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See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 05/17/2012
RUTH A. WILLINGHAM,
CLERK
BY: sis

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

In re the Matter of:) 1 CA-CV 11-0280
)
VERA A. STILES,) DEPARTMENT A
)
Petitioner/Appellee,) **MEMORANDUM DECISION**
) (Not for Publication -
v.) Rule 28, Arizona Rules of
) Civil Appellate Procedure)
GLEN J. STILES,)
)
Respondent/Appellant.)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. DR1997-006466

The Honorable Mina E. Mendez, Judge Pro Tempore

REVERSED AND REMANDED

Glen J. Stiles, Respondent/Appellant
In Propria Persona

Florence

P O R T L E Y, Judge

¶1 Glen J. Stiles ("Father") appeals the denial of his "Request for Determination of Controlling Child Support Order" and asserts that, pursuant to the Uniform Interstate Family Support Act, his child support arrearages should be reduced. For the following reasons, we reverse the denial and remand this matter for further proceedings.

FACTUAL AND PROCEDURAL BACKGROUND

¶12 Vera Stiles ("Mother") and Father were married in Washington in March 1995, and had one child the following year. They moved to Arizona, and Father was convicted and sent to prison in November 1996. Mother began to receive public assistance and, a few months later, the Arizona Department of Economic Security ("ADES") secured a child support order that required Father to pay \$415 in child support for May 1997; \$646 to reimburse the State; and \$415 per month in child support beginning June 1, 1997.

¶13 Mother subsequently moved back to Washington and divorced Father in June 1999. The Washington court ordered Father to pay \$50 per month in child support.

¶14 Approximately ten years after the entry of the Arizona child support order, ADES had Father's monthly child support obligation reduced to \$0 because he was still incarcerated. ADES then issued a State Income Tax Refund Offset Notice in an effort to collect Father's arrearages. Once Father received notice of the collection efforts, in November 2007, he requested an administrative review of his arrearages. ADES completed the review in January 2008 and concluded that the enforcement action was proper.

¶15 Father then requested judicial review of the administrative review. ADES moved to dismiss and argued that

his motion failed to state a claim for which relief could be granted. The matter was dismissed.

¶16 Father subsequently filed a "Motion to Overturn Child Support Order and Arrearages on Owed Child Support." ADES asserted that he failed to comply with Arizona Rule of Family Law Procedure 85 because he had not sought relief from the child support order within a reasonable time. The family court agreed, and dismissed Father's motion in June 2008. He appealed, and we affirmed. *State ex rel. Dep't of Econ. Sec. (Vera Stiles) v. Stiles*, 1 CA-CV 08-0554, 2009 WL 2003325, at *2, ¶¶ 11-12 (Ariz. App. July 9, 2009) (mem. decision).

¶17 Approximately one year later, Father filed a "Request for Determination of Controlling Child Support Order," seeking relief from his arrearages. He sought a determination that the Washington child support order superseded the Arizona order pursuant to Arizona Revised Statutes ("A.R.S.") section 25-1227(B)(2) (West 2012),¹ and a reduction of the Arizona judgment from \$82,991.73 to \$11,412.48. He argued that the reduced figure represented the child support for the two years that elapsed between the Arizona order and the subsequent Washington order. ADES did not respond but filed a notice that the child support case had been closed.

¹ We cite the current version of the applicable statute because no revisions material to this decision have since occurred.

¶18 Father's request was denied because he provided "no legal authority" that entitled him to "any relief from the judgment under any provision of A.R.S. § 25-1227," especially because he had previously unsuccessfully challenged the arrearages judgment. After his motion for reconsideration was denied, he filed this appeal.

DISCUSSION

¶19 Father argues that the court should have reviewed the Washington child support order pursuant to § 25-1227, and determined that the Washington order superseded the Arizona order because Washington is now the child's home state.

¶10 "Although we review the decision to modify a child support award under an abuse of discretion standard, we review *de novo* the court's exercise of its jurisdiction and its interpretation of the relevant statute as a question of law." *State ex rel. Dep't of Econ. Sec. v. Tazioli*, 226 Ariz. 293, 294, ¶ 7, 246 P.3d 944, 945 (App. 2011) (citation omitted). Because statutory interpretation requires the resolution of legal issues, rather than factual matters, we are not confined by the family court's conclusions of law. *McHale v. McHale*, 210 Ariz. 194, 196, ¶ 7, 109 P.3d 89, 91 (App. 2005) (citation omitted).

