

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2021 CU 0463

RHONDA MICHELLE DILLON

VERSUS

HOBY BRADFORD DILLON

Judgment Rendered: DEC 22 2021

\*\*\*\*\*

APPEALED FROM THE FAMILY COURT  
IN AND FOR THE PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA  
DOCKET NUMBER 200146, DIVISION "D"

HONORABLE HUNTER GREENE, JUDGE

\*\*\*\*\*

Jennifer M. Moisant  
Baton Rouge, Louisiana

Attorney for Plaintiff/Appellee  
Rhonda Michelle Dillon

Karen Hayes Green  
Baton Rouge, Louisiana

Attorney for Defendant/Appellant  
Hoby Bradford Dillon

**BEFORE: LANIER, WOLFE, AND BURRIS,<sup>1</sup> JJ.**

---

<sup>1</sup> The Honorable William J. Burris, retired, is serving *pro tempore* by special appointment of the Louisiana Supreme Court.

**BURRIS, J.**

This is an appeal from a judgment that, in part, found appellant in contempt and awarded child support arrearages against him.

**FACTS AND PROCEDURAL HISTORY**

Hoby Bradford Dillon and Rhonda Dillon were married on March 12, 1994 in East Baton Rouge Parish. They were divorced on June 9, 2011, in Harris County, Texas, and were granted joint custody of their children, Calum (born December 23, 2002) and Ava (born June 27, 2007). The parties were designated as co-domiciliary parents and Mr. Dillon was ordered to pay Ms. Dillon \$1,875.00 per month in child support.

Ms. Dillon filed a Petition to Make Foreign Judgment Executory, Rule to Suspend Visitation, and Rule for Contempt, Attorney's Fees and Costs on July 15, 2015. After a hearing on those matters, the trial court ruled, ordering that the Texas judgment was made a judgment of the court, dismissing the rule to suspend visitation, and continuing the contempt rule to February 16, 2016. The parties stipulated that Ms. Dillon could move with the children anywhere in East Baton Rouge Parish or the surrounding parishes.

After a hearing, which Mr. Dillon did not attend, the trial court found Mr. Dillon in contempt for failing to pay child support, failing to carry the children on a health and hospitalization insurance policy, failing to pay the children's tuition for the 2015-2016 school year, failing to pay the children's registration costs for the 2016-2017 school year, and failing to reimburse Ms. Dillon for fifty percent of the children's uncovered medical expenses. The trial court found that Mr. Dillon's child support arrears were \$29,000.00, and made the arrears executory, found that Mr. Dillon owed Ms. Dillon \$1,625.00 for health insurance premiums for the children; that Mr. Dillon owed Ms. Dillon school tuition costs in the amount of \$9,970.00 and

school registration fees of \$1,600.00; and that Mr. Dillon owed Ms. Dillon medical expense reimbursements totaling \$1,377.98. Also, Mr. Dillon was ordered to pay Ms. Dillon court costs of \$713.00 and attorney fees of \$4,500.00 for the filing of the rule for contempt. Further, Mr. Dillon was sentenced to 90 days in jail for the contempt. That judgment was signed on May 25, 2016.

Mr. Dillon filed a motion requesting a reduction in his child support payments and modification of visitation on May 30, 2017. He maintained that there had been a change in income for both parties, that resources for private schools were no longer available, private insurance for the children was no longer available, and that equal physical time with the children was not being enforced. A hearing on the motion was set for July 20, 2017, but the record does not indicate that the hearing was held.

On September 26, 2017, Mr. Dillon filed a Rule to Decrease Child Support. The matter was set for trial, but the parties came to an agreement and a stipulated judgment was rendered. The stipulated judgment provided that Mr. Dillon's child support obligation remained \$1,875.00 per month through September 2018, and was reduced to \$1,000.00 per month starting October 1, 2018, and continuing for the next six months. The matter was set for review in April of 2019,<sup>2</sup> to determine whether Mr. Dillon had paid the \$1,000.00 per month in full for six months, and if so, then \$1,000.00 per month became the amount owed thereafter; otherwise, child support would revert to \$1,875.00 per month. Further, it was ordered that upon the sale of immovable property, the parties meet to determine the amount of arrears due up to and including September 2018, and Mr. Dillon would pay the arrearages from his proceeds from the sale. Ms. Dillon was ordered to then execute the paperwork to remove the lien from the property. Further, the stipulated judgment decreed that Ms.

