Rel: March 29, 2019

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2018-2019

2170914

M.K.F.

v.

K.D.K.

Appeal from Madison District Court
(CS-09-30.03)

THOMPSON, Presiding Judge.

In May 2009, the Madison District Court ("the juvenile court") entered a judgment adjudicating the paternity of K.D.K. ("the father") of the minor child born in 2007 of his relationship with M.K.F. ("the mother") and ordering the

father to pay child support. A December 21, 2009, judgment of the juvenile court modified the father's child-support obligation.

In 2011, the juvenile court entered another judgment modifying the father's child-support obligation, determining that the father owed a child-support arrearage of $11,349.39, and awarding the mother an attorney fee of $4,025. The parties and the juvenile court refer to that judgment as the "February 15, 2011," judgment. That judgment was signed by the juvenile-court judge on February 15, 2011; however, it was date-stamped as having been filed in the juvenile-court clerk's office on March 14, 2011. For ease of reference, in this opinion, we use the same terminology used by the parties and the juvenile court, and we refer to that 2011 judgment as the "February 15, 2011, judgment." In the February 15, 2011, judgment, the juvenile court found the father to be in contempt for his failure to pay child support on nine separate occasions. The juvenile court also ordered that, "[i]n addition to monthly child support ordered herein, [the father] shall pay to [the mother] the monthly sum of $150 toward the

satisfaction of the judgment for arrearage as provided herein."

On April 28, 2017, the father filed in the juvenile court a petition seeking to modify his child-support obligation. On May 15, 2017, the mother answered and opposed the request for a modification. On that same date, the mother filed a document that she titled as a "counterclaim for contempt" in which she alleged that the father owed her $16,487.25 from his failure to pay required monthly payments toward the child-support arrearage established in the February 15, 2011, judgment. The father filed an answer opposing the mother's May 15, 2017, counterclaim.

On October 19, 2017, the mother sought the permission of the juvenile court to amend her "answer," i.e., her counterclaim, to assert another counterclaim seeking a modification of the father's child-support obligation. The juvenile court entered an order allowing that amendment.

On November 17, 2017, four days before the scheduled ore tenus hearing, the mother again moved to amend her counterclaim. In her November 17, 2017, proposed amended counterclaim, the mother sought to update the amounts that the

father allegedly continued to owe pursuant to the February 15, 2011, judgment, including the amount of interest that had accrued on the attorney-fee award in the February 15, 2011, judgment, and she sought a judgment redetermining the amounts still owed under the February 15, 2011, judgment. In addition, the mother sought an award of an attorney fee in this action.

The father objected to that proposed, November 17, 2017, amendment to the mother's counterclaim. On November 21, 2017, the juvenile court entered an order denying the mother's November 17, 2017, motion to amend.

The juvenile court conducted an ore tenus hearing on November 21, 2017. During that ore tenus hearing, the juvenile court ruled that the mother's only pending counterclaim was her claim seeking a modification of child support. The juvenile court disallowed the mother's attempts to present evidence on the issue of contempt and pertaining to her request for an attorney fee.

On June 29, 2018, the juvenile court entered an order in which it, among other things, modified the father's child-support obligation, ordered him to pay $150 each month toward

the arrearage established in the February 15, 2011, judgment, awarded the mother a judgment of $6,226.17 for a new child-support arrearage that had accumulated since the entry of the February 15, 2011, judgment, and ordered that the father pay interest on that new child-support arrearage.[1] In its June 29, 2018, order, the juvenile court determined that the attorney-fee award established in the February 15, 2011, judgment "was included in and made a part of the additional $150 per month to be paid by the father" toward the satisfaction of that February 15, 2011, judgment. In addition, the juvenile court denied the parties' claims, asserted during the pendency of this action, seeking sanctions for various alleged failures to comply with discovery requests.

The mother filed a notice of appeal on July 12, 2018. On November 27, 2018, this court entered an order reinvesting the juvenile court with jurisdiction to enter a final judgment. On December 10, 2018, the juvenile court entered an order determining the interest owed on the child-support arrearage

[1]The record contains no indication of the reason for the delay between the date of the ore tenus hearing and the date the juvenile court entered its judgment.

that had accumulated since the entry of the February 15, 2011, judgment to be $3,430.20. That order resolved the last of the pending claims between the parties, and, therefore, it constituted the final judgment in the action below. Stockton v. CKPD Dev. Co., 936 So. 2d 1065, 1069-70 (Ala. Civ. App. 2005). The appeal was deemed effective upon the entry of the final judgment. Rule 4(a)(4), Ala. R. App. P. However, for ease of reference, in this opinion, we refer to the June 29, 2018, order as "the June 29, 2018, judgment."

