

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

DAVID M. VUCHINICH,

Appellant,

v.

TRACY L. VUCHINICH,

Appellee.

Nos. 2D20-3719, 2D21-2643
CONSOLIDATED

May 26, 2023

Appeals from the Circuit Court for Sarasota County; Kimberly Carlton Bonner, Judge.

Elizabeth S. Wheeler of Berg & Wheeler, P.A., Brandon, for Appellant.

Elisabeth Whitmire of Syprett Meshad, P.A., Sarasota, for Appellee.

NORTHCUTT, Judge.

In consolidated appeals, David Vuchinich challenges the denial of his 2020 petition to modify the alimony he pays to his former wife, Tracy Vuchinich, and a separate order on the parties' attorney's fee claims. We affirm the attorney's fee order without further discussion. However, the trial court ruled on Vuchinich's modification petition without first resolving the parties' dispute about his income at the time his alimony obligation was last established. Because this determination was

necessary to the resolution of the modification issue, we reverse that order for further consideration.

The parties' 2016 divorce judgment ordered Vuchinich to pay durational alimony. Two years later, in 2018, Vuchinich successfully sought a modification of the alimony award based on a change in his income. Around the time of the 2018 modification, Vuchinich's income was fluctuating. Some evidence in the record suggested that his annual earnings were \$250,000 at that time, while other evidence put them at \$187,500.

In 2020, Vuchinich lost his job and obtained another at a lower base salary. He then petitioned for another alimony modification based on the reduction of his salary and for an abatement of his alimony obligation entirely for the period of his unemployment. He asserted that he had suffered a substantial change in circumstances in that his income had plummeted from \$250,000 in 2018 to \$130,000 in 2020. *See Pimm v. Pimm*, 601 So. 2d 534, 536 (Fla. 1992) (holding that a change in circumstances will only support a modification of alimony when the change is substantial). But his former wife contended that his income in 2018 was only \$187,500. She argued that the 2020 reduction in his income was not substantial enough to warrant an alimony modification.

When ruling on the petition, the trial court failed to resolve that important factual dispute. It found that Vuchinich "currently makes less than before as a base salary, but it is unclear when or in what amount his bonuses will be paid." The court also found that Vuchinich's income "fluctuate[d] during the course of the marriage (with a peak of \$1 million) and there was no persuasive or credible evidence that the current reduction in base salary is anything less than typical, as [Vuchinich] has

changed jobs frequently over the years with little effect on his lifestyle." For these reasons, the court denied Vuchinich's petition.

We review the trial court's factual determinations for an abuse of discretion and its legal conclusions de novo. *Jarrard v. Jarrard*, 157 So. 3d 332, 337–38 (Fla. 2d DCA 2015). To adjudicate Vuchinich's petition to modify alimony under section 61.14, Florida Statutes (2020), the court was required to "decide that (1) there has been a substantial change in circumstances, (2) the change was not contemplated at the time of the final judgment of dissolution, and (3) the change is sufficient, material, permanent, and involuntary." *Jarrard*, 157 So. 3d at 336 (footnote omitted). When deciding alimony issues, courts must make factual findings to support their rulings. See § 61.08(1) ("In all dissolution actions, the court shall include findings of fact . . . supporting an award or denial of alimony."); see also *Williams v. Williams*, 923 So. 2d 606, 608 (Fla. 2d DCA 2006) (reversing and remanding the trial court's order regarding both alimony and attorney's fees based on the absence of required factual findings); *Pavese v. Pavese*, 932 So. 2d 1269, 1270 (Fla. 2d DCA 2006) ("When awarding or denying alimony, a court is required to make factual findings pertinent to the marital standard of living, the duration of the marriage, the age and health of the parties, and the economic circumstances of the parties."). "The failure to make such findings is reversible error." *Pavese*, 932 So. 2d at 1270.

Here, assessing the amount of Vuchinich's income at the time of the 2018 alimony order was necessary to determining whether there was a substantial change in circumstances that was "sufficient, material,

permanent, and involuntary"¹ to support his 2020 modification request. *See Jarrard*, 157 So. 3d at 336. Without these findings, we are unable to conclude that there is support for denying Vuchinich's petition.

We reverse the order on the modification petition and remand for the trial court to make the findings necessary to support it or, if need be, to reconsider the modification issue. We note that the court also failed to rule on Vuchinich's request for an abatement of his alimony obligation for the period of his unemployment. On remand, the court shall consider that question as well.

Affirmed in part, reversed in part, and remanded.

MORRIS, C.J., and SMITH, J., Concur.

Opinion subject to revision prior to official publication.

¹ We note that "a severe reduction in income for 'nearly a year, with no end in sight,'" meets the permanency requirement for modification. *See Jarrard v. Jarrard*, 157 So. 3d 332, 339 (Fla. 2d DCA 2015) (quoting *Perez v. Perez*, 973 So. 2d 1227, 1232 (Fla. 4th DCA 2008)). On remand, the trial court should not weigh Vuchinich's income fluctuations during the marriage against a finding of permanency.