

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

RICHARD WAYNE JOSEPH,

Appellant,

v.

MELISSA WHITLEY JOSEPH,

Appellee.

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

CASE NO. 1D03-1510

Opinion filed August 19, 2004.

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

Samuel S. Jacobson, of Bledsoe, Jacobson, Schmidt, Roberson & Wright,
Jacksonville, for Appellant.

Michael J. Korn, of Korn & Zehmer, P.A., Jacksonville, for Appellee.

PER CURIAM.

The trial judge erred in dismissing the appellant's petition for modification of alimony. The trial judge had jurisdiction to consider the petition pursuant to Florida Rule of Appellant Procedure 9.600(c). Atlas v. Atlas, 708 So. 2d 296 (Fla. 4th

DCA 1998); Merian v. Merhige, 690 So. 2d 678 (Fla. 3d DCA 1997).¹ See also Davies v. Davies, 833 So. 2d 167 (Fla. 1st DCA 2002) (Browning, J., concurring).

REVERSED and REMANDED for further proceedings.

BARFIELD and VAN NORTWICK, JJ., concur; and WOLF, C.J., concurs in result.

¹Appellee's reliance on Campbell v. Campbell, 436 So. 2d 347 (Fla. 5th DCA 1983), is misplaced. Although the majority in Campbell set aside the order of modification for lack of jurisdiction, it was also noted that "once jurisdiction is revested in the trial court, it may enter an order on the petition for modification retroactive to the date on which it was filed, if it is of the continued opinion that changed circumstances warrant that relief." 436 So. 2d at 377. The motion in Campbell was not dismissed.