As an initial matter, we note that the mother argues on appeal that the juvenile court erred in considering the father's child-support-modification claim. The mother cites Hilson v. Hilson, 598 So. 2d 955, 956 (Ala. Civ. App. 1992), for the proposition that "[a] party in contempt who has violated a [judgment] of the court is not entitled to be heard on a petition for modification until he purges himself" of contempt. However, the mother did not raise this argument before the juvenile court, and she may not seek, for the first time on appeal, to hold the juvenile court in error with regard to an issue she did not raise before it. Andrews v.

Merritt Oil Co., 612 So. 2d 409, 410 (Ala. 1992); Sea Calm Shipping Co. v. Cooks, 565 So. 2d 212, 216 (Ala. 1990).

The mother argues that the juvenile court erred in dismissing her counterclaim for contempt. At the November 21, 2017, hearing, the juvenile court refused to allow the mother to prosecute her counterclaim alleging contempt. The comments made by the juvenile-court judge during that hearing indicate that he made that ruling because, he determined, the mother's May 15, 2017, "counter claim for contempt" did not contain a specific prayer for relief. Rule 54(c), Ala. R. Civ. P., provides that, "[e]xcept as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the party's pleadings." This court has explained the interpretation of Rule 54(c) as follows:

> "Under the provision of Rule 54(c) of the Alabama Rules of Civil Procedure it is the duty of the court to grant relief to which a party is entitled irrespective of the request for relief contained in the pleadings. Penny v. Carden,[356 So. 2d 1118 (Ala. 1978)]. See 6 Moore's Federal Practice § 54.62 (1976). However, Rule 54(c) does not sanction the granting of relief not requested in the pleadings where it appears that a party's failure to ask for particular relief has

> substantially prejudiced the opposing party. Albermarle Paper Co. v. Moody, 422 U.S. 405, 95 S. Ct. 2362, 45 L. Ed. 2d 280 (1975); Rental Development Corporation of America v. Lavery, 304 F. 2d 839 (9th Cir. 1962); Penney v. Carden, Supra. Moreover, if the relief granted pursuant to Rule 54(c) is not justified by the proof or is justified by proof which the opposing party has not had an opportunity to challenge, the relief granted should not be sustained on appeal. See 10 Wright & Miller[,] Federal Practice and Procedure § 2662 (1973). Accordingly, logic dictates that in those situations where an opposing party has no notice, by pleadings or otherwise, regarding the claim upon which relief is granted by means of Rule 54(c) and is thereby denied an opportunity to have challenged or defended against such a claim, the opposing party has suffered substantial prejudice and the judgment granting relief must be reversed. See United States v. Hardy, 368 F.2d 191 (10th Cir. 1966). Indeed, such a rule is fundamental to the essentials of due process and fair play. Sylvan Beach, Inc. v. Koch, 140 F.2d 852 (8th Cir. 1944)."

Carden v. Penney, 362 So. 2d 266, 268–69 (Ala. Civ. App. 1978).

In her May 15, 2017, "counter claim for contempt," the mother alleged that the father was in contempt and asked that the father be required to demonstrate why the juvenile court should not hold the father in contempt. The mother specified the terms of the February 15, 2011, judgment, and she alleged that the father had failed to pay the child-support arrearage established in that judgment and had failed to pay the

attorney fee awarded in that judgment. Although the mother's May 15, 2017, pleading could have been more artfully drafted, we conclude that it contained a sufficient request for relief, i.e., that the father be held in contempt for his failure to comply with the February 15, 2011, judgment. That pleading clearly put the father on notice that the mother was seeking to enforce the February 15, 2011, judgment and to have the father found in contempt for his alleged continued failure to comply with the terms of that judgment. Thus, the juvenile court erred in determining that the mother could not prosecute her counterclaim alleging contempt.

