mortgage.

¶ 21 Tracie does not keep any clothes at Daniel's house, and Daniel does not keep any clothes at Tracie's house. Daniel does not cut grass, take out trash, do laundry, or grocery shop while in Illinois. Likewise, Tracie does not contribute in any way to the domestic maintenance of Daniel's home. Tracie and Daniel purchase gifts for each other's children, but not jointly. For example, Tracie's Christmas gift for Daniel's son was from only her.

¶ 22 E. Trial Court's Ruling

¶ 23 At the close of evidence, the judge gave the parties an opportunity to submit written closing arguments. There, although he had not asked for it in his initial motion, Philip asked that maintenance be terminated retroactive to the date of the divorce (and to the initial maintenance

payment). Philip argued that the evidence established that a husband-and-wife relationship between Tracie and Daniel existed back to that date.

¶ 24 On July 19, 2013, the trial court issued its oral ruling. It began by summarizing the section 510(c) standards, stating that it was Philip's burden to establish that Tracie and Daniel had a *de facto* marriage and that this would be determined after looking to the totality of the circumstances and, in particular, the six factors set forth in *In re Marriage of Susan*, 367 Ill. App. 3d 926, 929 (2006). Before proceeding to the six factors, the court noted that this case presented two unusual circumstances. First, Tracie and Daniel did not live in the same state. Second, Philip sought to terminate maintenance back to the date of dissolution. The court "wonder[ed]" why there was an agreement for maintenance if Philip believed Tracie to be cohabitating with Daniel at that point. Looking to the factors, the court stated:

“[T]he length of the relationship favors [Philip] ***. The couple has been dating since prior to the dissolution and have been dating in excess of two years.

The amount of time the couple spends together favors [Tracie]. They see each other a couple of weekends a month. This may be due to the distance, but they have not taken any steps to move in together, share the same household, or to reside in the same community like a married couple.

The nature of the activities they engage in is normal for an engaged or dating couple. ***. This factor does not favor either party.

The interrelation of their personal affairs favors [Tracie]. They keep their finances and personal affairs separate. They each own a separate residence without financial assistance from the other, or help on maintenance or ordinary household matters from the other.

Neither has designated the other as the beneficiary on any asset or life insurance policy or other type of personal obligation.

Frequency of vacations slightly favors [Philip], but it's also not unusual for an engaged couple.

The spending of holidays together, the [c]ourt sees as neutral. They spend some holidays together when they fall on a weekend when they are visiting each other. A married couple would certainly spend more holidays together than this couple."

The court concluded:

"Weighing the factors and looking to the totality of the circumstances, the [c]ourt finds that [Tracie] and her fiancé act as others who are engaged, and *at this time are not* in a *de facto* husband and wife relationship." (Emphasis added.)

This appeal followed.

¶ 25

II. ANALYSIS

¶ 26 Philip argues that the trial court erred in denying his section 510(c) petition. 750 ILCS 5/510(c) (West 2012). Section 510(c) of the Dissolution Act provides that "the obligation to pay future maintenance is terminated *** if the party receiving maintenance cohabits with another person on a resident, continuing, conjugal basis." *Id.* "The rationale behind termination of maintenance when resident, continuing, conjugal cohabitation exists is [to prevent] the inequity created when the ex-spouse receiving maintenance becomes involved in a husband-and-wife relationship but does not legally formalize it, with the result that he or she can continue to receive maintenance." *In re Marriage of Herrin*, 262 Ill. App. 3d 573, 577 (1994). "A receiving spouse who is *de facto* remarried should be treated no differently from a receiving spouse who is *de jure* remarried." *Susan*, 367 Ill. App. 3d at 937. The party seeking the termination of

maintenance has the burden of establishing that the receiving spouse is cohabitating with another. *Id.* at 929. In determining whether the movant has met his or her burden, courts look to the totality of the circumstances and consider the following factors: (1) the length of the relationship; (2) the amount of time spent together; (3) the nature of activities engaged in; (4) the interrelation of personal affairs; (5) whether they vacation together; (6) whether they spend holidays together. *Id.* Each termination case turns on its own set of facts; just as no two relationships are alike, no two cases are alike. *Id.* at 930. The reviewing court will not upset the trial court's ruling on a petition to terminate maintenance based on the existence of a *de facto* marriage unless it is against the manifest weight of the evidence. *Id.* at 929-30. A decision is against the manifest weight of the evidence if the opposite conclusion is clearly evident or if the conclusion is unreasonable, arbitrary, or not based on the evidence. *In re Marriage of Nord*, 402 Ill. App. 3d 288, 294 (2010).

