# IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

## DIVISION II

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| In re the Marriage of:<br><br>CHRISTOPHER GUNDERSEN,<br><br>Appellant,<br><br>and<br><br>HELEN GUNDERSEN,<br><br>Respondent. | No. 41359-1-II<br><br><br><br><br><br>UNPUBLISHED OPINION |

Johanson, J. — Christopher Gundersen appeals from the following superior court orders: Order Requiring Reimbursement to Respondent, Order of Child Support and Order Awarding Attorney Fees and Costs to Respondent. We affirm.[1]

In the 2008 decree dissolving the marriage of Christopher and Helen Gundersen, the superior court entered the following order regarding their community debts:

> **3.4** . . . .
> H. The following are community debts and are first priority to be paid from the proceeds of the sale of [real properties]:
> . . . .
> H.3 I.R.S., income taxes owed for years 2004 to 2007.
> . . . .
> After the sale proceeds are applied to the debts listed in H.1. to H.6., except H.2., any unpaid balances shall be paid one-half by each party.

Clerk's Papers (CP) at 122. The decree established a priority schedule for application of the sale

[1] A commissioner of this court initially considered Christopher's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges. In the interest of clarity, we refer to the parties by their first names. We intend no disrespect.

proceeds to the community debts.[2]

In August 2009, the superior court ordered that it would impute to Christopher an income equal to Helen's income because Christopher was voluntarily underemployed.

In June 2010, the parties agreed to eliminate the priority schedule established in the dissolution decree:

> BY AGREEMENT OF THE PARTIES, IT IS HEREBY FURTHER ORDERED that the priority schedule of Paragraph 3.15 D. of the Decree of Dissolution is no longer applicable. Each party is to deal with the IRS income tax liability for the years 2004 to 2007 on their own terms.

CP at 8.

In August 2010, Helen moved to enforce the decree by requiring Christopher to pay half of the $33,203.87 that she had paid to the Internal Revenue Service as payment for their back income taxes. Christopher refused, asserting that as a result of the June 2010 agreed order, "[w]e agreed that we would each be on our own terms in dealing with the IRS for tax years 2004-2007." CP at 4. The superior court granted Helen's motion, requiring Christopher to reimburse her $16,601.94 for his share of the tax liability.

Helen also moved to adjust the child support to reflect the 2009 court order imputing to Christopher an income equal to hers. The court granted her motion, finding that as previously ordered by the court, Christopher's income must be imputed at the same amount as Helen's income.

Helen requested an award of attorney fees because of the need to bring both motions. The

[2] This court affirmed the dissolution decree, noting in our analysis that the trial court found that Christopher had skill, which allowed him to earn significantly greater income than he was producing. *See* No. 37832-9-II. Thus, we decline to exercise our discretionary review of issues decided in that appeal. RAP 2.5(c).

court awarded her $1,956.25 in attorney fees and costs.

Christopher appeals from the order requiring him to reimburse Helen for his half of their 2004-2007 tax liability. He contends that under the June 2010 agreed order, "each party [was] to deal with the IRS income tax liability for the years 2004 through 2007 on their own terms." Br. of Appellant at 6. But he misinterprets the June 2010 agreed order. That order did not change the community nature of the debts listed in the decree, including the obligations to the IRS. Instead, the agreed order eliminated the priority granted to the IRS debt. The superior court did not err in requiring Christopher to reimburse Helen for her payment of his half of their community IRS obligations.

Second, Christopher appeals from the September 30, 2010 order adjusting the amount of his child support. Christopher argues that the order improperly imputed income to him. But the order imputing income to him "in an amount equal to" Helen's was actually entered on August 31, 2009. He did not appeal from the 2009 order. RAP 5.2(a). During the August 2010 proceedings, Christopher acknowledged the court's previous 2009 order and objected to Helen's motion to adjust child support only on the basis that the court must consider a full 12 months of Helen's income before imputing it to Christopher. Thus, having neither appealed the 2009 order nor raised the imputation issue during the hearing from which he now appeals, Christopher has failed to preserve this issue for our review. RAP 2.5(a).

Finally, Christopher appeals from the order awarding Helen her attorney fees. He argues that because the court erred in granting her motion for reimbursement, the award of attorney fees was improper. But because that motion was appropriate, the award of attorney fees was not error.

Both Christopher and Helen request attorney fees on appeal under RCW 26.09.140. But neither complied with that statute's requirement to present to this court his or her financial situation. Thus, we deny their requests.

We affirm the superior court's post-decree orders.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Johanson, J.

We concur:

Armstrong, J.

Penoyar, C.J.