

REL: 06/13/2008

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0649), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2007-2008

2070164

John B. Stuart

v.

Brenda B. Stuart

Appeal from Baldwin Circuit Court
(DR-03-344.01)

BRYAN, Judge.

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(C), Ala. R. App. P.; Bush v. Bush, 784 So. 2d 299, 300 (Ala. Civ. App. 2000); Kiefer v. Kiefer, 671 So. 2d 710, 711 (Ala. Civ. App. 1995); and Bridges

2070164

v. Bridges, 607 So. 2d 289, 290 (Ala. Civ. App. 1992).

Thompson, P.J., and Pittman J., concur.

Moore, J., concurs in part and dissents in part, with writing, which Thomas, J., joins.

2070164

MOORE, Judge, concurring in part and dissenting in part.

I concur with the no-opinion affirmance with regard to the denial of John B. Stuart's petition to modify his periodic-alimony obligation. I dissent, however, from the no-opinion affirmance with regard to the trial court's denial of a credit to Stuart for his mistaken overpayment of alimony, because I believe that Stuart proved his entitlement to a credit and that the trial court's denial of that credit is inequitable. See generally DeBlanc v. Mitchell, 368 So. 2d 1138, 1139 (La. Ct. App. 1979), and Brabham v. Brabham, 950 So. 2d 1098, 1103 (Miss. Ct. App. 2007).

Thomas, J., concurs.