

Can a Husband Be Ordered to Pay More Maintenance or Child Support for Refusing to Give a Get?



As part of a divorce in New York, a party must remove all religious barriers to the other parties' remarriage before a civil divorce is granted. This requirement was enacted to require Jewish men to give their wives a "Get" – a religious divorce. Without the get, a religious Jewish woman cannot remarry or to have children. In short, the woman would be ostracized from her community, unable to re-marry and perhaps work, negatively impacting her ability to be self-supporting; she would be forever chained to her husband.

In a recent New York case, a wife requested that the court award her more maintenance and child d refused to give wish religious divorce.

This request raises a constitutional issue: could the court consider the effect of a religious barrier to remarriage in determining maintenance or would this be an impermissible interference with religion?

Consideration of a refusal to give a get in fashioning awards of maintenance or equitable distribution is not an impermissible interference with religion where the husband is withholding the Get solely to extract economic concessions from the wife. But, it is impermissible where the refusal is for religious reasons.

The Court could fashion awards and other civil penalties when the husband withholds giving a get for non-religious reasons. As we noted in another recent case, a husband's passport was seized when he refused to give his wife a Get.

At Clement Law, we provide you with experienced, effective representation in your divorce and family law matters. We guide our clients through divorce and help them achieve results that protect their family, and their family's future, after the divorce.

Contact us or call (212) 683-9551 to arrange for a consultation. We look forward to helping you.