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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-235

No. COA21-179

Filed 5 April 2022

Cumberland County, No. 14 CVD 5521

CHARLES C. MORRIS, Plaintiff,

v.

LEA ANN MORRIS, Defendant.

Appeal by plaintiff from order entered 30 July 2020 by Judge April Smith in Cumberland County District Court. Heard in the Court of Appeals 15 December 2021.

*Lewis, Deese & Ditmore, LLP, by Renny W. Deese, for plaintiff-appellant.*

*Smith Debnam Narron Drake Saintsing & Myers, LLP, by Alicia Jurney, for defendant-appellee.*

DIETZ, Judge.

¶ 1 Plaintiff Charles Morris appeals from the trial court's order addressing child support, postseparation support, and other matters in this family law proceeding. Plaintiff asserts a number of issues that he contends are reversible errors by the trial court.

¶ 2 As explained below, we reject these arguments. The trial court's key findings of fact are supported by competent evidence and those findings, in turn, support the

trial court's conclusions of law. The trial court properly applied the law in addressing the legal issues in its order and properly exercised its sound discretion in those areas subject to a discretionary determination. We therefore affirm the trial court's order.

## Facts and Procedural History

¶ 3 Plaintiff Charles Morris and Defendant Lee Ann Morris are the parents of two children. The parties separated nearly a decade ago and later divorced.

¶ 4 In 2014, Plaintiff brought this action for custody and child support, and Defendant counterclaimed for custody, child support, alimony, and equitable distribution. These claims led to protracted litigation with significant motions practice, multiple hearings, and many orders by the trial court over the past eight years.

¶ 5 Relevant to this appeal, in April 2015, the trial court entered a temporary order for child support, postseparation support, and other matters. This temporary order required Plaintiff to pay $574.00 per month in child support and $1,600.00 per month in postseparation support.

¶ 6 In November 2015, Plaintiff moved for an order "reviewing and modifying the terms of temporary child support, postseparation support, and an interim equitable distribution." Plaintiff asserted that, since entry of the initial temporary order, Defendant had obtained full time employment as a teacher and that there were other changes warranting a review and modification of the existing temporary order.

¶ 7 In February 2016, the trial court entered an order "upon the pending issue of

review of temporary child support" that suspended Plaintiff's obligation to pay child support but maintained the other terms of the temporary support order. The court indicated that the "cause is retained for further orders as appropriate."

¶ 8 In 2019, the trial court entered a consent order for alimony and child support, requiring Plaintiff to pay Defendant $1,250 per month in permanent alimony and $1,000 per month in permanent child support for their minor child. This consent order indicated that "postseparation support and temporary child support arrearages, if any, is reserved for determination by the Court" as were "the credits, if any, to which the Plaintiff may be entitled as a result of payments he has made to maintain and preserve the marital estate." The parties also entered into a consent equitable distribution order with similar language.

¶ 9 Finally, in July 2020, the trial court entered an order establishing Plaintiff's postseparation support and temporary child support arrearages that the court referenced in the 2019 consent order and denying Plaintiff's request for a credit for payments he made on the marital home. Plaintiff timely appealed this July 2020 order.[1]

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[1] Plaintiff's notice of appeal states that it is an appeal from the July 2020 order "regarding the issues of child support and alimony as well as arrearages." Defendant contends that the notice of appeal, by expressly referencing child support, alimony, and arrearages, did not sufficiently give notice of appeal on the credit issue. We reject this argument and conclude that the credit issue is sufficiently intertwined with the postseparation support and child support issues to properly bring the issue before this Court based on the language in the notice of appeal. Defendants also contend that the notice of appeal is insufficient to constitute an appeal of the many earlier orders entered in the case. We agree in this respect and limit

## Analysis

### I. Determination that 2016 child support order was temporary

¶ 10 Plaintiff first challenges the trial court's determination that its 2016 order suspending Plaintiff's child support obligations was a temporary child support order. Plaintiff contends that this 2016 order, although not appearing to be a permanent order in context, lasted for years and thus, in effect, was a permanent order.

¶ 11 This distinction between a temporary and permanent support order is critical because, as explained below, it impacts the date on which the trial court could require the payment of child support to commence.