¶ 27 Philip's strongest arguments challenge the trial court's findings concerning residence (and the resulting time spent together) and the interrelation of personal affairs (primarily financial). Philip also argues, more broadly, that the court's findings were inconsistent with the purposes of section 510(c). For the reasons that follow, we hold that the trial court's findings were supported by the evidence and that its overall determination was reasonable and in keeping with the purpose of section 510(c).

¶ 28 As to residence, Philip argues that the trial court placed too much emphasis on the fact that Tracie and Daniel reside in separate states. Philip points to *In re Marriage of Sappington* (106 Ill. 2d 456 (1985) (complete absence of sexual relations did not preclude the existence of a cohabitive relationship)), in support of the proposition that an unconventional interpretation of a definitive factor of statutory cohabitation—there, “conjugal;” here, “resident”—is not fatal to a

petitioner's section 510(c) request. Philip cites cases where the former spouse did not share a house with her new partner but where the court nevertheless found the existence of a cohabitive relationship. See, e.g., *Herrin*, 262 Ill. App. 3d at 578; *Susan*, 367 Ill. App. 3d at 930.

¶ 29 We certainly agree with the proposition that the absence or near absence of a single factor is not fatal to a section 510(c) request. However, we disagree that the trial court placed undue emphasis on a single factor. The fact that the parties reside in different states *is* unique and worthy of comment; no other section 510(c) case concerns parties with lifestyle patterns quite like those present here. We have previously quoted the trial court's oral ruling, which shows a consideration of all the factors.

¶ 30 Philip alternatively argues that, if the court did not place undue emphasis on the factor of residence, then it drew incorrect inferences from the circumstance of separate residences. Philip posits that, instead of viewing the distance between Tracie and Daniel as an indicator that they have not yet unified in a husband-and-wife relationship, the court should have viewed the distance as analogous to that endured by those in a bicoastal marriage. In Philip's view, the distance is a necessity resulting from professional and familial obligations played out after a relationship has solidified into a *de facto* marriage, not a cautious choice made before the relationship progresses to a *de facto* or a *de jure* marriage. In Philip's view, the new couple's residential status colors the resulting time spent together in a light favorable to finding a *de facto* marriage. Although the bimonthly weekends comprise less time together than that experienced by a typical married couple, he argues, a typical married couple would not have to put as much effort into spending that time together. *Despite* the distance between them, Tracie and Daniel have demonstrated a commitment to see each other regularly.

¶ 31 Daniel's argument is not lost upon us. We agree that, at some point, it may be possible

for the court to view Tracie and Daniel as participating in what would be analogous to a bicoastal marriage. However, it remains that living apart is a factor weighing against finding a husband-and-wife relationship. And, there are key aspects in which Philip's bicoastal-marriage analogy falls short. Although each visits the other's property once per month, neither keeps keys to or clothing in the other's home. Tracie does not borrow one of the two vehicles Daniel keeps in Colorado (his Kia and his work truck). Rather, she bought her own Kia, and Daniel does not drive it. Because the purchase of the car demonstrates that Tracie and Daniel do not share large-item possessions, Tracie's purchase of the Kia reasonably swings just as much in her favor as in Philip's. Even psychologically, there is not a sense of sharing homes. Tracie's home is her home and Daniel's home is his home. This would not be the case in a bicoastal marriage.

¶ 32 *Herrin* and *Susan*, the cases cited by Philip, do not convince us that the trial court drew improper inferences from the circumstance of separate residences. In *Herrin*, the former spouse and her new partner owned separate residences nearby one another. However, the new partner's residence did not have gas service, heat, or hot water. He typically stayed at the former spouse's residence until 10:30 p.m. *each evening* before using *her* car to drive back to his separate residence. The former spouse and the new partner had discussed marriage, but they had decided against it for financial reasons. They were aware that, if they married, or if they continuously slept in the same house, the former spouse would no longer receive maintenance. *Herrin*, 262 Ill. App. 3d at 578. In *Herrin*, unlike the instant case, the new couple purposefully altered their behavior patterns so as to avoid the termination of maintenance. The new partner's "separate residence" was a farce. In our case, in contrast, Tracie and Daniel maintain two legitimate, separate households. And, there is no indication that they have manipulated the course of their dating relationship so as to affect maintenance.

