MEMORANDUM DECISION

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IN THE

Court of Appeals of Indiana

Trent R. Anderson,
Appellant-Respondent

v.

Jennifer Anderson,
Appellee-Petitioner

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Indiana Supreme Court
Court of Appeals
and Tax Court

February 20, 2024

Court of Appeals Case No.
23A-DR-2324

Appeal from the Monroe Circuit Court

The Honorable Catherine B. Stafford, Judge

Trial Court Cause No.
53C04-0804-DR-235

Memorandum Decision by Judge Bradford
Chief Judge Altice and Judge Felix concur.

Bradford, Judge.

Case Summary

[1] Trent R. Anderson ("Father") and Jennifer Anderson ("Mother") were divorced in 2011 and are the parents of two children. Pursuant to the terms of their divorce decree, Father and Mother (collectively, "Parents") were to split the tax exemptions for the children. Mother bore the majority of the expenses for the children and claimed the tax exemptions for both children for 2019 and 2020. Father has since requested a credit toward his child-support arrearage and future obligation for the amount of the tax credits that he did not receive in 2019 and 2020. The trial court denied Father's request, determining that Father had failed to prove the amount of credit to which he was entitled. We affirm.

Facts and Procedural History

[2] Parents were married on October 29, 2004, and their divorce was finalized on July 12, 2011. Two minor children, R.A. and A.A., were born to Parents during the course of their marriage. With regard to tax exemptions for the children, the parties' divorce decree stated the following:

> Father is entitled to declare [R.A.] as a tax exemption for federal and state income tax purposes each year, and Mother is entitled to declare [A.A.] as a tax exemption for federal and state income tax purposes each year, during the time that this support order is in effect, for each year in which Mother is current, as of December 31, in all support and educational expense obligations hereunder. When there is only one unemancipated child remaining the parents shall alternate the tax exemption with Father claiming in odd-numbered years and Mother claiming in

> even-numbered years. Each parent shall execute and deliver any forms required by the taxing authorities to effectuate this provision including IRS form 8332, Release of Claim for Exemption of Child of Divorced or Separate Parents. If either parent fails or refuses to execute and deliver the required forms, and there is no valid reason for the failure to execute said form, if the other party incurs additional taxes, penalties, or attorney's fees, then and in that event, the party not in compliance shall be obligated to reimburse the other party for the same.

Appellant's App. Vol. II p. 42.

[3] Although Parents initially "share[d] joint legal custody of the children … with Father having primary physical custody of both children," Mother was awarded sole legal and physical custody of the children on March 7, 2019. Appellant's App. Vol. II p. 38. After Father became ill and unable to work, the trial court ordered that he should pay no child support "effective beginning Friday, 04/26/2019." Appellant's App. Vol. II p. 57. Effective February 19, 2021, the trial court ordered Father to pay child support in "the amount of $50.00 per week." Appellant's App. Vol. II p. 58.

[4] On October 13, 2021, Father filed a "request for court action[,]" asking "the court to grant a hearing in regards to the tax exemption portion of the divorce decree[,]" alleging that Mother had "claimed both children the previous two years where in the decree it states that the parties shall each claim one child[.]" Appellant's App. Vol. II p. 61. On April 6, 2022, Father and the State of Indiana ("the State") agreed that as of March 31, 2022, Father was $1640.00 in arrears on his child-support obligation. On February 10, 2023, the State moved

for a rule to show cause, in which it asserted that Father's child-support arrearage had increased to $2182.00 and requested that the trial court require Father to show cause for why he should not be found in contempt for his failure to pay child support.

[5] On June 6, 2023, Father petitioned to modify his parenting time and for a rule to show cause, claiming that Mother was in violation of Parents' dissolution decree because she had claimed both children as dependents on her taxes for the preceding four years. On June 28, 2023, the trial court found

> that as Father had no child support in 2019 and 2020 and thus was current for those years, he should have been able to claim one child during those years. The Court cannot make a determination of the amount Father should be credited as Father did not bring sufficient evidence. The Court directs Father to bring copies of his tax returns for 2019 and 2020 as they were filed, and as they would have been filed if he had claimed one child, to the sanctions hearing on July 19, to be considered by Commissioner Raper if Commissioner Raper has sufficient time. If he does not have sufficient time on the docket to consider what amount to credit, the parties shall request a further hearing and this Court will set the matter.

Appellant's App. Vol. II p. 77.

[6] Father's accountant drafted amended filings, which Father submitted to the trial court. Father could not answer any of the trial court's questions regarding the amendments that had been made, indicating that he had not filled out the tax forms and that his accountant had done that for him. Father did not call the

accountant as a witness at the hearing or present any other evidence that would help to explain the amendments to his tax forms.

[7] On August 30, 2023, the trial court issued an order, in which it found in relation to the tax credits as follows:

> 3. Father calculates the value as follows:
>
> | Tax Year | Father's Tax Refund if he filed with one dependent and no EIC | Father's Actual Tax Refund | Difference |
> |---|---|---|---|
> | 2019 | $ 4,494.00 | $ 388.00 | $ 4,106.00 |
> | 2020 | $ 3,500.00 | $ 179.00 | $ 3,321.00 |
> | 2021 | | | |
> | Total | | | $ 7,427.00 |
>
> 4. The Court reviewed Father's amended tax returns, submitted by his Counsel on July 12, 2023. Father did not bring his accountant as a witness and Father was not able to explain his amended taxes, in particular, what some of the credits and liabilities were, such as:
>
> - Amended 2020 1040-X
> - Line 7
> - Line 15
> - Amended 2019 1040-X
> - Line 15…
>
> 6. The Court has attempted to reconcile Father's tax returns, but without explanations of the above questions, the Court cannot determine what amounts Father should have been credited.