¶ 12 The analysis of whether a child support order is temporary or permanent depends on the content of the order and the status of the litigation. The trial court's designation of the order as either "temporary" or "permanent" is not binding on this Court. *Lamond v. Mahoney*, 159 N.C. App. 400, 403, 583 S.E.2d 656, 658–59 (2003). In general, an order is temporary if it either (1) is entered without prejudice to either party; (2) states a clear and specific reconvening time in the order and the time interval between the two hearings was reasonably brief; or (3) does not determine all the issues. *Gray v. Peele*, 235 N.C. App. 554, 557, 761 S.E.2d 739, 742 (2014).

¶ 13 Here, the trial court did not describe the 2016 suspension order as either temporary or permanent. But the court did not make the findings of fact that typically

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our appellate review to the rulings in the July 2020 order that is referenced in the notice of appeal.

appear in a permanent order under N.C. Gen. Stat. § 50-13.4. The context of the order also indicates that it was intended to be temporary. The matter came before the trial court on Plaintiff's motion seeking an order "reviewing and modifying the terms of temporary child support" and the language of the order indicates that it was entered "upon the pending issue of review of temporary child support." The court also indicated that the "cause is retained for further orders as appropriate."

¶ 14 Thus, although the 2016 suspension order did not set a specific reconvening time for the hearing on a permanent order, it indicated that it was not a permanent determination of Plaintiff's child support obligations. Moreover, in the 2020 order challenged in this appeal, the trial court made a number of findings indicating that the court expected to hear the support matter again within a reasonably brief period after entering the 2016 suspension order. But the court also found that, although "set for hearing numerous times going back to 2016 and coming forward," the hearing was delayed because the parties did not have the information necessary for the court to enter a permanent order. These findings by the trial court are supported by at least some competent evidence in the record indicating that this matter was set for status conferences or review more than a dozen times following entry of the 2016 suspension order.

¶ 15 In light of the trial court's findings, we hold that the 2016 suspension order was a temporary child support order that did not determine all issues concerning child support. Moreover, we hold that this temporary order did not convert to a

permanent order despite the unusually long time period until the trial court addressed the matter again. We therefore reject Plaintiff's argument that the 2016 order suspending child support was a permanent order.

**II. Calculation of child support**

¶ 16 Plaintiff next argues that the trial court erred by requiring him to pay child support from the date of the 2016 suspension order forward. Plaintiff contends that the trial court did not have authority under N.C. Gen. Stat. § 50–13.10 to set the date for child support any earlier than 2018, when Defendant moved to modify child support. To support this argument, Plaintiff relies on a series of cases holding that, when a party moves to modify a permanent child support order, the trial court cannot impose the modified child support any earlier than the date the party moved for the modification. Here, by contrast, there was no permanent support order for the reasons discussed above. Thus, because the trial court had not yet entered a permanent order, N.C. Gen. Stat. § 50–13.10 "did not come into play." *Sikes v. Sikes*, 330 N.C. 595, 599, 411 S.E.2d 588, 590 (1992). Accordingly, we reject Plaintiff's argument that the trial court could not fix the child support award at a date earlier than Defendant's 2018 motion to modify.

**III. Calculation of postseparation support**

¶ 17 Plaintiff next argues that the trial court abused its discretion in its determination of the amount of postseparation support. Specifically, Plaintiff argues that the trial court considered only Defendant's financial circumstances and "the trial

court never received any evidence of Plaintiff's debt service obligations or expenses reasonably necessary for his own support as required by statute." "Obviously," Plaintiff contends, "considering only the financial circumstances of the Defendant in determining Plaintiff's postseparation support obligation constitutes reversible error."

¶ 18 As Plaintiff acknowledges, we review this issue for abuse of discretion. Under that standard, we can reverse the trial court's ruling only if the ruling is so manifestly arbitrary that it cannot have been the result of a reasoned decision. *Kelly v. Kelly*, 228 N.C. App. 600, 601, 747 S.E.2d 268, 272–73 (2013).

