

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 29, 2004

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 03-3057
STATE OF WISCONSIN**

Cir. Ct. No. 86FA001076

**IN COURT OF APPEALS
DISTRICT II**

PATRICIA A. BARNES AND STATE OF WISCONSIN,

PETITIONERS-RESPONDENTS,

v.

WALKER B. JOHNSON,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Racine County:
FAYE M. FLANCHER, Judge. *Affirmed.*

Before Anderson, P.J., Brown and Snyder, JJ.

¶1 PER CURIAM. Walker B. Johnson appeals from the order of the circuit court that dismissed his motion requesting relief from a judgment or order. He argues that the circuit court erred by denying his motion. Because we conclude that Johnson did not challenge the underlying order within a reasonable period of time, we affirm the order of the circuit court.

¶2 An order for child support was entered against Johnson in Racine county in December 1987. In 2002, he challenged this order, and apparently the underlying basis for paternity. The motion initially was heard by a family court commissioner. The commissioner ruled that paternity was established in Michigan and the Wisconsin court did not have jurisdiction to invalidate that determination. The commissioner also refused to modify the child support award.

¶3 Johnson then appealed to the circuit court and the court held a hearing on the matter. The court discussed with Johnson at length the relief he was seeking. After explaining that the Wisconsin court did not have jurisdiction to consider the underlying paternity determination from Michigan, the court ruled on Johnson's motion to modify the support award. The court determined that since the minor child who was the subject of the award was almost nineteen years old, the court would not disturb the order. The court then dismissed Johnson's motion without prejudice. Johnson appeals.

¶4 Johnson's motion was based on WIS. STAT. § 806.07(1)(d) and (f) (2001-02). Under this statute, a motion for relief from judgment must be made within a reasonable amount of time. Sec. 806.07(2). The reasonable time requirement of § 806.07(2) requires the court to balance the competing factors of the need for finality of judgments and the ability of a court to do substantial justice when the circumstances so warrant. *EPF Corp. v. Pfost*, 210 Wis. 2d 79, 89, 563 N.W.2d 905 (Ct. App. 1997), *overruled on other grounds by Rumage v. Gullberg*, 2000 WI 53, 235 Wis. 2d 279, 611 N.W.2d 458.

¶5 Johnson waited fourteen years to bring the motion for relief from judgment from the underlying child support order. The circuit court found that Johnson was present and represented by counsel at the hearing when the

underlying order was entered. Since Johnson was aware of the order, we conclude that fourteen years is not a reasonable amount of time to wait to bring a motion to modify judgment. Consequently, we affirm the order of the circuit court.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