The mother also contends that the juvenile court erred in denying her November 17, 2017, motion to amend her counterclaim alleging contempt in order to more specifically set forth her requests for relief; in addition to seeking to have the father held in contempt, the mother sought to redetermine the amounts still owed under the February 15, 2011, judgment, and she sought another award of an attorney fee. In opposing the mother's November 17, 2017, motion to amend, the father relied upon Rule 15(a), Ala. R. Civ. P., which provides, in part:

> "Amendments. Unless a court has ordered otherwise, a party may amend a pleading without leave of court, but subject to disallowance on the court's own motion or a motion to strike of an adverse party, at any time more than forty-two (42) days before the first setting of the case for trial, and such amendment shall be freely allowed when justice so requires. Thereafter, a party may amend a pleading only by leave of court, and leave shall be given only upon a showing of good cause."

The father opposed the mother's November 17, 2017, motion to amend, arguing that the mother had not alleged or shown the good cause required under Rule 15(a) for an amendment, and he asserted that the amendment would cause him to be prejudiced.

> "The grant or denial of leave to amend is a matter within the sound discretion of the trial judge and is subject to reversal on appeal only for an abuse of that discretion. Walker v. Traughber, 351 So. 2d 917 (Ala. Civ. App. 1977). The trial court acts within its discretion so long as its disallowance of an amendment of pleadings is based upon some valid ground, such as actual prejudice or undue delay. Poston v. Gaddis, 372 So. 2d 1099 (Ala. 1979)."

Ex parte Reynolds, 436 So. 2d 873, 874 (Ala. 1983). With regard to the element of prejudice, our supreme court has explained:

> "'[I]t is obvious that an amendment, designed to strengthen the movant's legal position, will in some way harm the opponent.' Cuffy v. Getty Ref. & Mktg. Co., 648 F. Supp. 802, 806 (D. Del. 1986). 'In the context of a [Rule] 15(a) amendment, prejudice means that the nonmoving party "must show that it was unfairly disadvantaged or deprived of the

> opportunity to present facts or evidence which it would have offered had the ... amendments been timely."' Id. (Emphasis added.) (Quoting Heyl & Patterson Int'l v. F.D. Rich Housing of Virgin Islands, Inc., 663 F.2d 419, 426 (3d Cir. 1981).) 'And by prejudice to the rights of the other party is meant, without loss to him other than such as may result from establishing the claim or defense of the party applying.' McDaniel v. Hoblit, 34 Wyo. 509, 515, 245 P. 295, 297 (1926) (emphasis added)."

Ex parte GRE Ins. Grp., 822 So. 2d 388, 391 (Ala. 2001). Our supreme court

> "has explicitly stated that 'when an amendment merely changes the legal theory of a case or merely adds an additional theory, and the new theory is based upon the same facts as the original one and those facts have been brought to the attention of the defendant, the amendment does not prejudice the defendant ...'"

Ex parte Johnston-Tombigbee Furniture Mfg. Co., 937 So. 2d 1035, 1046 (Ala. 2005) (quoting ConAgra, Inc. v. Adams, 638 So. 2d 752, 753 (Ala. 1994)).

As discussed, supra, we have concluded that the mother sufficiently stated her counterclaim for contempt. In that original counterclaim, the mother alleged that the father had failed to comply with the terms of the February 15, 2011, judgment and set forth the amounts she contended the father had failed to pay. In seeking to amend that counterclaim for contempt on November 17, 2017, the mother set forth updated

amounts that she maintained the father owed under the February 15, 2011, judgment, and she asserted a claim seeking an award of an attorney fee as a sanction for the father's alleged contempt. Thus, the facts alleged in the mother's November 17, 2017, proposed amended counterclaim were the same as those alleged in her original, May 15, 2017, counterclaim for contempt.

