

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

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

RICHARD WAYNE JOSEPH,

Appellant,

v.

CASE NO. 1D04-1746

MELISSA WHITLEY JOSEPH,

Appellee.

Opinion filed August 19, 2005.

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

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

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

BROWNING, J.

The former husband, Richard W. Joseph, appeals the trial court's final order of
dismissal of his "Amendment to Additional Supplemental Petition to Modify Alimony

Provisions of the Amended Final Judgment and Orders Related Thereto.” In Case No. 1D03-1510, the former husband appealed the dismissal of his previous petition to modify alimony. Concluding that the trial court was not jurisdictionally barred from considering the petition to modify under Florida Rule of Appellate Procedure 9.600(c) and, thus, had erred in dismissing it, we reversed and remanded for further proceedings. See Joseph v. Joseph, 881 So. 2d 66 (Fla. 1st DCA 2004). The parties rightfully concede on appeal that Case No. 1D03-1510 controls the instant proceedings. We had not issued our decision, id., when the trial court issued the dismissal order now challenged by the former husband. Because the trial court had jurisdiction to consider the amended supplemental petition, we REVERSE the dismissal order and REMAND for further proceedings.

KAHN, C.J.; and THOMAS, J., CONCUR.