STATE OF MICHIGAN

COURT OF APPEALS

JOSEPH C. BURBA,

Plaintiff-Appellant,

v

MYRIAM C. BURBA, a/k/a MYRIAM C. MAAS,

Defendant-Appellee.

UNPUBLISHED
May 8, 1998

No. 200591
Washtenaw Circuit Court
LC No. 88-038509 DM

Before: Sawyer, P.J., and Bandstra and J. B. Sullivan*, JJ.

PER CURIAM.

Plaintiff appeals the circuit court order increasing his child support obligation to $900 per month. This Court initially denied plaintiff's application for leave to appeal, but the Supreme Court remanded the case to this Court for consideration as on leave granted. 454 Mich 851 (1997). We affirm.

Plaintiff argues on appeal that the trial court erred in failing to calculate his child support amount in accordance with the child support formula when there were no exceptional facts to support deviation from the formula. Plaintiff further contends that, even if the facts did support a deviation, the trial court failed to comply with the provision of the statute that permits deviation from the formula. We disagree.

A trial court's factual findings are reviewed for clear error. A finding is clearly erroneous if the appellate court, on all the evidence, is left with a definite and firm conviction that a mistake was made. The party appealing the support order bears the burden of showing that a mistake was made. *Thames v Thames*, 191 Mich App 299, 301-302; 477 NW2d 496 (1991). Modification of child support is within the sound discretion of the trial court, and its exercise of that discretion is presumed to be correct. *Morrison v Richerson*, 198 Mich App 202, 211; 497 NW2d 506 (1992); *Edwards v Edwards*, 192 Mich App 559, 562; 481 NW2d 769 (1992). The party appealing the support order has the burden of showing an abuse of discretion. *Thompson v Merritt*, 192 Mich App 412, 416; 481 NW2d 735 (1991). While the trial court's ultimate disposition is subject to de novo review, this Court will not reverse the trial court's disposition unless convinced it would have reached a different result in the trial court's place. *Edwards, supra.*

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

MCL 552.16; MSA 25.96, the statute governing the calculation of child support awards, generally requires that a trial court calculate support in the amount determined by application of the child support formula. *Eddie v Eddie*, 201 Mich App 509, 511; 506 NW2d 591 (1993). However, the statute also allows a trial court to deviate from the formula if the application of the formula would be unjust or inappropriate. *Nellis v Nellis*, 211 Mich App 226; 535 NW2d 240 (1995); *Calley v Calley*, 197 Mich App 380, 382; 496 NW2d 305 (1992).

At the time defendant filed her petition for modification of child support, MCL 552.16(2); MSA 25.96(2), provided:

> The court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau, except that the court may enter an order that deviates from the formula under either of the following circumstances:
>
> (a) If the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:
>
> (i) The support amount determined by application of the child support formula.
>
> (ii) How the support order deviates from the child support formula.
>
> (iii) The value of property or other support awarded in lieu of the payment of child support, if applicable. [Not applicable to this case.]
>
> (iv) The court's reasons for its determination.

We have reviewed the record in this case and find that the trial court complied with the statute and set forth sufficient reasons for deviation on the record. First, the court acknowledged on the record that the amount determined by application of the child support formula would be $470.16. Second, the court indicated that the support order deviated from the child support formula by stating that the amount of child support would be $900 (rather than $470.16). Finally, the trial court stated the reasons for its determination. The trial court indicated that the formula was not equitable nor appropriate in this case because: (1) the parties agreed to a modified abatement procedure; (2) the original amount of child support was set during a time when defendant received alimony; and (3) "the tremendous disparity in income" between the parties. We are not persuaded that the trial court abused its discretion in modifying the amount of child support. *Morrison, supra*.

Plaintiff also argues that under MCL 552.16(2); MSA 25.96(2), the difference in the parties' income cannot provide a legal basis for deviation because the child support formula already considers the incomes of the parties. We initially note that plaintiff has failed to cite any

authority in support of this claim. *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992). This Court will not search for authority to support a party's position. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959); *Patterson v Allegan Co Sheriff*, 199 Mich App 638, 640; 502 NW2d 368 (1993). Regardless, even if this claim were properly before this Court, it would not provide a basis for reversal of the trial court's order. Statutory interpretation is a question of law that is reviewed de novo. *Rose Hill Center, Inc v Holly Twp*, 224 Mich App 28, 32; 568 NW2d 332 (1997). If reasonable minds can differ with respect to the meaning of a statute, judicial construction is appropriate. *Heinz v Chicago Rd Investment Co*, 216 Mich App 289, 295; 549 NW2d 47 (1996). The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature. *Farrington v Total Petroleum, Inc*, 442 Mich 201, 212; 501 NW2d 76 (1993). The first criterion in determining intent is the specific language of the statute. *House Speaker v State Administrative Bd*, 441 Mich 547, 567; 495 NW2d 539 (1993). The Legislature is presumed to have intended the meaning it plainly expressed. *Institute in Basic Life Principles, Inc v Watersmeet Twp (After Remand)*, 217 Mich App 7, 12; 551 NW2d 199 (1996).

Nowhere in the statute is an interpretation suggested that the trial court may not consider the parties' income as a factor in supporting its decision to deviate from the child support formula. Rather, the statute provides for deviation "if the court determines from the facts of the case that the application of the . . . formula would be unjust or inappropriate . . . ."

Plaintiff also claims that defendant failed to make a sufficient showing of changed circumstances to support modification. This issue, however, is not properly before this Court because it was not raised and addressed below. *Auto Club Ins Ass'n v Lozanis*, 215 Mich App 415, 421; 546 NW2d 648 (1996).

We conclude that the trial court complied with MCL 552.16; MSA 25.96 and did not err in modifying child support.

Affirmed.

/s/ David H. Sawyer
/s/ Richard A. Bandstra
/s/ Joseph B. Sullivan