In his opposition to the mother's motion to amend her counterclaim, the father alleged only that the amendment "would be extremely prejudicial" to him; he did not explain the basis for that alleged prejudice.[2] With the exception of the claim seeking to recover an attorney fee, the mother's claims for contempt remained the same between the filing of the May 15, 2017, counterclaim and the filing of the proposed November 17, 2017, amendment. Thus, we must conclude that the record does not support a determination that the father would be prejudiced in defending the contempt counterclaim by allowing the amendment to that counterclaim, and, therefore, we conclude that the juvenile court erred with regard to that

[2]The father has not favored this court with a brief on appeal.

issue. Myers v. Myers, 206 So. 3d 649, 654 (Ala. Civ. App. 2016) (concluding that, under the facts of that case, "the father was substantially prejudiced because he did not receive sufficient notice so that he could be prepared to litigate the claim"). The juvenile court erred in barring the mother's May 15, 2017, counterclaim seeking to have the father held in contempt with regard to his alleged failure to pay toward the amounts awarded in that judgment, in barring consideration of her claim for an award of an attorney fee,[3] and in refusing to consider and rule on the mother's counterclaim seeking the determination of the amounts still owed under the February 15, 2011, judgment. Therefore, we reverse the juvenile court's judgment as to those issues and remand the cause to allow the mother to prosecute her outstanding contempt and attorney-fee claims.

In its June 29, 2018, judgment, although it purported to dismiss the mother's motion seeking to amend her counterclaim

[3]In another portion of her brief, the mother contends that the juvenile court improperly failed to allow her to present evidence on the issue of her attorney fees in this action. Based on our reversal on this issue, which requires the juvenile court to allow the mother to prosecute that claim, we need not discuss it further.

to assert claims related to the February 15, 2011, judgment, the juvenile court actually ruled on one of those claims. The February 15, 2011, judgment awarded the mother $11,349.39 for past-due child support and a $4,025 attorney fee. In the February 15, 2011, judgment, in addition to establishing the father's monthly child-support obligation, the juvenile court specified that the father pay $150 per month "toward the satisfaction of the judgment for arrearage as provided herein." In its June 29, 2018, judgment in this action, the juvenile court made a factual finding that "the attorney fee award [in the February 15, 2011, judgment] was included in, and made a part of, the additional $150 per month to be paid by the father." The mother argues on appeal that the juvenile court erred in making that ruling. She contends that the $150 per month the father was required to pay pursuant to the February 15, 2011, judgment was to be credited toward only the child-support arrearage and that the amount awarded for an attorney fee in that judgment was enforceable separately.

A trial court has the authority to interpret its own judgments or orders. Jardine v. Jardine, 918 So. 2d 127, 131 (Ala. Civ. App. 2005). "'[T]he trial court's authority is

not, however, "so broad as to allow substantive modification of an otherwise effective and unambiguous final order."' Jardine v. Jardine, 918 So. 2d 127, 131 [(Ala. Civ. App. 2005)] (quoting George v. Sims, 888 So. 2d 1224, 1227 (Ala. 2004))." Hallmark v. Hallmark, 931 So. 2d 28, 30 (Ala. Civ. App. 2005).

> "'Judgments ... are to be construed like other written instruments.... The legal effect must be declared in light of the literal meaning of the language used.' Wise v. Watson, 286 Ala. 22, 27, 236 So. 2d 681, 686 (1970). That is, the unambiguous terms of a judgment, like the terms in a written contract, are to be given their usual and ordinary meaning. See Thornton v. Elmore County Bd. of Educ., 882 So. 2d 855, 858 (Ala. Civ. App. 2003) (quoting State Pers. Bd. v. Akers, 797 So. 2d 422, 424 (Ala. 2000))."

Sosebee v. Sosebee, 896 So. 2d 557, 560 (Ala. Civ. App. 2004).

The February 15, 2011, judgment unambiguously provided that the father was to pay an extra $150 per month to repay the "judgment of arrearage" and that that arrearage was for the past-due child support. Hallmark v. Hallmark, supra. The award of an attorney fee in the February 15, 2011, judgment was not for past-due attorney fees, i.e., not for an arrearage of an attorney fee. Rather, that attorney-fee award was clearly for the prosecution of the arrearage action. Nothing

in the February 15, 2011, judgment specifies that the amount of the attorney fee was to be included in the $150 per month the father was to pay toward the "satisfaction of the judgment for arrearage." Accordingly, we reverse that part of the juvenile court's June 29, 2018, judgment that concludes that the $150 monthly payment included amounts the father owes the mother for an attorney fee under the February 15, 2011, judgment.