---

<sup>2</sup> There is no indication in the record of an April of 2019 review of the matter.

Dillon did not waive any right she had to arrears owed by Mr. Dillon. The judgment was signed on November 7, 2018.

On March 3, 2020, Ms. Dillon filed a Rule for Contempt, Attorney Fees and Costs. Ms. Dillon maintained that Mr. Dillon had paid the \$1,000.00 monthly child support for six months, and then paid \$1,000.00 in April and \$500.00 in May. She averred that he had failed to pay child support since May 1, 2019. She also maintained that Mr. Dillon had owed her \$48,785.98 from the May 11, 2016, judgment and that he, or his parents, had made two payments of \$5,000.00, one payment of \$1,000.00, and one payment of \$500.00. She asserted that he still owed her \$37,285.98 on that amount as of June 2019. Ms. Dillon maintained that Mr. Dillon sold his home in July 2019, and that she was paid \$37,285.98 from his proceeds from the sale, clearing his past due arrears. She averred that at that time, Mr. Dillon told her he would no longer be “paying her anything”. Ms. Dillon maintained that Mr. Dillon failed or refused to follow the child support order and asked that he be found in contempt. She also asked for attorney fees and costs of the rule.

Mr. Dillon answered the rule on July 6, 2020, maintaining that Ms. Dillon had admitted in her rule that she had received \$37,285.98 in July 2019, and he denied telling her that he would no longer make any payments to her. He further maintained that any delinquency was not intentional, as since 2019 he had suffered medical issues that left him unable to consistently work. Further, Mr. Dillon asserted the COVID-19 pandemic had halted his ability to earn money, and that Calum had been severely injured in a car accident, causing Mr. Dillon to incur unexpected medical costs. He asked that he not be found in contempt, and not be ordered to pay attorney fees and costs for the rule.

Mr. Dillon also filed, on July 6, 2020, a reconventional demand, asking for

modification of child custody and a reduction in child support. Mr. Dillon averred that there had been a material change in circumstances, and that Ms. Dillon had voluntarily given up physical custody of Calum. He maintained that Calum had lived with him full time since April of 2020. Mr. Dillon asserted that it was in the best interest of Calum to remain full time in his custody, and asked that he be awarded sole custody of Calum, with reasonable visitation for Ms. Dillon. Mr. Dillon asked for joint custody of Ava, with continued co-domiciliary status.

Mr. Dillon maintained that there had been a material change in circumstances since the last judgment, particularly as his wages had been significantly reduced, his medical condition had declined, which had hindered his ability to work and increased his medical expenses; that he had physical custody of Calum full time and thus should not have to pay child support for Calum to Ms. Dillon; and that due to Calum's serious automobile accident, his medical expenses for Calum had increased. Mr. Dillon asked that his \$1,000.00 monthly child support obligation be terminated retroactive to the date Calum began living with him full time, or in the alternative, from the date the petition was filed; he also asked that he receive child support for Calum, due to Calum's extraordinary medical expenses.

Ms. Dillon answered the reconventional demand, asserting that she brought Calum to Mr. Dillon's home in an effort for him to assist in discipline as he was being disrespectful, and that Calum had since returned home to live with Ms. Dillon and visited Mr. Dillon on weekends. Ms. Dillon asserted that Calum's custody should not change because Mr. Dillon did not live in Calum's school district; Calum would turn 18 in December 2020; Calum preferred to live with his mother during the week and his father on weekends; Mr. Dillon and his girlfriend drank in excess while the children were present; Ms. Dillon had paid all of the children's expenses for years; Calum had to go to Ms. Dillon's house on occasion to find food; Calum

had a vehicle purchased by Ms. Dillon; Mr. Dillon did not have his own residence and stayed with his girlfriend or his parents; Mr. Dillon had not incurred any extraordinary medical bills for Calum as Calum was on Medicaid; Mr. Dillon was in arrears for \$65,000.00 and his arrears dated back to June of 2016; and that this would be the second time that Mr. Dillon would be found in contempt. She asked that there be judgment in her favor dismissing Mr. Dillon's reconventional demand.

