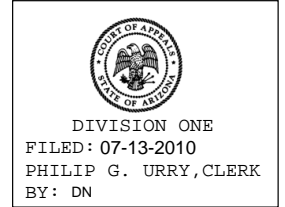


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



In re the Matter of: ) 1 CA-CV 09-0081  
)  
DORIAN L. BOND, ) DEPARTMENT D  
)  
Petitioner/Appellant, ) **MEMORANDUM DECISION**  
)  
v. ) (Not for Publication -  
) Rule 28, Arizona Rules of  
KERRI ANNE HAGEMAN, ) Civil Appellate Procedure)  
)  
Respondent/Appellee. )  
)

---

Appeal from the Superior Court in Maricopa County

Cause No. FC2006-090308

The Honorable Wesley E. Peterson, Judge *Pro Tempore*

**AFFIRMED**

---

Dorian L. Bond Queen Creek  
*In Propria Persona*

Kerri Anne Hageman Chandler  
*In Propria Persona*

---

O R O Z C O, Judge

¶1 Dorian L. Bond (Father) appeals the family court's enforcement of a child support order. For the following reasons, we affirm.

## FACTS AND PROCEDURAL BACKGROUND

¶12 Father and Kerri Anne Hageman (Mother) are the parents of a minor child born in 2006. Initially, the parties agreed to joint legal custody and equal parenting time. Both parties subsequently filed petitions to modify custody, parenting time and child support. At a resolution management conference held on February 20, 2007, the court ordered Mother to pay Father \$20.15 per month for child support. After a trial in August, the court issued a ruling on September 27, 2007, ordering Father to pay Mother \$622.69 per month for child support, and made the obligation retroactive to February 1, 2007.

¶13 Father filed a motion for reconsideration on October 19. Mother subsequently filed a petition for contempt, which was set for trial. At the trial on March 28, 2008, the court found Father in contempt for failing to pay child support. Father filed another motion for reconsideration and a request to set aside the judgment.

¶14 The court ruled Father should not have been found in contempt because his October motion for reconsideration was never ruled on. After ordering Mother to respond to Father's October motion for reconsideration, the court denied Father's two motions for reconsideration and his motion to set aside the judgment.

¶15 Mother filed a petition for enforcement of child support, which the court heard on December 1, 2008. After the hearing, the court granted judgment in favor of Mother for \$13,029.24 plus \$1,085.75 interest for unpaid child support from February 1, 2007 through October 31, 2008, and found Father in contempt. Father timely appealed from that judgment. We have jurisdiction pursuant to Arizona Revised Statutes (A.R.S.) section 12-2101.B (2003).

#### DISCUSSION

##### February 2007 Child Support Order

¶16 Father raises two issues concerning the February 2007 child support order. First, Father argues the court erred in calculating the February 2007 child support award because it credited Father \$125 per month for child care expenses instead of the \$500 per month he requested. Second, Father argues the court erred when it subsequently modified the child support order on September 27, 2007 because there was no request for modification.

¶17 We review an award of child support for an abuse of discretion. *Cummings v. Cummings*, 182 Ariz. 383, 385, 897 P.2d 685, 687 (App. 1994). A court abuses its discretion when the record is devoid of competent evidence to support its decision. *Platt v. Platt*, 17 Ariz. App. 458, 459, 498 P.2d 532, 533 (1972).

¶18 The February 2007 child support order was a temporary order. In her petition to modify parenting time filed prior to the resolution management conference, Mother requested child support. At the outset of the resolution management conference, the court identified child support and parenting time as the two issues for trial and set a trial date. See Ariz. R. Fam. L.P. 47.D (requiring the court to set an evidentiary hearing on disputed issues). After the resolution management conference, the court issued a child support order on its own initiative. However, because there was no stipulation or agreement of the parties, the February 2007 child support order was void. See Ariz. R. Fam. L.P. 76.A.3.c (court may enter temporary orders in accordance with stipulations of the parties); *Villares v. Pineda*, 217 Ariz. 623, 625-26, ¶¶ 15-17, 177 P.3d 1195, 1197-98 (App. 2008) (requiring an agreement of parties before a temporary order is issued at a resolution management conference).

¶19 Father also argues the court erred in calculating the February 2007 child support award because it credited Father \$125 per month for child care expenses instead of \$500 per month. However, the family court subsequently remedied any error. In its September 2007 child support order, the court ordered Father to pay Mother \$622.69 per month in child support. The court credited Father with \$541.66 for child care expenses

and made the child support award retroactive to February 1, 2007. Because Father received the appropriate amount of credit for child care expenses in the court's September 2007 child support order, and the award was made retroactive to February 2007, we find no error.

### **Motion to Continue**

¶10 Next, Father argues the court erred "when it considered and ruled on a motion to continue that contained prejudicial material" without Father receiving a copy of the motion or having the ability to respond to the motion. We review the court's ruling on a motion to continue for an abuse of discretion. *Canon Sch. Dist. No. 50 v. W.E.S. Constr. Co., Inc.*, 177 Ariz. 431, 438, 868 P.2d 1014, 1021 (App. 1993), *vacated on other grounds*, 180 Ariz. 148, 882 P.2d 1274 (1994).

¶11 On May 8, 2007, Mother filed a motion to continue the trial set for May 15 on the grounds Father failed to comply with discovery requests. The court granted Mother's motion to continue, reset trial for August, 2007 and ordered new discovery and disclosure deadlines.

