

Court of Appeals, State of Michigan

ORDER

Kimberly Kiesling Leadbetter v Thomas William Leadbetter

Docket No. 332846

LC No. 06-628047-DM

Michael J. Talbot
Presiding Judge

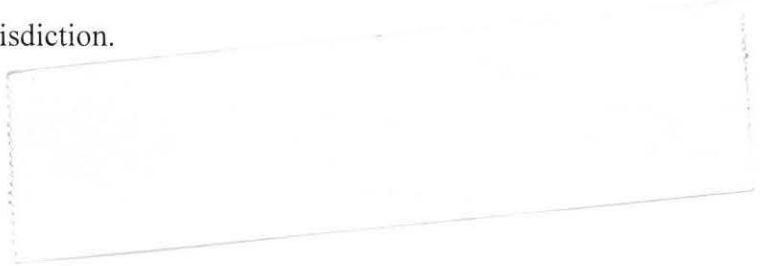
Cynthia Diane Stephens

Michael J. Riordan
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the Wayne Circuit Court's April 15, 2016 order regarding defendant's child support obligation is VACATED. The trial court has the discretion to retroactively modify child support. *Clarke v Clarke*, 297 Mich App 172, 187; 823 NW2d 318 (2012). However, MCL 552.603(2) prohibits the retroactive modification of a child support order except "regarding a period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support." Defendant has provided support for his position that plaintiff did not request modification of child support until she filed her motion to modify physical and legal custody, for modification of child support and other post judgment relief on June 17, 2014. We find that the court did not abuse its discretion in retroactively modifying child support, but if plaintiff did not seek modification of child support on or before January 23, 2014, the court erred in terminating plaintiff's child support obligation, imposing on defendant a child support obligation and reimbursing child support payments plaintiff made directly to defendant as of January 23, 2014. MCL 552.603(2); *Clark*, 297 Mich App at 187-188; *Malone v Malone*, 279 Mich App 280; 288-290; 761 NW2d 102 (2008). This matter is REMANDED to the trial court for a determination of when plaintiff petitioned for modification of child support and the date on which notice of that petition was given to defendant and, accordingly, entry of an order consistent with that determination and MCL 552.603(2).

The application for leave to appeal is otherwise DENIED for lack of merit in the grounds presented.

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

OCT 12 2016

Date


Chief Clerk