The mother next argues that the child's needs have increased and, therefore, that the juvenile court erred in denying her request for an increase in the father's child-support obligation. A separate portion of the mother's appellate brief contains an argument titled "record reveals the juvenile court had a preconceived determination of the merits." In that part of her brief, the mother does not specifically allege that the juvenile-court judge was biased, and she did not raise such an argument in the juvenile court. Rather, the mother argues that the juvenile court erred in making certain rulings below and that those errors indicate that the juvenile court did not "give thoughtful consideration" to the issues before the court. Those rulings

pertain to the mother's claim seeking a modification of the father's child-support obligation, and, therefore, we address those evidentiary rulings together with our analysis of the mother's contention that the juvenile court erred in reaching its child-support determination. We note that "[t]he trial court's decision to admit or to exclude evidence is within its sound discretion, and that decision will not be reversed on appeal absent a showing of an abuse of discretion." Roberts v. Roberts, 802 So. 2d 230, 236 (Ala. Civ. App. 2001).

First, the mother briefly argues that the juvenile court erred in excluding a photograph she sought to submit into evidence during her cross-examination of the father regarding the nature of his relationship with the parties' child. The father's attorney objected to that photograph on the basis that it was not relevant to the issue of child support. The mother contends on appeal that that photograph indicated the nature of the father's lifestyle. However, the mother did not make an offer of proof regarding what was depicted in that photograph, nor did she argue that the photograph was relevant to the issue of child support. Accordingly, we must conclude that the mother has failed to demonstrate that the juvenile

court abused its discretion in excluding the photograph. Bessemer Exec. Aviation, Inc. v. Barnett, 469 So. 2d 1283, 1285 (Ala. 1985).

The mother also contends that the juvenile court erred in refusing to allow her to submit into evidence an exhibit documenting a projected orthodontic bill for the child totaling $4,200. However, the juvenile court did allow the mother to testify that she expected to incur that amount in paying for orthodontic work for the child. Thus, the admission into evidence of the exhibit would have been cumulative, and any error in refusing to admit that evidence was harmless. Rule 45, Ala. R. App. P.; Moseley v. Lewis & Brackin, 583 So. 2d 1297, 1300 (Ala. 1991).

The mother also maintains that the juvenile court erred in refusing to admit evidence pertaining to the income of the father's wife. She cites Wise v. Wise, 396 So. 2d 111, 113 (Ala. Civ. App. 1981), which provides that the fact that a new spouse has income that offsets a support-paying parent's living expenses is a factor a trial court may consider in determining child support. See also Riley v. Riley, 562 So. 2d 265 (Ala. Civ. App. 1990) (holding that the income of the

spouse of the support-paying parent was not required to be included in determining child support). Both Wise v. Wise, supra, and Riley v. Riley, supra, were decided before the application of the Rule 32, Ala. R. Jud. Admin., child-support guidelines became mandatory.

Similarly, the mother contends that the juvenile court should have considered the extraordinary costs of her own medical care for her muscular dystrophy, which, she contends, impacts her ability to provide for the child. During the ore tenus hearing, the mother stated that she was offering that evidence for the purpose of demonstrating "extraordinary circumstances." The juvenile court sustained the father's objection to that evidence, correctly noting that the child-support guidelines address extraordinary expenses pertaining to a child, rather than to a parent. See Rule 32(C)(4) ("[T]he [trial] court may make additional awards for extraordinary medical, dental, and educational expenses" of the child under certain circumstances.).

The foregoing evidentiary arguments concerning child support, considered together, amount to a contention that the juvenile court should have awarded amounts in excess of the

amount determined under the child-support guidelines. However, the mother does not specifically argue that the juvenile court erred in failing to deviate from the child-support guidelines. See, e.g., Thomas v. Norman, 766 So. 2d 857, 859 (Ala. Civ. App. 2000) (holding that a trial court may deviate from the Rule 32 child-support guidelines under certain circumstances). It is not the function of this court to create arguments for an appellant or to support an argument for an appellant. McLemore v. Fleming, 604 So. 2d 353, 353 (Ala. 1992); Spradlin v. Spradlin, 601 So. 2d 76, 79-80 (Ala. 1992). Issues not asserted on appeal are deemed to have been waived. Chamberlin v. Chamberlin, 184 So. 3d 1016, 1024 (Ala. Civ. App. 2014) (citing Pardue v. Potter, 632 So. 2d 470, 473 (Ala. 1994)).