¶12 On July 25, 2007, Mother filed another motion to continue the August trial. Mother alleged Father had not complied with discovery requests and requested additional time to complete discovery on the child support issue. The court denied the motion, and stated it would address Father's lack of

disclosure at trial. Even assuming Father did not receive a copy of Mother's July 25, 2007 motion to continue, he was not prejudiced because the motion was denied. Father was given an opportunity at trial to respond to Mother's assertion that he had not complied with disclosure and discovery requests. Father did not dispute Mother's allegations he failed to comply with Mother's discovery requests or that he refused to provide financial and income information to Mother.

#### **September 2007 Child Support Order**

¶13 Next, Father argues the court erred in admitting, at the August 2007 trial, a child support worksheet Mother prepared because the worksheet was not disclosed in advance to Father. We will not reverse the court's evidentiary rulings absent an abuse of discretion and resulting prejudice. *Fuentes v. Fuentes*, 209 Ariz. 51, 57, ¶ 27, 97 P.3d 876, 882 (App. 2004).

¶14 The court ordered all discovery and disclosure completed by July 2, 2007. Despite repeated requests from Mother for Father's financial information and records, the only information Father disclosed was a profit and loss statement for his business, a check register for his business and a mortgage application. At his deposition in June 2007, Father refused to answer questions concerning his income. Accordingly, at the hearing, the court admitted two exhibits proffered by Mother:

the profit and loss statement Father disclosed and a child support worksheet Mother prepared.

¶15 The two-page profit and loss statement showed Father's business grossed approximately \$288,000 in 2006, or \$24,000 per month. After expenses, the profit and loss statement indicated Father's net income was \$31,347.03 for the year. Father submitted no supporting documentation explaining his listed business expenses. On the worksheet, Mother calculated Husband's income as \$8726 per month or \$104,714.32 per year; her calculation took into account some, but not all of Father's asserted expenses. When the court asked Father for evidence of his current income, Father stated "I haven't provided that yet." The court indicated it would use \$288,000 as Father's income.<sup>1</sup> Nevertheless, when calculating Father's child support obligation, the court used \$104,714.32 per year as Father's income.

¶16 Because Father was given multiple opportunities to present evidence of his income and expenses and he failed to submit such information, the court did not err in admitting the

---

<sup>1</sup> Because the court stated it would use \$288,000 as Father's income, Mother moved to withdraw the child support worksheet. The court responded the document was already offered into evidence and therefore admitted it.

child support worksheet into evidence and relying on it.<sup>2</sup> The profit and loss statement provided additional support for the income the court attributed to Father in calculating child support. See *Hrudka v. Hrudka*, 186 Ariz. 84, 91, 919 P.2d 179, 186 (App. 1995) (we accept the court's factual findings unless they are clearly erroneous or unsupported by credible evidence).

¶17 Further, we reject Father's argument that he was not notified in advance that the August trial would concern child support. At the February 20, 2007 hearing, at which Father was present, the court stated, "We're going to trial on the issue of Mother's petition to modify parenting time and child support filed January 30<sup>th</sup>."

#### **Motion for Reconsideration**

¶18 Next, Father argues the court erred by failing to timely rule on his motion for reconsideration. Father moved for reconsideration of the September 27 child support order on October 19, 2007. The court denied the motion in July 2008. We review the court's ruling on a motion for reconsideration for an abuse of discretion. *Tilley v. Delci*, 220 Ariz. 233, 238, ¶ 16, 204 P.3d 1082, 1087 (App. 2009).

---

<sup>2</sup> We note, moreover, the child support worksheet Mother proposed was different than the one the court eventually issued. For instance, Mother's proposed worksheet did not take into account Father's child care expenses, while the court credited Father \$541.66 per month for those expenses.



¶19 Father does not explain how he was prejudiced by the delay in ruling on his motion. Because the court attempted to rectify its mistake, the failure to timely consider the motion caused no prejudice to Father.

### **Procedural Issues**

¶20 Last, Father argues the court abused its discretion by failing to continue an evidentiary hearing on his petition for custody originally set for January 29, 2008.<sup>3</sup> We disagree.

¶21 On November 15, 2007, the court issued an order to appear regarding a petition to modify child custody, parenting time, and support. However, the court later removed the custody issue from consideration upon discovering that Father's petition to modify custody was not in the record.

¶22 When Father complained, the court informed him he could file any documents he felt were appropriate.<sup>4</sup> Because the

---

<sup>3</sup> Father also argues the court erred in failing to continue the evidentiary hearing on his petition to modify child support. We disagree. The record indicates that on October 10, 2007, Father filed a petition to modify child support and the court set an evidentiary hearing for December 7. The parties subsequently stipulated to dismiss the hearing based on Father's desire to withdraw his petition. See *Pulliam v. Pulliam*, 139 Ariz. 343, 346, 678 P.2d 528, 531 (App. 1984) ("A party to an action cannot stipulate to one thing and then later change h[is] mind and withdraw h[is] consent."). Accordingly, the record supports the court's decision vacating the hearing to modify child support.

<sup>4</sup> Father subsequently filed a petition to modify custody on May 7, 2008. The court dismissed the petition because Father did not work with the parenting coordinator as required under

record does not contain Father's petition for modification, the court did not err.

**Attorney Fees**

¶23 Father requests attorney fees on appeal. As Father was self-represented in this appeal, we deny his request for fees. As the prevailing party, we award Mother her taxable costs on appeal upon her timely compliance with Arizona Rule of Civil Appellate Procedure 21(c). See A.R.S. § 12-341 (2003) (successful party in a civil action shall recover costs).

**CONCLUSION**

¶24 For the foregoing reasons, we affirm the family court's order.

/S/

---

PATRICIA A. OROZCO, Presiding Judge

CONCURRING:

/S/

---

DIANE M. JOHNSEN, Judge

/S/

---

JON W. THOMPSON, Judge

---

the court's orders. Father does not raise this dismissal as an issue on appeal.