The matter was heard on September 14, 2020. Afterward, the trial court dismissed Mr. Dillon's demand for reduction of child support and his demand for modification of child custody, found Mr. Dillon in contempt for failure to pay child support through June 1, 2020, in the amount of \$65,000.00, and made the arrears executory, with sentencing deferred to November 17, 2020. The trial court cast Mr. Dillon for attorney fees of \$2,677.00 and court costs of \$82.98, set the matter for review on November 17, 2020, for the court to determine an arrears payment schedule and to sentence Mr. Dillon, and ordered that Mr. Dillon's child support payment remain at \$1,000.00 per month. The judgment was signed on October 7, 2020. Mr. Dillon has appealed that judgment.

On appeal, Mr. Dillon makes the following assignments of error.

1. The District Court erred when it held that Appellant **HOBY BRADFORD DILLON**'s inability to pay . . . \$1,000.00, monthly in child support, constitutes a willful disobedience of a child support order when his employment status, medical condition, [and] having Calum to come live with him full-time after a terrible car accident and the COVID-19 pandemic, prevented him from making periodic, full and regular payments.
2. The District Court erred when it ruled that the Appellee's statement that since she "had a lien on the home, she was paid \$ 37,285.98 from [HOBY'S] proceeds from the sale thereby clearing his past due arrears" in her *Rule for Contempt, Attorney Fees & Costs*, filed on March 3, 2020, was not a Judicial Confession that Hoby Dillon satisfied all arrears owed to Rhonda Dillon.
3. The District Court erred when it admitted Exhibit **RD2**, over Hoby Dillon's objection to the admittance because the arrearage worksheet for child support . . . does not list or include the **\$37,285.98** Mr. Dillon

paid to [Ms.] Dillon, [that] she previously admitted she received in her . . . *Rule for Contempt, Attorney Fees & Costs*, filed on March 3, 2020. [Footnotes omitted]

### **SHOW CAUSE ORDER**

This court issued an *ex proprio motu* show cause order on May 7, 2021, as to why the appeal should not be dismissed as untimely, given that it appears to arise from a judgment addressing child custody and support that is governed by the thirty-day appeal delay found in La. C.C.P. art. 3943. The rule to show cause was referred to this panel. Because Mr. Dillon is seeking review of the judgment only to the extent it held him in contempt and ordered him to pay arrearages, the appeal appears to be governed by the sixty-day devolutive appeal delay and the instant appeal is timely. As such, the appeal is maintained.

### **ASSIGNMENT OF ERROR NO. 1**

In this assignment of error, Mr. Dillon maintains that the trial court erred in finding that he was willfully disobedient of the child support order of \$1,000.00 per month because his employment status, medical condition, the COVID-19 pandemic, together with Calum moving in with him after a serious car accident, all prevented him from making full and regular payments.

A contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority. La. C.C.P. art. 221. A constructive contempt of court is any contempt other than a direct one. La. C.C.P. art. 224. Constructive contempt includes the willful disobedience of any lawful judgment of the court. La. C.C.P. art. 224(2).

To find a person guilty of constructive contempt, it is necessary to find that he or she violated the order of court intentionally, knowingly, and purposely, without justifiable excuse. The trial judge is vested with great discretion in determining

whether a party should be held in contempt for disobeying a court order. The court's decision should be reversed only when the appellate court discerns an abuse of that discretion. **Leger v. Leger**, 2000-0505 (La. App. 1 Cir. 5/11/01), 808 So.2d 632, 635. However, the predicate factual determinations underlying the finding of civil contempt of court are reviewed under the manifest error standard of review. **Schmidt v. Schmidt**, 2018-0202 (La. App. 1 Cir. 1/3/19), 270 So.3d 804, 809.

The trial court noted after the trial that “I think without a doubt, Mr. Dillon hadn’t paid the child support. Without a doubt, whether he wants to say it’s because he doesn’t have the money. Without a doubt . . . he . . . didn’t come back here and do the steps necessary [for a modification of child support]”.

