

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

MARVIN D. YEATES, JR., )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 JANET L. YEATES n/k/a )  
 JANET L. KNAPP, )  
 )  
 Appellee. )  
\_\_\_\_\_ )

Case No. 2D04-5356

Opinion filed December 7, 2005.

Appeal from the Circuit Court for Pinellas  
County; J. Thomas McGrady, Judge.

Carl T. Boake and Kathy C. George of Law  
Offices of Carl T. Boake, P.A., St.  
Petersburg, for Appellant.

Sheila Skellie of Law Office of David J.  
Kurland, Largo, for Appellee.

VILLANTI, Judge.

Marvin D. Yeates, Jr., appeals an order denying his supplemental petition to modify the parties' final judgment of dissolution of marriage to change the primary residence of their minor child from his former wife's home to his own. Applying the

"detriment" standard as articulated in Gibbs v. Gibbs, 686 So. 2d 639 (Fla. 2d DCA 1996), the circuit court entered a thorough and thoughtful final judgment denying the requested relief.

Thereafter, the Florida Supreme Court decided Wade v. Hirschman, 903 So. 2d 928, 934 (Fla. 2005), holding that "[r]equiring proof of detriment is inconsistent with this Court's prior holdings and is not an element of the substantial change test necessary to modify a child custody award." The record before us does not clearly reflect that the circuit court would have denied the modification petition if it had not applied the detriment standard. For this reason, we reverse and remand to the circuit court to reconsider the petition in light of Wade. If the circuit court deems it necessary or advisable, it may take additional evidence.

Reversed and remanded.

NORTHCUTT and CANADY, JJ., Concur.