¶ 19 Here, the transcript indicates that the trial court informed the parties that it intended to rule based on the limited evidence before it. Plaintiff does not cite to any evidence that he submitted to the trial court but that the court refused to consider. "It is not the duty of this Court to comb through the record to find support for an appellant's argument." *Johnson v. Causey*, 207 N.C. App. 748, 701 S.E.2d 404, 2010 WL 4288511, at *9 (2010) (unpublished). Without any record citation to evidence that was relevant to the trial court's postseparation support determination, but that the court erroneously failed to consider, we cannot say that the trial court's determination of postseparation support was so manifestly arbitrary that it was not the result of a reasoned decision.

## IV. Denial of credit for payments concerning the marital home

¶ 20 Plaintiff next argues that the trial court erred by failing to give Plaintiff credit for payments he made on the marital home's mortgage after the date of separation.

¶ 21 In the parties' two consent judgments addressing child support, alimony, and equitable distribution, the trial court ruled that the determination of credits, "if any," to be granted to Plaintiff concerning payments on the marital home was "reserved for determination by the Court." Plaintiff again acknowledges that the court's eventual determination of what credits, if any, to apply to the support awards is an issue we review for abuse of discretion.

¶ 22 As with the court's postseparation support ruling, the court's determination of this question was not so manifestly arbitrary that it could not have been the result of a reasoned decision. *Wiencek-Adams v. Adams*, 331 N.C. 688, 691, 417 S.E.2d 449, 451 (1992). To the contrary, the trial court provided detailed reasons for declining, in its discretion, to apply a credit in this case. Those reasons, which stretch on for more than a page in the trial court's order, include that Plaintiff benefitted from making those mortgage payments through tax deductions and that various other factors, in the trial court's view, weighed against apply a credit in this case.

¶ 23 Plaintiff contends that the "only explanation that can be offered for the trial court's punitive judgment is its predisposition against Plaintiff" and that even a "cursory reading of the proceedings below will give this Court a clear understanding of how the trial court was disposed toward Plaintiff." We have reviewed the portions

of the record cited by Plaintiff and find nothing that indicates that trial court abandoned reason and decided this case in a prejudicial manner. Simply put, although we may not agree with the trial court's decision, it is a reasoned one and not manifestly arbitrary. Accordingly, under the narrow standard of review applicable in this case, we find no abuse of discretion.

**V. Challenges to "numerous" findings of fact**

¶ 24 Plaintiff next challenges "numerous of the trial court's findings of fact" that Plaintiff contends are not supported by competent evidence. Most of these challenges concern matters that do not impact the court's ultimate findings and its corresponding conclusions of law. For example, Plaintiff notes that the trial court mistakenly references a 26 February 2015 order when the relevant order was the 9 February 2016 order suspending child support, which we discussed in more detail above. Similarly, the court found that the parties' daughter resided with Defendant when she returned from attending college but that appears to be based solely on statements from counsel, not evidence.

¶ 25 In our review of the trial court's order, we must affirm the trial court if there are sufficient findings, supported by competent evidence, to support the trial court's conclusions of law and its resulting, discretionary determinations concerning child support, postseparation support, and application of any applicable credits. *Smith v. Smith*, 247 N.C. App. 166, 173, 785 S.E.2d 434, 440 (2016); *Clark v. Dyer*, 236 N.C. App. 9, 27–28, 762 S.E.2d 838, 848 (2014). Because, taking account of all the trial

court's findings, there are sufficient findings, supported by competent evidence, that in turn support the trial court's corresponding conclusions of law and discretionary rulings, we reject Plaintiff's challenge to the trial court's findings.

### VI. Challenge to the trial court's conclusions of law

¶ 26 Finally, Plaintiff argues that the trial court's conclusions of law "do not support the entry of its Order." Plaintiff then identifies several purportedly erroneous conclusions of law that, as Plaintiff acknowledges, concern the child support, postseparation support, and credit issues discussed in Parts I to III above. For the reasons explained in those portions of this opinion, the trial court's determination on those issues was within the court's sound discretion and the court's conclusions of law are therefore not erroneous.

## Conclusion

¶ 27 We affirm the trial court's order.

AFFIRMED.

Judges COLLINS and JACKSON concur.

Report per Rule 30(e).