¶11 The Uniform Interstate Family Support Act ("UIFSA") was drafted to create a uniform set of principles for managing interstate child support obligations. 67A C.J.S. *Parent and Child* § 247 (2012); Kurtis A. Kemper, Annotation, *Construction and Application of the Uniform Interstate Family Support Act*, 90 A.L.R. 5th 1 (2001). Specifically, UIFSA was established to reconcile multiple child support orders and to create a system in which only one child support order would be in place at a time. Unif. Int. Fam. Supp. Act § 207, cmt. (2001). The Arizona legislature first enacted UIFSA in 1993, and most recently amended it in 2004. See A.R.S. §§ 25-1201 to -1342 (West 2012).

¶12 Section 25-1227, entitled "Determination of controlling child support order," provides, in relevant part, that:

B. If a proceeding is brought under this chapter and two or more child support orders have been issued by tribunals in this state or another state with regard to the same obligor and the same child, a tribunal of this state having personal jurisdiction^[2] over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls:

² Personal jurisdiction, as it relates to UIFSA issues, is governed by A.R.S. §§ 25-1221 to -1222.

1. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal is controlling and shall be recognized.^[3]

2. If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child is controlling. If an order has not been issued in the current home state of the child, the order most recently issued is controlling.

. . . .

C. If two or more child support orders have been issued for the same obligor and the same child, on request of a party that is an individual or a support enforcement agency, a tribunal . . . shall determine which order controls under subsection B of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to article 6 of this chapter.

(Emphasis added.)

¶13 The plain language of the statute provides that when there are two child support orders issued by different states and involving the same obligor and the same child, the obligor may ask the court to determine which order controls. A.R.S. §

³ Section 25-1225 (West 2012) governs whether an Arizona state court has continuing, exclusive jurisdiction to modify a child support order.

25-1227(C). Section 25-1227(F)⁴ also outlines the procedure to resolve the dispute, and specifies the findings a court must include in its order.

¶14 Here, both Arizona and Washington have ordered Father to pay child support for his minor child. He filed a motion entitled "Request for a Determination of Controlling Child Support Order," cited § 25-1227, and submitted the child support orders as well as the 2007 Arizona modification. Despite the fact that he filed an earlier unsuccessful request for relief pursuant to Arizona Rule of Family Law Procedure 85, *Stiles*, 1 CA-CV 08-0554, 2009 WL 2003325, he did not ask the court in that challenge to decide which order controlled pursuant to § 25-1227. Subsequently, he asked for that determination, and the family court should not have summarily denied the request. The

⁴The comment to UIFSA § 207, the basis for § 25-1227, states that subsection (c), added in 1996, "clarifies that *any party* or a support enforcement agency *may request a tribunal of the forum state to identify the controlling order.*" Unif. Int. Fam. Supp. Act § 207, cmt. (emphasis added). The comment also notes that UIFSA provides the transitional procedures necessary "for the eventual elimination of existing multiple support orders in an expeditious and efficient manner." *Id.* In fact, "[s]ubsection (b) establishes the priority scheme for recognition and prospective enforcement of a single order among existing multiple orders regarding the same obligor, obligee, and child." *Id.* Although our legislature did not adopt the comments, "[w]hen a statute is based on a uniform act, we assume that the legislature intended to adopt the construction placed on the act by its drafters," and as a result, "commentary to such a uniform act is highly persuasive" *In re Estate of Dobert*, 192 Ariz. 248, 252, ¶ 17, 963 P.2d 327, 331 (App. 1998) (citation and internal quotation marks omitted) (quoted in *McHale*, 210 Ariz. at 198, ¶ 13, 109 P.3d at 93).

court erred, and we reverse the ruling and remand the matter so that the court can determine whether the Washington order superseded the Arizona order, and how much Arizona child support and accruing interest Father owes.

CONCLUSION

¶15 Based on the foregoing, we reverse the denial of Father's motion, and remand this matter to the family court for a determination of which child support order is controlling pursuant to § 25-1227.

/s/

MAURICE PORTLEY, Presiding Judge

CONCURRING:

/s/

ANN A. SCOTT TIMMER, Judge

/s/

ANDREW W. GOULD, Judge