Appellant's App. Vol. II pp. 138–39.

Discussion and Decision

[8] At the outset, we observe that Mother has not filed an appellee's brief. "When the appellee has not filed a brief, we apply a less stringent review, and the appellant need only demonstrate prima facie reversible error to justify a reversal." *Wells Fargo Bank, N.A. v. Hallie*, 142 N.E.3d 1033, 1037 (Ind. Ct. App. 2020). "In this context, prima facie error is error at first sight, on first appearance, or on the face of it." *Id.*

[9] Father contends that the trial court's "finding that it cannot determine what amounts Father should have been credited is clearly erroneous." Appellant's Br. p. 8. In reviewing a trial court's factual findings and judgment thereon, "we will reverse only if they are clearly erroneous." *IncreMedical, LLC v. Kennedy*, 212 N.E.3d 220, 224 (Ind. Ct. App. 2023) (internal quotation omitted), *trans. denied*.

> A judgment is clearly erroneous when unsupported by the findings of fact and conclusions thereon. Findings of fact are clearly erroneous when the record lacks any facts or reasonable inferences to support them. In determining whether the findings and judgment are clearly erroneous, we will neither reweigh the evidence nor judge witness credibility, but we will consider only the evidence and reasonable inferences therefrom which support the judgment. A judgment is contrary to law if it is contrary to the trial court's special findings.

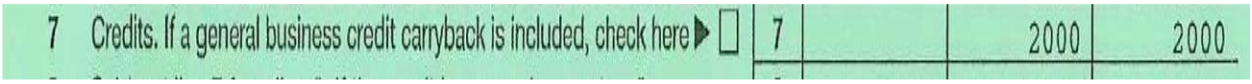
DeHaan v. DeHaan, 572 N.E.2d 1315, 1320 (Ind. Ct. App. 1991) (internal citations omitted), *trans. denied*.

[10] Father argues that the trial court's judgment is clearly erroneous because his amended tax forms sufficiently established the difference between his filing without the exemption and filing with the exemption. In arguing that the trial court erred in finding that it could not determine what amounts Father should have been credited, Father asserts that his "amended tax return[s] as submitted to the court by his attorney needed no further explanation" and "were self-explanatory." Appellant's Br. p. 10. Father essentially claims that the trial court should have assumed that the amended returns were accurate because they had been prepared by a professional tax preparer. We disagree.

[11] Line 15 of Father's amended 2019 1040-X provided as follows:


15 Refundable credits from: ☒ Schedule 8812 Form(s) ☐ 2439 ☐ 4136
☐ 8863 ☐ 8885 ☐ 8962 or ☐ other (specify): .....
15 1400 1400

Appellant's App. Vol. II p. 108. Lines 7 and 15 of Father's amended 2020 1040-X provided as follows:


7 Credits. If a general business credit carryback is included, check here ▶ ☐ 7 2000 2000


15 Refundable credits from: ☐ Schedule 8812 Form(s) ☐ 2439 ☐ 4136
☐ 8863 ☐ 8885 ☐ 8962 or ☒ other (specify): RRC
15 1500 1500

Appellant's App. Vol. II p. 128.

[12] As is demonstrated above, the amended tax forms are not consistent. Apart from listing differing amounts of alleged credits, Line 15 of the 2019 amended tax form indicates that the refundable credits were to come from "Schedule

8812" while Line 15 of the 2020 amended tax form indicates that the refundable credits were to come from "other" with a "RRC" specification. Appellant's App. Vol. II pp. 108, 128. The 2020 amended tax form also includes an additional $2000.00 credit on Line 7 that was not included on the 2019 amended tax form. Father had the opportunity to present additional evidence in support of his claim that he was entitled to additional credit against his child-support obligation, but did not do so. Given the inconsistencies in the tax forms coupled with the lack of additional evidence explaining said inconsistencies, we cannot say that the trial court erred in finding that it could not determine "what amounts Father should have been credited" without further explanation. Appellant's App. Vol. II p. 139.

[13] Father alternatively contends that "[e]ven if the [trial court] could not determine what amounts Father should be credited, the [trial court's] failure to enforce its child support order through a finding of contempt or a requirement that [Mother] sign a[n] IRS form 8832 is clearly erroneous." Appellant's Br. p. 11. With regards to 2019 and 2020, the trial court found that "the children were not often in Father's care during those years as Father was fighting a serious illness and that thus Mother bore the majority of the children's expenses in those years." Appellant's App. Vol. II p. 139. The trial court further found, however, that "[t]he Court understands that Father is filing amended returns for 2021 and 2022[.]" Appellant's App. Vol. II p. 139. This finding suggests that the parties had resolved the issue and were in compliance with the terms of their divorce decree rendering a contempt finding or court order instructing

Mother to comply with the parties' divorce decree unnecessary. The trial court was in the best position to weigh the evidence and judge witness credibility regarding the parties' actions in 2019 and 2020, and we will not reweigh the trial court's determination. *See DeHaan*, 572 N.E.2d at 1320. As such, we cannot say that the trial court's judgement is clearly erroneous.

[14] The judgment of the trial court is affirmed.

Altice, C.J., and Felix, J., concur.

ATTORNEY FOR APPELLANT

Glen E. Koch II
Boren, Oliver & Coffey, LLP
Martinsville, Indiana