

RENDERED: MARCH 23, 2007; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky  
Court of Appeals**

NO. 2006-CA-000794-MR

WILLIAM A. SHECKLES, JR.

APPELLANT

APPEAL FROM JEFFERSON FAMILY COURT  
v. HONORABLE ELEANORE GARBER, JUDGE  
ACTION NO. 01-FC-002954

TARA SHECKLES

APPELLEE

OPINION  
VACATING AND REMANDING

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BEFORE: TAYLOR AND WINE, JUDGES; PAISLEY,<sup>1</sup> SENIOR JUDGE.

TAYLOR, JUDGE: William Scheckles, Jr. brings this appeal from a March 14, 2006, order of the Jefferson Family Court denying his Ky. R. Civ. P. (CR) 60.01 motion as being untimely filed. We vacate and remand.

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<sup>1</sup> Senior Judge Lewis G. Paisley sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes 21.580.

In Action No. 01-FC-002954,<sup>2</sup> Scheckles filed a motion for modification of child support under Kentucky Revised Statutes (KRS) 403.250. As grounds, Scheckles stated that he was currently incarcerated at Northpoint Training Center with a release date of December 6, 2019, and an early release date of December 6, 2009. The record does not show that an order was entered in Action No. 01-FC-002954 by the Jefferson Family Court disposing of the motion. In March 2006, Scheckles filed a motion under CR 60.01 to correct a clerical error. In the motion, Scheckles stated that he received an order from the Jefferson Family Court entered November 19, 2004, purporting to dispose of his motion to modify child support, but the order's heading contained an incorrect action number and cited incorrect parties. By order entered March 9, 2006, the family court denied Scheckles' CR 60.01 motion as being untimely filed.

Scheckles contends the family court committed error by denying his motion under CR 60.01 to correct a clerical error. Scheckles believes that the court improperly determined that the motion was untimely filed. Under CR 60.01, a clerical mistake in a judgment or order may be corrected by the court at any time upon motion of a party or *sua sponte*. CR 60.01 does not contain a time limitation for filing a motion thereunder. Thus, we hold the family court committed error by denying Scheckles' CR 60.01 motion as being untimely filed.

Although the November 19, 2004, order contained a different case number and parties, the order seemed to dispose of Scheckles' motion for modification of child

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<sup>2</sup> Action No. 01-FC-002954 was styled "Tara L. Scheckles v. William A. Scheckles" and was originally a dissolution of marriage proceeding.

support and recited his specific release dates in the body.<sup>3</sup> Based upon the limited record available to this Court, we are unable to determine whether the order was intended by the family court to dispose of Sheckles' motion for modification of child support but was mistakenly styled. Upon remand, we believe the family court should reconsider its ruling and determine whether a clerical error has occurred.

For the foregoing reasons, the order of the Jefferson Family Court is vacated and this cause is remanded for proceedings not inconsistent with this opinion.

ALL CONCUR.

BRIEF FOR APPELLANT:

William A. Sheckles, Jr., *Pro Se*  
Burgin, Kentucky

NO BRIEF FOR APPELLEE

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<sup>3</sup> The style of the order attached to the Ky. R. Civ. P. 60.01 motion was "Ja-Ron S. Teague vs. Martha R. Smith, Jefferson Family Court, Division Seven, No. 88 PF 2427."