In support of his argument that he should not be held in contempt, Mr. Dillon cites **Beckman v. Devillier**, 52,634 (La. App. 2 Cir. 4/3/19), 316 So.3d 1183. In that case, Ms. Devillier was found in contempt of court by the trial court for failure to pay child support. On appeal, Ms. Devillier maintained there could be no finding of willful disobedience if the court considered her as gainfully employed, having a meager standard of living, and making substantial payments toward child support. The appellate court, agreed, and reversed the finding of contempt. Notably, in that case, Ms. Devillier was complying with the income assignment order, however, the payments were insufficient to cover her obligation. **Beckman**, 316 So.3d at 1193-1194. In this case, Mr. Dillon made zero child support payments from June of 2016 until October of 2018, and zero child support payments from June 2019 until the date of trial, September 14, 2020. During those time periods, he did not make even partial payments to support his two children. Thus, we find that **Beckman** is distinguishable.

Ms. Dillon averred that Mr. Dillon failed to pay child support since June of 2019. Mr. Dillon testified that he had been injured several times, which hindered his



ability to work. Mr. Dillon's federal tax return for 2018 show \$3,752 in wages. His federal tax return for 2019 shows \$15,679 in wages. Mr. Dillon's girlfriend, Diana Roddy, testified that Mr. Dillon had lived at her residence for the previous three or four years and contributed minimally toward the household expenses. The only expenses that Mr. Dillon proved at trial were health insurance premiums for his children that had been taken out of his paycheck. He failed to prove any payments to Ms. Dillon for child support other than those shown by Ms. Dillon in Exhibit RD2.

As noted by the trial court, after Mr. Dillon agreed to \$1,000.00 per month child support payments in the November 7, 2018 stipulated judgment, he failed to return to court to pursue a modification of the child support payments. When Mr. Dillon was asked by Ms. Dillon's counsel what payments he had made since June 2019 pursuant to child support, Mr. Dillon replied "I have not, I've been unable to."

The trial court found:

Regardless of whether or not you paid thirty-seven or forty-eight – forty-eight thousand dollars, whatever the number, in 2019 and [sold] your house for obligations that were incurred from [2016] and prior, that doesn't absolve you from the obligations from – from July [2016] or June of [2016], going forward. There is an obligation of child support.

It never changed, and it's clear that Mr. Dillon just wants to refuse to own up to that obligation.

We find no manifest error in the trial court's factual finding that Mr. Dillon failed to make his monthly child support payments. We find no abuse of discretion by the trial court in determining to hold Mr. Dillon in contempt of court. This assignment of error has no merit.

## **ASSIGNMENT OF ERROR NO. 2**

In this assignment of error, Mr. Dillon maintains that the trial court erred when it ruled that Ms. Dillon's statement that she had a lien on his home and that she was paid \$37,285.98 from Mr. Dillon's proceeds from the sale, thereby clearing his past due arrears in her rule for contempt, attorney fees and costs, was not a judicial

confession that Mr. Dillon had satisfied all arrears owed to Ms. Dillon.

Ms. Dillon's Rule for Contempt, Attorney Fees and Costs in part quotes the November 7, 2018 and the May 11, 2016 judgment, and states:

[Mr. Dillon] paid the \$1,000.00 per month for the six (6) month period. He then paid \$1,000.00 in April and \$500.00 in May. [Mr. Dillon] has failed to pay child support since May 1, 2019. See attached arrearage sheet.

.....

By the May 11, 2016 order, [Mr. Dillon] owed [Ms. Dillon] \$48,785.98. Over the last three years [Mr. Dillon] and/or his parents paid [Ms. Dillon] two payments of [\$5,000.00], one payment of \$1,000.00 and one payment of \$500.00. [Mr. Dillon] still owed [Ms. Dillon] \$37,285.98 as of June 2019.

On or around July 2019, [Mr. Dillon] sold his house in New Orleans. Since [Ms. Dillon] had a lien on the home, she was paid \$37,285.98 from [Mr. Dillon's] proceeds from the sale thereby clearing his past due arrears. At that time, he informed [Ms. Dillon] that he would no longer [be] paying her [child support].

The pleading, when read in its entirety, shows that Ms. Dillon was noting that Mr. Dillon's past due arrears from the May 25, 2016 judgment had been paid to satisfy the lien when his house was sold. Further, the arrearage worksheet was attached to the pleading which clearly shows the payments Ms. Dillon was claiming she had not received.