¶ 33 *Susan* is a closer case. There, the former spouse and her new partner maintained separate residences, did not mingle finances, had not had sex in over two years (of their three-year relationship), had not discussed marriage, and considered themselves friends. *Susan*, 367 Ill. App. 3d at 927-28. However, they had spent nearly every night together over the past three years, had virtually unlimited access to one another's homes (the new partner had a key to the former spouse's home and the new partner was "always home" to let the former spouse into his home), prepared meals together, spent the last three Christmases together, cosigned Christmas cards, and vacationed together. *Id.* at 930. The trial court found that the total circumstances weighed in favor of finding that the new couple was cohabitating on a resident, continuing, conjugal basis. *Id.* at 929. The appellate court affirmed, stating that there "can be little question that the trial court's finding of a *de facto* marriage was not against the manifest weight of the evidence." *Id.* at 930. Although no two cases are alike, we do see the similarities between *Susan* and our case. Still, there are differences; the couple in *Susan* saw each other far more frequently than do Tracie and Daniel and had fewer boundaries to one another's possessions. Moreover, the *Susan* court affirmed the trial court. Unlike *Susan*, we are not being asked to reverse a finding of a *de facto* marriage; we are being asked to reverse the court's finding of no *de facto* marriage "at this time." As will be developed further below, we cannot say an opposite conclusion to that of the trial court's is clearly evident.

¶ 34 Next, Philip challenges the trial court's findings concerning the interrelation of personal affairs, particularly finances. Philip complains that, although Tracie keeps separate banking, home payments, and insurance, she makes other financial contributions to her relationship with Daniel (such as paying for flights and meals) that indirectly help Daniel's household. Philip, citing *In re Marriage of Caradonna*, 197 Ill. App. 3d 155 (1990) and *In re Marriage of Arvin*,

184 Ill. App. 3d 644 (1989), argues that maintenance payments cannot be used to subsidize the receiving spouse's new relationship. *Caradonna* and *Arvin* each set forth black letter law stating that an important consideration in determining whether cohabitation warrants the termination of maintenance is whether the cohabitation has materially affected the recipient spouse's need for support or whether the recipient spouse has used her maintenance to support the coresident. *Caradonna*, 197 Ill. App. 3d at 159; *Arvin*, 184 Ill. App. 3d at 649. However, this case law has been called into doubt.

¶ 35 The more recent Second District case of *Susan* has cast doubt upon the need-based analysis set forth in *Caradonna* and *Arvin*. The *Susan* court stated that, “where the asserted ground for termination is not a substantial change but rather a *de facto* marriage ***, the goal is not to determine whether the relationship leaves the recipient financially secure, but rather to determine whether the relationship leaves the recipient effectively married.” *Susan*, 367 Ill. App. 3d at 931. Termination based on a *de facto* marriage does not allow for a sliding scale approach to reducing maintenance payments (as would be applied in a change-in-circumstances analysis). *Id.* at 932. Need is no more a factor in *de facto* than in *de jure* marriage situations. *Id.* at 932. Need—or, in our case, abundance—is “simply irrelevant to the determination of whether a *de facto* marriage exists.” *Id.* at 937. Rather, the question should be whether the receiving spouse has formed a relationship where the partners *look* to each other for support (so as to substantiate a financial interrelation of affairs), not whether the support provided is in fact adequate. *Id.* at 937 (citing *In re Marriage of Weisbruch*, 304 Ill. App. 3d 99, 106 (1999)).

