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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-216

Filed 31 December 2024

New Hanover County, No. 21 CVD 126

DANIEL JAMES PRICE, Plaintiff,

v.

NEW HANOVER COUNTY CHILD SUPPORT, Intervenor, o/b/o HEATHER L. MURRAY-PRICE, Defendant.

Appeal by Intervenor from order entered 29 December 2022 by Judge Jeffrey Evan Noecker in New Hanover County District Court. Heard in the Court of Appeals 19 September 2023.

No brief filed for plaintiff-appellee.

Ennis Baynard Morton Medlin Brown P.L.L.C., by Maynard M. Brown, for intervenor-appellant.

MURPHY, Judge.

BACKGROUND

This case arises from the divorce of Plaintiff, Daniel James Price, and Defendant, Heather L. Murray-Price, and the related child support proceedings. The child support proceedings in this case were conducted pursuant to Title IV-D of the

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Social Security Act and N.C.G.S. § 110-130, as the New Hanover County Child Support Agency intervened in this case on behalf of Defendant. The sole issue of Intervenor’s appeal relates to the trial court’s decision not to require wage withholding for Plaintiff’s child support obligation to Defendant. The relevant findings of fact state:

26. Plaintiff in his testimony requested that the Court not require that he make his child support payments by wage withholding, as such a garnishment would be a “black mark” against him.

27. Wage withholding is typically ordered for child support payments when there is a history of nonpayment or of erratic payments, or arrears are owed. There is no such history here. Plaintiff made direct and indirect support payments to Defendant such that she didn’t seek a child support hearing prior to this trial. Plaintiff is likely to fully comply with the terms of this Order as to the manner of making the payments and providing records of the payments upon request to the Agency.

Intervenor does not contest these findings of fact on appeal.

ANALYSIS

Intervenor argues it was mandatory for the trial court to implement wage withholding because this was an IV-D case. Plaintiff did not file a brief.

As Intervenor contends, our caselaw and our statutes indicate that wage withholding is mandatory in IV-D cases, like this case. *See* N.C.G.S. §§ 110-136.3(a), (b), 110-136.4(b) (2024); *see also Guilford Cnty. v. Davis*, 177 N.C. App. 459 (2009). Under N.C.G.S. § 110-136.3(a), “[a]ll child support orders, civil or criminal, entered

or modified in the State in IV-D cases shall include a provision ordering income withholding to take effect immediately.” Additionally, N.C.G.S. § 110-136.3(b)(1) specifies, in relevant part, “[i]n IV-D cases in which a new or modified child support order is entered on or after [1 October 1989], an obligor is subject to income withholding immediately upon entry of the order.” Similarly, N.C.G.S. § 110-136.4(b), which concerns the implementation of withholding in IV-D cases, states, “[w]hen a new or modified child support order is entered, the [D]istrict [C]ourt judge shall, after hearing evidence regarding the obligor’s disposable income, place the obligor under an order for immediate income withholding.”

These statutes require immediate withholding in IV-D cases where the child support order is entered on or after 1 October 1989. Here, the *Child Support Order* was filed on 29 December 2022, and thus was subject to immediate withholding.

As we previously stated in *Davis* “[m]andatory statutory provisions applicable to IV-D cases require the trial court to order wage withholding.” 177 N.C. App. at 460. In *Davis*, like here, the trial court did not implement immediate income withholding. *Id.* at 461. As a result, we “reverse[d] and remand[ed] to the trial court for entry of judgment ordering immediate income withholding pursuant to N.C.G.S. § 110-136.4(b).” *Id.* (citation omitted). Here, we must do the same. *See In re Civil Penalty*, 324 N.C. 373, 384 (1989) (“Where a panel of the Court of Appeals has decided the same issue, albeit in a different case, a subsequent panel of the same court is bound by that precedent, unless it has been overturned by a higher court.”).

CONCLUSION

The trial court failed to order immediate income withholding as required by statute and caselaw. As a result, we “reverse and remand to the trial court for entry of judgment ordering immediate income withholding pursuant to N.C.G.S. § 110-136.4(b).” *Davis*, 177 N.C. App. at 461.

REVERSED AND REMANDED.

Judges STROUD and FLOOD concur.

Report per Rule 30(e).