

STATE OF MICHIGAN
COURT OF APPEALS

MARY JO WOLF, f/k/a MARY JO JENSEN,

Plaintiff-Appellee,

v

THOMAS JENSEN,

Defendant-Appellant.

UNPUBLISHED

August 28, 2001

No. 223566

Oakland Circuit Court

LC No. 75-124211-DM

Before: Fitzgerald, P.J., and Gage and C. H. Miel*, JJ.

MEMORANDUM.

This matter is before the Court for consideration as on leave granted from a circuit court order denying defendant's motion to set aside an order of child support arrearage. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's obligation to pay child support stems from a 1976 judgment of divorce. That judgment preserved the arrearage owing under a temporary support order. This case stems from an August 1996 order to show cause for failure to pay child support. When defendant failed to appear for the hearing, the court entered an order setting the arrearage at \$15,108.50 and requiring defendant to pay it at the rate of \$100 per week.

Because the enforcement proceedings were initiated prior to the adoption of MCL 600.5809(4), the limitations period to enforce the child support order is ten years, MCL 600.5809(3), and the limitation period begins to run as each payment becomes due. *Rzadkowski v Pefley*, 237 Mich App 405, 411-412; 603 NW2d 646 (1999); *Ewing v Bolden*, 194 Mich App 95, 99; 486 NW2d 96 (1992). According to the record, defendant made a support payment in September 1988, at which time there was an arrearage dating back to 1975. There being nothing in the record to rebut the indication that the partial payment constituted an admission of the full debt, defendant waived the defense of the statute of limitations and the limitations period began to run anew from the date of that payment. *Yeiter v Knights of St Casimir Aid Soc'y*, 461 Mich 493, 497; 607 NW2d 68 (2000); *Alpena Friend of the Court ex rel Paul v Durecki*, 195 Mich App 635, 638; 491 NW2d 864 (1992). Because the enforcement proceedings were initiated within ten years of that date, they were not time-barred.

* Circuit judge, sitting on the Court of Appeals by assignment.

We find defendant's reliance on *Sonenfeld v Sonenfeld*, 331 Mich 60; 49 NW2d 60 (1951), to be misplaced. That case involved a claim for alimony owing to the wife not an order for child support, which is a separate obligation owed by defendant to his children. *Gallagher v Dep't of Social Services*, 24 Mich App 558, 567-568; 180 NW2d 477 (1970). We also reject defendant's contention that the satisfaction of a Florida order apparently entered under the revised uniform reciprocal enforcement of support act modified or discharged the Michigan judgment creating the child support obligation. *Miskimon v Miskimon*, 173 Mich App 393, 399-400; 433 NW2d 419 (1988).

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Hilda R. Gage
/s/ Charles H. Miel