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ARKANSAS COURT OF APPEALS

DIVISION III
No. CA09-1270

RICHARD ADAMS APPELLANT V. DIANE ADAMS APPELLEE	**Opinion Delivered** MAY 19, 2010 APPEAL FROM THE WASHINGTON COUNTY CIRCUIT COURT [NO. DR-2008-1143-5] HONORABLE JOHNNY R. LINEBERGER, JUDGE REVERSED AND REMANDED

KAREN R. BAKER, Judge

Appellant Richard Adams appeals the decision of the circuit court of Washington County denying appellant's motion to review and reduce child support. On appeal, appellant argues that the trial court erred in refusing to hear evidence that his child-support obligations should be reduced due to a material change in circumstances affecting his income and that the trial court erred in summarily dismissing his petition solely because he voluntarily resigned his position as a university English professor to attend law school. In reviewing the record, we agree that the trial court erred in not affording appellant the opportunity to present his case regarding the circumstances surrounding his decision to voluntarily relinquish his job and return to school. We reverse and remand.

The parties to this action were divorced on November 14, 2008. The divorce decree

awarded primary custody of the parties' minor child with appellee and ordered appellant to pay appellee $512.00 per month in child support. On June 1, 2009, appellant filed a motion to review and reduce child support, alleging a material change in circumstances in his income based on his voluntary resignation from his position as an assistant professor of English at the University of Arkansas at Fayetteville, in order to attend law school at Case Western Reserve University in Ohio in August 2009. At the hearing on appellant's motion, appellant called one witness, Lindy Churchill, who was the custodian of the business records for the payroll department at the University of Arkansas. Ms. Churchill verified that appellant was not terminated from his employment with the university, but left because of personal reasons.

Upon ascertaining that appellant left his job voluntarily, the trial judge excused the witness and denied appellant's motion without allowing appellant to present any further testimony or evidence. The trial judge concluded the hearing by saying that he knew of no basis in the law that would allow the court to excuse a parent's child-support obligations because a parent quit his or her job "to do something different." The court entered its order on September 3, 2009, denying appellant's motion "for the reasons cited from the bench[.]"

We review child-support awards *de novo* on the record. *Davie v. Office of Child Support Enforcement*, 349 Ark. 187, 191, 76 S.W.3d 873, 875 (2002) (citing *Nielsen v. Berger-Nielsen*, 347 Ark. 996, 69 S.W.3d 414 (2002)). In *de novo* review cases, we will not reverse a finding of fact by the trial judge unless it is clearly erroneous; however, a trial court's conclusions of law are not afforded the same deference. *Id.* A trial court does not have a better opportunity

to apply the law than does an appellate court. *City of Lowell v. M & N Mobile Home Park, Inc.*, 323 Ark. 332, 339–40, 916 S.W.2d 95, 99 (1996).

Appellant argues that the trial court erred in dismissing his petition solely because he voluntarily resigned his position as a university English professor in order to attend law school. However, we have no evidence or testimony to consider on this point whatsoever because the trial court only permitted appellant to call one witness. The trial court quickly found that appellant could not avoid his child-support obligations by terminating his employment to seek further education, stating as follows: "That's not the law in this state. Self-inflicted wounds never allow somebody to avoid their child support obligations. . . . But whatever the situation is, it's the law of the land. . . . I hope he does improve himself substantially, but I don't know of any basis for this."

Although diminution of earnings is a common ground for modification, we have held that a petition for modification will be denied if the change in financial condition is due to the fault, voluntary wastage, or dissipation of one's talents or assets. *Reid v. Reid*, 57 Ark. App. 289, 293, 944 S.W.2d 559, 562 (1997). This is not to say that circumstances do not exist where a reduction in income is appropriate; the trial court must judge the facts and circumstances surrounding each case individually because situations do exist where income reductions are reasonable and justifiable. *Grady v. Grady*, 295 Ark. 94, 98, 747 S.W.2d 77, 79 (1988); *see Grable v. Grable*, 307 Ark. 410, 821 S.W.2d 16 (1991) (affirming a chancellor's reduction of child-support obligations when the supporting parent voluntarily resigned his

position because his previous employer was facing bankruptcy).[1]

Where the trial court erroneously applies the law and an appellant suffers prejudice, the ruling should be reversed. *Davie*, 349 Ark. at 191, 76 S.W.3d at 875. Our review of the hearing record reveals that the trial court erred in ruling that no circumstances could exist under Arkansas law to find reasonable cause justifying appellant's voluntarily quitting his job. Accordingly, we reverse and remand.

Appellant also contends that the trial court erred in refusing to hear evidence that his child-support obligations should be reduced due to a material change in circumstances affecting his income. Because we reverse on the first point on appeal, we need not address the other issues raised by appellant.

Reversed and remanded.

PITTMAN and HART, JJ., agree.

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[1]*Cf.*, *Arnold v. Arnold*, 117 P.3d 89 (Utah Ct. App. 2008) (noting that an actual decrease in the supporting parent's income due to his voluntary return to school would not typically result in a reduction in child-support obligations), and *State v. Bauer*, 769 N.W.2d 462 (N.D. 2009) (determining that it was in the child's best interest for her supporting parent to stay in school to earn a degree that would result in a higher earning capacity).