STATE OF MICHIGAN

COURT OF APPEALS

DIANE RENEE WIERENGA,

Plaintiff-Appellant,

v

CRAIG DONALD WIERENGA,

Defendant-Appellee.

UNPUBLISHED
September 29, 2000

No. 221344
Ottawa Circuit Court
LC No. 98-030994-DM

Before: McDonald, P.J., and Sawyer and White, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting defendant's motion to modify child support. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The parties' judgment of divorce, entered February 11, 1999, provided for child support from defendant at the rate of $237.00 per week. Shortly before the divorce was entered, defendant changed jobs from being a long-haul truck driver to a local truck driver and reduced his income. He moved for a modification of child support. After a hearing, the court stated that it had the discretion to impute income to a party who voluntarily reduces his income, but found that defendant changed jobs to spend more time with his children, and that defendant's reasons for the job change were legitimate and laudable. The court declined to impute income to defendant.

In *Olson v Olson*, 189 Mich App 620; 473 NW2d 772 (1991), aff'd 439 Mich 986 (1992). this Court determined that a finding of bad faith or willful disregard for the interests of the children was not necessary before income could be imputed to a parent who voluntarily reduced his or her income. The Court agreed with *Rohloff v Rohloff*, 161 Mich App 766; 411 NW2d 484 (1987), that when a party voluntarily reduces his or her income, the trial court does not abuse its discretion by entering a support order based on the unexercised ability to earn. *Rohloff* found that the party's motivation in reducing income was an appropriate factor to consider, but it was not necessary to find bad faith before income could be imputed.

Olson does not mandate the imputation of income where a party has voluntarily reduced income. The decision whether to impute income is left to the discretion of the trial court. *Rohloff*,

supra. This is further supported by the Michigan Child Support Formula Manual (2000 rev), which states:

> The determination as to the appropriateness of imputation in a particular case is a judicial one. In all cases in which the friend of the court investigation shows voluntary reduction of income or where there is a voluntary unexercised ability to earn, the friend of the court shall make two recommendations: one is based on actual income and the other is based on actual plus imputed income. [*Id.*, p 8].

There is no showing that the trial court abused its discretion in failing to impute additional income in this case. Defendant's motive for reducing his income was an appropriate factor for the court to consider. *Rohloff, supra*. Where defendant changed jobs in order to be able to spend more time with his children, and there was no showing that the children would be significantly affected by the reduction in support, the court acted within its discretion in declining to impute income. Although plaintiff asserts that defendant did not spend his additional free time with the children, there was sufficient evidence to support the court's conclusion that defendant's motivation was to spend more time with the children and not to obtain reduced support.

Affirmed.

/s/ Gary R. McDonald
/s/ David H. Sawyer
/s/ Helene N. White