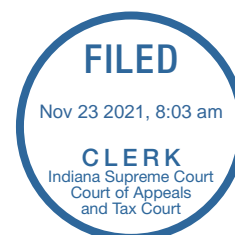


MEMORANDUM DECISION

Pursuant to [Ind. Appellate Rule 65\(D\)](#), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

John Edward Taylor, II,
Appellant-Respondent,

v.

Candida Louise Taylor,
Appellee-Petitioner.

November 23, 2021

Court of Appeals Case No.
21A-DC-528

Appeal from the Clark Circuit
Court

The Honorable Andrew Adams,
Judge

The Honorable Daniel E. Moore,
Judge

Trial Court Cause No.
10C01-0501-DR-3

Mathias, Judge.

- [1] John Edward Taylor, II (“Father”), appeals the trial court’s denial of his petition to terminate child support. He raises a single issue for our review:

whether the trial court abused its discretion when it denied his request to terminate child support.

[2] We affirm in part, reverse in part, and remand with instructions.

Facts and Procedural History

[3] Father and Candida Louise Taylor (“Mother”) dissolved their marriage in 2006, when their youngest son, J.T., was four years old. In June 2020, as J.T. prepared to start his first semester at Hanover College, Mother filed a petition for post-secondary educational expenses. On August 13, one month before J.T.’s nineteenth birthday, Father filed a petition to terminate his child support obligation. He had been paying \$154.50 per week in child support.

[4] On August 31, the trial court held a hearing on Mother’s request for support for J.T.’s post-secondary educational needs. By way of an entry on the CCS, the court granted Mother’s petition and ordered Father to pay one-third of J.T.’s college expenses. Appellee’s App. p. 4.

[5] On September 9, Father filed another petition to terminate his child support obligation. When J.T. turned nineteen on September 12, the court had not yet addressed either of Father’s two termination petitions. Accordingly, Father requested a hearing.

[6] The trial court held a hearing on December 15 and denied Father’s termination petitions the next day. Instead, the court reduced Father’s support obligation “in accordance with I.C. [31]-16-6-6 and Indiana Child Support guidelines to

\$108.44.”¹ Appellant’s App. p. 33. The court’s order also determined that Father’s child support was \$4,144.30 in arrears. *Id.*; *see also* Ex. Vol. p. 4.² Father then filed a motion to correct error, which, after a hearing, the trial court denied.

[7] Father now appeals.

Discussion and Decision

[8] At issue in this appeal is [Indiana Code section 31-16-6-6\(a\)](#), which “governs the termination of child support and emancipation of a child.” *Turner v. Turner*, 983 N.E.2d 643, 646 (Ind. Ct. App. 2013) (quoting *Sexton v. Sexton*, 970 N.E.2d 707, 710 (Ind. Ct. App. 2002)). According to that section of the Indiana Code, the duty to pay child support, “*which does not include support for educational needs,*” ceases at age nineteen unless the child is deemed emancipated before the age of nineteen or the child is found to be incapacitated. If the child is found to be incapacitated, the duty to pay child support continues, [Indiana Code Section 31-16-6-6\(a\)](#) (Emphasis added.)

¹ The court’s order references “I.C. 21-16-6-6,” which does not exist in the Indiana Code. We assume that this is a scrivener’s error and that the court meant to reference [Indiana Code section 31-16-6-6](#).

² The arrearage appears to be based on child support amounts purportedly owed between August 26, 2020, and December 8, 2020. We note for emphasis that J.T. turned nineteen years old on September 12, 2020. We also note Mother’s contention that Father “stopped making child support payments as of October 15, 2020, per his testimony.” Appellee’s Br. at 8.

[9] Here, the trial court ordered Father to continue paying child support, and it also determined that Father will be responsible for paying a portion of J.T.’s post-secondary educational expenses. On appeal, Father does not challenge the trial court’s order as to post-secondary educational expenses. He claims solely that the trial court erred in ordering him to continue paying child support after J.T.’s nineteenth birthday. Thus, the sole issue before us is whether the trial court erred when it declined to terminate Father’s child support obligation. We hold that it did.

[10] Determinations of child support obligations are within the trial court’s discretion. *Turner*, 983 N.E.2d at 646 (citing *Cubel v. Cubel*, 876 N.E.2d 1117, 1119 (Ind. 2007)). However, “an abuse of discretion occurs when the decision misinterprets the law or clearly contravenes the logic and effect of the facts and circumstances before it.” *Smith v. Franklin Twp. Sch. Corp.*, 151 N.E.3d 271, 273 (Ind. 2020). In the case before us, the trial court misinterpreted the law.

[11] Mother suggests that [Indiana Code subsection 31-16-6-6\(a\)\(3\)](#) permitted the trial court to modify Father’s child support obligation. [Subsection \(a\)\(3\)](#) provides:

The child

(A) is at least eighteen (18) years of age;

(B) has *not* attended a secondary school or postsecondary educational institution for the prior four (4) months and is *not* enrolled in a secondary school or postsecondary educational institution; and

(C) *is or is capable of* supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

[Ind. Code § 31-16-6-6\(a\)\(3\)](#) (emphases added).

- [12] Mother asserts in her brief that [subsection \(a\)\(3\)](#) permitted the trial court to modify Father's child support obligation because J.T.: (1) "IS at least eighteen (18) years of age"; (2) IS attending a post-secondary educational institution"; and (3) "is NOT capable of supporting himself through employment due to attending school full time." Appellee's Br. at 9–10. Mother misapprehends the statute.
- [13] Simply said, Mother's argument to continue child support, and the trial court's order reducing rather than terminating child support, ignore the first sentence of [Indiana Code section 31-16-6-6\(a\)](#). [Subsection \(a\)\(3\)](#) is applicable only for determining whether a child should be deemed emancipated or partially emancipated prior to turning age nineteen. Under [Indiana Code section 31-16-6-6\(a\)](#), Father's child support (and not his duty to support his J.T.'s secondary education expenses) ended on the child's nineteenth birthday, September 12, 2020. Accordingly, we do not disturb the portion of the trial court's order requiring Father to support J.T.'s educational needs.

Conclusion

- [14] For all of these reasons, we affirm the trial court's determination as to post-secondary educational expenses. However, we reverse the court's denial of Father's petition to terminate child support and remand with instructions for the trial court to enter an order terminating Father's child support effective September 12, 2020, and recalculating any arrearage.
- [15] Affirmed in part, reversed in part, and remanded with instructions.

Tavitas, J., and Weissmann, J., concur.