It is undisputed that the juvenile court, in determining the father's current child-support obligation, applied the Rule 32 child-support guidelines. The application of the Rule 32 child-support guidelines is mandatory. Walker v. Lanier, 221 So. 3d 470, 473 (Ala. Civ. App. 2016). The mother argues that the father's income has increased substantially since the entry of the February 15, 2011, judgment, and she contends

that his current income is $5,883 per month.[4] In determining child support pursuant to the Rule 32 child-support guidelines, the juvenile court determined the father's income to be $5,886 per month, which is slightly greater than the amount the mother claimed the father earns. The mother makes no further arguments that the juvenile court erred in determining amounts pertinent to the calculation of child support or in calculating the amount of child support due under the child-support guidelines. Accordingly, we cannot say that the mother has demonstrated that the juvenile court erred in reaching its child-support determination, and we affirm the juvenile court's judgment as to that issue.

The mother also raises several arguments concerning her contention that the evidence does not support the juvenile court's determinations of the father's child-support obligation or the father's current child-support arrearage

[4]In making her argument on this issue, the mother contends that not all of the child-support information sheets the father submitted to the juvenile court during the ore tenus hearing are contained in the record on appeal. It is not clear from the mother's argument whether the documents she states were provided to her at the ore tenus hearing were admitted into evidence. Regardless, the mother did not file a motion pursuant to Rule 10(f), Ala. R. App. P., seeking to supplement the record on appeal.

that accumulated after the entry of the February 15, 2011, judgment. The record indicates the following pertinent facts. It is undisputed that, in the three months following the entry of the February 15, 2011, judgment, the father did not pay child support, and it was not withheld by his employer. Thereafter, the $815 per month in child support was withheld from the father's paycheck. The father changed jobs in 2016, and, according to the mother, the father did not pay child support, or have child support withheld from his paycheck, for the months of July, August, September, and October 2016, and she presented evidence indicating that only half payments were made in November and December 2016. The father testified that he did not notice that the amounts of child support had not been taken from his paycheck during those months.

In its judgment, the juvenile court determined the new child-support arrearage that had accumulated since the entry of the February 15, 2011, judgment to be $6,226.17 for payments the father failed to make in February, March, and April 2011 and for the months between July and November 2016. The juvenile court also awarded the father a credit for a $593.83 overpayment in May 2011, and a total credit of $900

for two $450 payments the father made in the weeks before the ore tenus hearing.[5]

The mother purports to challenge the juvenile court's determination of the new child-support arrearage that has accumulated since the entry of the February 15, 2011, judgment. She states that there were months in which the father paid only partial payments toward his child-support obligation and that the father was improperly awarded a credit. However, the mother does not support that argument by identifying the months in which she contends an arrearage accumulated or explaining why the credit was not appropriate. It is not the function of this court to examine the record on appeal or to fully develop an appellant's argument on his or her behalf. Perry v. State Pers. Bd., 881 So. 2d 1037, 1040 (Ala. Civ. App. 2003). Out of an abundance of caution, we note that the exhibit submitted by the mother detailing the father's child-support-payment history indicates that, in some months, the income-withholding order created a shortfall but that that shortfall was made up in subsequent months. We note

[5]In its June 29, 2018, judgment, the juvenile court identified those two $450 payments as being made in the "fall of 2016," which we conclude is a harmless typographical error.

that the mother appears, at least in a portion of her appellate brief, to erroneously conclude that the new child-support arrearage determined in the June 29, 2018, judgment is a redetermination of the amounts of the father's total child-support arrearages. However, it is clear from the language of the June 29, 2018, judgment that that judgment determines an additional arrearage for amounts of child support he failed to pay since the determination of the arrearage in the February 15, 2011, judgment.[6] We note that the juvenile court did not specify that the $6,227.17 arrearage established in the June 29, 2018, judgment was to be paid in monthly installments. The mother has failed to demonstrate that the juvenile court erred its June 29, 2018, judgment in establishing the child-support arrearage for the monthly child-support payments the father failed to pay since the entry of the February 15, 2011, arrearage judgment, and we affirm the juvenile court's judgment as to that issue.

[6]As noted, supra, this court has concluded that the juvenile court erred in failing to consider the mother's counterclaim seeking a determination of the amounts still owed under the February 15, 2011, judgment.

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED WITH INSTRUCTIONS.

Donaldson and Hanson, JJ., concur.

Moore and Edwards, JJ., concur in the result, without writings.