

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

CECILIA STAPP,
Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED.

v.

CASE NO.: 1D03-0159

ALBERT J. MOTTA, JR.,
Appellee.

_____ /

Opinion filed December 29, 2003.

An appeal from the Circuit Court for Duval County.
E. McRae Mathis, Judge.

John S. Mills and Rebecca Bowen Creed of Mills & Carlin, P.A., Jacksonville, for
Appellant.

Albert Datz and Lawrence C. Datz of Datz & Datz, P.A., Jacksonville, for
Appellee.

PER CURIAM.

Cecilia Stapp appeals an order granting modification of the alimony paid to her
by her former husband, Albert J. Motta, Jr., appellee, arguing that the trial court

abused its discretion in granting modification and in refusing to award attorney's fees to her. Given the substantial decrease in the income of Mr. Motta, which the trial court found was permanent, we affirm the order of modification. Mastromonico v. Mastromonico, 685 So. 2d 74, 76 (Fla. 1st DCA 1996). Notwithstanding the former husband's decrease in income, the record reflects that there is a disparity in the parties' respective income and ability to pay. Given this disparity, the trial court abused its discretion in denying the former wife's petition for an award of attorney's fees. See Rosen v. Rosen, 696 So. 2d 697 (Fla. 1997), Segovis v. Anderson, 686 So. 2d 757 (Fla. 1st DCA 1997); Nowell v. Nowell, 634 So. 2d 235 (Fla. 1st DCA 1994).

AFFIRMED in part, REVERSED in part, and REMANDED.

KAHN, WEBSTER AND VAN NORTWICK, JJ., CONCUR.