RENDERED: NOVEMBER 23, 2011; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-001796-ME

VAUGHN HALLIS APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE TIMOTHY NEIL PHILPOT, JUDGE
ACTION NO. 03-CI-03418

CATHLEEN HALLIS APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: ACREE AND WINE, JUDGES; LAMBERT,[1] SENIOR JUDGE.

LAMBERT, SENIOR JUDGE: Vaughn Hallis appeals from an order of the Fayette Circuit Family Court denying his motions to modify and reallocate child support. For reasons that follow, we affirm.

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[1] Senior Judge Joseph E. Lambert sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

Appellant and Appellee, Cathleen Hallis, were married on November 25, 1989. The parties had two daughters, the oldest of whom was born on November 15, 1991, and the youngest of whom was born on June 9, 1995. The parties separated in June 2003, and Appellee filed a petition for dissolution of marriage on August 14, 2003. During the course of this extensively litigated case, the family court designated Appellee as the children's primary residential custodian during the school year and Appellant as the primary residential custodian during the summer months. Each parent was to have timesharing pursuant to the local division guidelines. The family court entered numerous orders regarding child support, but on May 12, 2006, the court terminated the parties' child support obligations.

That order eliminated Appellant's child support obligation because he had become disabled and the children had begun receiving Social Security benefits as a result. Taking into account the amount Appellee received in Social Security benefits for the children, the family court concluded that the fair outcome would be to require child support payments from neither party. Thus, the family court denied the portion of Appellant's prior motion, which sought to require Appellee to pay child support. Appellant appealed from this order in 2006, *see Hallis v. Hallis*, Nos. 2005-CA-002343-MR & 2005-CA-001421-MR, 2007 WL 4209427 (Ky. App. Nov. 30, 2007), but this Court affirmed the decision of the family court. Appellant did not seek discretionary review by the Supreme Court of Kentucky.

In the years following this decree, Appellant filed a plethora of motions to modify child support as well as multiple appeals before this Court[2] – the latest of which was disposed of (and Appellant's arguments rejected) in *Hallis v. Hallis*, 328 S.W.3d 694 (Ky. App. 2010).[3] In that appeal, Appellant again asked this Court to reverse the family court's 2006 order denying his motion to require Appellee to pay child support. Appellant argued that it was improper for the family court to deviate from the statutory child support guidelines and to forgive Appellee's alleged arrearages. *Id.* at 698. We rejected this argument, noting:

> Vaughn has already raised this issue on appeal once, and this Court affirmed the family court. "An opinion of the Court of Appeals becomes final on the 31st day after the date of its rendition unless a petition under Rule 76.32 or a motion for review under Rule 76.20 has been timely filed or an extension of time has been granted for one of those purposes." CR[4] 76.30. Neither exception applied. Following finality, we lost jurisdiction to alter the opinion. Vaughn has exhausted his appeals and may not revisit the issue.

Id.

Appellant also challenged the 2008 and 2009 denials of his motions to modify child support, but that challenge was also rejected:

> Once we eliminate the issues pertaining to the 2006 order, little remains. Vaughn used his appeal of the 2008 and 2009 denials to reargue the reasons he believes the

[2] Appellant has also filed actions against Appellee in the Fayette District Court's probate and small claims divisions.

[3] The Supreme Court of Kentucky denied discretionary review of this decision on January 14, 2011.

[4] Kentucky Rules of Civil Procedure.

> 2006 order should be reversed, but he failed to advance any argument to support reversal of the more recent orders. Review of those orders does not reveal any manifest errors.[5] Vaughn is evidently upset that Cathleen has never been required to pay him child support, but is entitled to keep the Social Security funds. He characterizes this as impermissibly crediting Cathleen with Vaughn's benefits, thereby abating Cathleen's child support obligation. However, review of the record reveals Cathleen has never been ordered to pay child support. She therefore has no obligation to abate. Vaughn has not demonstrated that the family court's orders constituted manifest injustice.

Id.

On December 9, 2009, Appellant filed another motion to modify child support. The basis for this motion was that the parties' oldest child had chosen to live with him when she turned eighteen.[6] On May 28, 2010, Appellant also filed a "Self Help Motion to Modify Child Support" regarding the parties' youngest daughter, who continued to live with Appellee approximately nine months per year and Appellant the other three months.

