

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2009-CA-000935-MR

DANIEL BLACKSMITH

APPELLANT

v. APPEAL FROM LIVINGSTON CIRCUIT COURT  
HONORABLE CLARENCE A. WOODALL, III, JUDGE  
ACTION NO. 08-CI-00163

JULIE ANN DREYER

APPELLEE

OPINION  
AFFIRMING

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BEFORE: NICKELL, STUMBO, AND THOMPSON, JUDGES.

THOMPSON, JUDGE: Daniel Blacksmith appeals a Livingston Circuit Court order modifying his maintenance obligation to his former wife, Julie Ann Dreyer, and the equal division of the proceeds of an insurance check between the parties. Blacksmith contends that he was entitled to a further reduction in maintenance because he earns less than at the time the parties executed their marital settlement

agreement, and that he should have been awarded a greater percentage of certain theft-loss insurance proceeds. Because we conclude that the circuit court acted within its discretion, affirm.

After twenty-three years of marriage, the parties divorced on October 15, 2008. A settlement agreement was incorporated by reference into the final decree which provided that Blacksmith would pay Dreyer \$1,000 per month in maintenance. In addition, he agreed that he would pay an additional \$275 per month beginning in October 2008, and continuing each month for three years. The agreement further stated that Dreyer would return to Blacksmith his guns, golf ball collection, German stein collection, and trucking trophies.

Prior to the return of the designated personal property to Blacksmith, Dreyer reported that several guns and tools were stolen from her home and as a result, the parties' insurance company issued Blacksmith and Dreyer a check in the amount of \$3,000.

Blacksmith filed a motion to modify maintenance and a court order requiring that Dreyer transfer to him the insurance proceeds. He alleged that he grossed \$2,500 per month at the time the decree was entered but is now working for a different employer earning \$1,800 per month. He testified that he changed employers because his mileage as a truck driver was reduced by his prior employer and he obtained a job with another employer in anticipation of a higher income.

In regard to the insurance proceeds, he alleged that the proceeds were the result of the theft of property awarded to him in the agreement and, therefore, should be awarded to him.

Following a hearing, the circuit court lowered Blacksmith's monthly maintenance obligation to \$1,075 per month. The court further found that the \$3,000 from the insurance proceeds represented proceeds from property stolen from both parties and ordered the proceeds to be evenly divided between the parties.

We first address Blacksmith's contention that the reduction in maintenance was inadequate. Matters relating to maintenance, including modification, are questions delegated to the sound and broad discretion of the trial court. An appellate court will not disturb the trial court's order unless the decision is unsupported by substantial evidence. *Bickel v. Bickel*, 95 S.W.3d 925 (Ky.App. 2002). Only when the trial court abuses its discretion or bases its decision on findings of fact that are clearly erroneous may this Court disturb the lower court's decision. *Powell v. Powell*, 107 S.W.3d 222, 224 (Ky. 2003).

A modification of a maintenance award is governed by KRS 403.250 which states: "[T]he provisions of any decree respecting maintenance may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable." KRS 403.250(1). The circuit court found that Blacksmith's reduction in income was a substantial change in circumstances to warrant a modification of the parties' settlement agreement

regarding maintenance. Dreyer does not challenge this finding. Thus, the only issue regarding the modification is whether the circuit court abused its discretion when it did not reduce Blacksmith's maintenance obligation in an amount greater than \$200 per month.

We cannot say that the trial court abused its discretion in reducing the monthly maintenance obligation by only \$200. Less than one year had passed since Blacksmith entered into the settlement agreement and, despite his obligations pursuant to that agreement, he voluntarily left his prior employment and now earns less money. The fact that Blacksmith now believes he made a bad bargain is not a sufficient basis to avoid his maintenance obligation. *Peterson v. Peterson*, 583 S.W.2d 707 (Ky.App. 1979). The circuit court's reduction of the monthly maintenance award by \$200 was not an abuse of discretion.

The remaining issue concerns the division of the insurance proceeds. The insurance proceeds were to compensate for the guns and tools stolen from Dreyer's residence. Although the guns were awarded to Blacksmith, the tools were not included in the agreement. Under the circumstances, the circuit court did not abuse its discretion when it equally divided the proceeds.

For the foregoing reasons, the order of the Livingston Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Heather L. Jones  
Paducah, Kentucky

BRIEF FOR APPELLEE:

Stuart C. Peek  
Smithland, Kentucky