Thus, we find no error by the trial court in failing to find that Ms. Dillon had made a judicial confession stating that all of Mr. Dillon's past due arrears had been satisfied. This assignment of error has no merit.

### **ASSIGNMENT OF ERROR NO. 3**

In this assignment of error, Mr. Dillon maintains that the trial court erred when it admitted Exhibit RD2 over his objections because the child support arrearage worksheet does not list or include the \$37,285.98 that he paid to Ms. Dillon which she previously admitted in her rule for contempt, attorney fees and costs, filed on March 3, 2020.

The following discussion occurred at trial:

**THE COURT:**

Okay. Uh, alright. So, I'm just trying . . . to understand your objection.

**[MR. DILLON'S ATTORNEY]:**

If Mr. - - if all Mr. - - if in June, if all Mr. Dillon owed was thirty-seven thousand two hundred eighty-five dollars and nin[e]ty-eight cents, and that was paid in July, where does the fifty -

**THE COURT:**

Hold -

**[MR. DILLON'S ATTORNEY]:**

I'm sorry, where does the sixty-five thousand come from? Because we calculated twelve thousand five hundred dollars.

**THE COURT:**

So, --

**[MR. DILLON'S ATTORNEY]:**

Is the arrears.

**THE COURT:**

So, alright, I'll - I'll tell you. It's very, clear. To me, it is. So, I don't know if you have an issue with it, but, uh, I don't have an issue with it because, if I look at the arrearage affidavit, um, and that's what the good thing is about requiring that the arrearage affidavit be attached, it starts out in June of 2016.

**[MR. DILLON'S ATTORNEY]:**

Uh-huh.

**THE COURT:**

And the reason why is, is that the 2016 judgment was as of that snapshot in time, okay. And then, there were payments on that for that old judgment. And that got satisfied three years after the fact.

But between May of [2016] and June of [2019] he still had a continuing obligation that that thirty-seven had nothing to do with. That's very clear.

I - I don't understand what the objection is. You - - the affidavit is, and it appears to me to be correct. You haven't questioned that other

than you said that it's incorrect. The eighteen seventy-five is a continuing obligation from 2016.

And then, it later - - it was modified in 2019 or something -

**[MS. DILLON'S ATTORNEY]:**

[2018].

**THE COURT:**

- But retroactive back to [2018] when [Mr. Dillon's previous attorney] got involved to reduce it down to a thousand. But the eighteen seventy-five is still an obligation, in 2016.

**[MR. DILLON'S ATTORNEY]:**

I - I - I understand that. But I guess, --

**THE COURT:**

The 2019 - - the fact that it happened three years later didn't settle the whole score. It didn't - his obligation of child support didn't stop in 2016.

**[MR. DILLON'S ATTORNEY]:**

Correct - correct.

**THE COURT:**

And the thirty-seven thousand didn't - actually, the forty-eight thousand, --

**[MR. DILLON'S ATTORNEY]:**

Uh-huh.

**THE COURT:**

--or whatever. Thirty-seven plus - that's - yeah, the - the eleven thousand dollars in payments from other places, from his parents, and the other thousand didn't say - well, that gets me slick or clear as of June ['19]. That - that doesn't even make sense.

**[MR. DILLON'S ATTORNEY]:**

Well, that's what her pleading says. I mean - -

**THE COURT:**

No, that's not what her pleading states. Okay.

**[MR. DILLON'S ATTORNEY]:**

Okay.

**THE COURT:**

So, I overrule and I'm admitting it into evidence.

Our review of the record shows that Exhibit RD2 does not include the \$37,285.98 that was paid from the proceeds of the sale of Mr. Dillon's house in July 2019 because that payment satisfied the arrearages from the May 25, 2016 judgment three years earlier. Exhibit RD2 lists the arrearages which accrued after the May 25, 2016 judgment, from May of 2016 through June of 2019. We find no error in the trial court overruling Mr. Dillon's objection to the admission of Exhibit RD2 into evidence. This assignment of error has no merit.

#### **CONCLUSION**

For the foregoing reasons, the October 7, 2020 judgment is affirmed. Costs are assessed against the appellant, Hoby Bradford Dillon.

#### **DECREE**

**APPEAL MAINTAINED; JUDGMENT AFFIRMED.**