On August 4, 2010, the family court entered an order denying Appellant's motions to modify child support and reaffirming its prior decision to have neither party pay child support. In so doing, the court explicitly set forth that the issues raised by Appellant had "previously been litigated and finally decided" and that its decision was based on the same grounds set forth in its order of May

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[5] We reviewed this appeal under a "manifest injustice" standard because of Appellant's near-total failure to follow the mandatory briefing format set forth in CR 76.12. *Hallis*, 328 S.W.3d at 698; *see also Elwell v. Stone*, 799 S.W.2d 46, 47-48 (Ky. App. 1990).

[6] The child was still in high school at this point but graduated in June 2010.

12, 2006. Appellant's subsequent motion to alter, amend, or vacate was similarly denied. This appeal followed.

As an initial matter, we note that Appellant's brief is replete with the same deficiencies with respect to the briefing requirements of CR 76.12 as his appellate briefs discussed in our most recent opinion regarding this case. *See Hallis*, 328 S.W.3d at 695-98. There, we chose not to strike Appellant's briefs – despite our right to do so in light of those deficiencies – because of Appellant's *pro se* status and the fact that the record was not unwieldy. *Id.* at 698. While this Court is, frankly, inclined to strike the current brief in its entirety given our previous warning to Appellant, we choose not to do so since the issues presented in this appeal are easily disposed of.

The bulk of Appellant's brief is dedicated to arguing the same issues regarding child support that were addressed and decided in his previous appeals before this Court – particularly the question of whether the family court erred in how it viewed the Social Security disability payments made to the parties' children in the context of child support. *See Hallis*, 328 S.W.3d at 698;[7] *Hallis*, 2007 WL 4209427 at *2-3.[8] Consequently, we must reject those arguments pursuant to the "law-of-the-case" doctrine.

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[7] The record also includes a copy of Appellant's reply brief in that case, wherein he specifically raises the Social Security offset question in challenging the family court's denial of his motions to modify child support.

[8] Appellant also acknowledged that this issue had been raised on appeal during a hearing held on June 3, 2010.

> The law-of-the-case doctrine is a rule under which an appellate court, on a subsequent appeal, is bound by a prior decision on a former appeal in the same court and applies to the determination of questions of law and not questions of fact. As the term "law of the case" is most commonly used, and as used in the present discussion unless otherwise indicated, it designates the principle that if an appellate court has passed on a legal question and remanded the cause to the court below for further proceedings, the legal questions thus determined by the appellate court will not be differently determined on a subsequent appeal in the same case.

Inman v. Inman, 648 S.W.2d 847, 849 (Ky. 1982) (Internal quotations and citation omitted).

The law-of-the-case doctrine also holds that "one adjudication settles all errors relied upon for a reversal, whether mentioned in the opinion of the court or not, and all errors lurking in the record on the first appeal which might have been, but were not expressly, relied upon as error." *Sowders v. Coleman*, 223 Ky. 633, 4 S.W.2d 731, 731 (1928); *see also Brooks v. Lexington-Fayette Urban County Hous. Auth.*, 244 S.W.3d 747, 751 (Ky. App. 2007). Moreover, the doctrine holds that "an opinion or decision of an appellate court in the same cause is the law of the case for a subsequent trial or appeal however erroneous the opinion or decision may have been." *Union Light, Heat & Power Co. v. Blackwell's Adm'r*, 291 S.W.2d 539, 542 (Ky. 1956); *see also Brooks*, 244 S.W.3d at 751. "[T]he mere existence of conflict between the law of a case and other decisions does not guarantee the application of an exception" to this doctrine. *Brooks*, 244 S.W.3d at 753. Thus, "[a] final decision of this Court, whether right

or wrong, is the law of the case and is conclusive of the questions therein resolved." *Williamson v. Commonwealth*, 767 S.W.2d 323, 325 (Ky. 1989), *quoting Martin v. Frasure*, 352 S.W.2d 817, 818 (Ky. 1961).

In his appeal, Appellant has presented us with no new grounds or reasons as to why we should depart from this precedent. Thus, it applies firmly to this case and requires us to reject Appellant's arguments regarding the Social Security offset issue. Appellant also contends that the family court erred in denying his request for child support for the emancipated daughter who moved in with him upon turning eighteen. However, as noted above, the family court's rejection of this request appears to have been based on the same grounds as its order of May 12, 2006. Furthermore, to the extent that this could be considered a "new" issue, we do not believe that Appellant has established "manifest injustice" meriting reversal. *See Hallis*, 328 S.W.3d at 698; *Elwell*, 799 S.W.2d at 47-48.

For the foregoing reasons, the decision of the Fayette Family Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Vaughn Hallis, *pro se*
Lexington, Kentucky

NO BRIEF FOR APPELLEE FILED