¶ 36 Here, the evidence did not require a finding that Tracie and Daniel looked to one another for financial support. The amount of money Tracie has spent while dating Daniel—\$26,314 (excluding the car)—initially gives us pause. However, the trial court likely viewed this amount

in the context of a person with large sums at her disposal, making the amount of money Tracie has metaphorically “invested” in the relationship less significant. The amount of money Tracie spent on the relationship breaks down to approximately \$1,500 per month over 18 months. Tracie grosses \$130,000 per year (including maintenance), or \$10,800 per month. Even without Philip’s contributions, Tracie grosses \$80,000 per year, or \$6,700 per month, and has at least \$200,000 in liquid assets from the settlement agreement. Compared to a typical person in this income bracket, her financial obligations are not great. Her total mortgage began at \$150,000 and she receives an additional \$4,000 per month to support her only child. Philip, who bore the burden of proof in this case, presented no evidence that Daniel looked to Tracie for these funds or whether these funds were simply the result of an abundant lifestyle. Additionally, while Philip pointed to many flights and meals that Tracie purchased for Daniel, not every single flight and meal is accounted for, leaving Daniel as the default purchaser. This undermines Philip’s position that the Tracie and Daniel’s finances are more intermingled than may otherwise appear because Tracie’s payment of flights and meals leaves Daniel more money with which to pay his own mortgage.

¶ 37 Similarly, the trial court’s consideration of the remaining factors did not lead to error. The court reasonably considered the type of activities enjoyed to be fitting not only of a married couple, but also for a dating couple progressing toward engagement (and, therefore, considered this to be a neutral factor). Tracie and Daniel dined out frequently, socialized, and vacationed together. However, they did not do the mundane activities together that married couples ordinarily share, such as household chores (or, as would be more typical for this couple, hiring a person to do household chores at the other’s home).

¶ 38 We conclude with the broader point of section 510(c) policy. This case presents unusual

circumstances. As the trial court noted, Tracie and Daniel do not actually reside together. They live in separate states. And, unlike most section 510(c) cases, where the former spouse has neglected to formalize her new relationship, here, Tracie and Daniel have become engaged. We appreciate the points raised by Philip, and, indeed, these are inferences that *could* have been drawn by the trial court. However, the trial court, who had the benefit of listening to Tracie, did not draw these inferences. The transcript reads primarily as a series of expenditures, which do not necessarily have to be interpreted as Philip sees them. Tracie also testified to her future plans for marriage (stating that no date has been set) and explained that she raises her daughter in Illinois and Daniel raises his son in Colorado. Tracie did once refer to Daniel as “family.” However, we would not have this case turn on a single word choice over the course of a relatively long hearing. The trial court was in the better position to determine the inferences to be drawn from the testimony, whether its sense was that Tracie is prioritizing her independent life with her daughter in Illinois or whether its sense was that Tracie has already solidified a husband-and-wife relationship with Daniel.

¶ 39 We find telling the trial court’s assessment that “at this time” Tracie and Daniel are not engaged in a *de facto* marriage. That is, the court implicitly recognized that, at the heart of section 510(c) policy is the goal of preventing former spouses who decline to formalize the new husband-and-wife relationship from continuing to receive support from the ex-spouse. *Herrin*, 262 Ill. App. 3d at 577. Here, it was reasonable for the court to find that Tracie had not declined to formalize her new relationship. Rather, she enjoyed a standard two-year courtship progressing toward an engagement. She *has* formalized her relationship, bringing it a step closer to, in this case, legal marriage.

¶ 40 We do not mean to imply by our holding that entering into an engagement is a *per se*

defense against a section 510(c) request. It would certainly be possible for an engaged couple to live as a married couple or for an engaged couple to delay marrying so as to continue to receive maintenance. Here, however, as the court reasonably found after considering the factors, that has not happened “at this time.”

¶ 41 Because we affirm the trial court’s determination, we need not consider retroactive termination. We note that, although the engagement seems to have spurred Philip’s petition, Tracie and Daniel have not changed behavior patterns following the engagement. In fact, due to work obligations, the couple, if anything, saw each other less frequently (only once in February and only once in April).

¶ 42 In sum, stressing that Tracie and Daniel live apart, keep separate households, and keep separate finances, we cannot say that the trial court’s finding of no *de facto* marriage “at this time” is against the manifest weight of the evidence.

¶ 43 III. CONCLUSION

¶ 44 For the foregoing reasons, we affirm the trial court’s judgment.

¶ 45 Affirmed.