

Commonwealth of Kentucky

Court of Appeals

NO. 2009-CA-001722-ME

LEON PUCKETT

APPELLANT

v. APPEAL FROM JEFFERSON FAMILY COURT
HONORABLE JOSEPH W. O'REILLY, JUDGE
ACTION NO. 07-CI-502288

STEPHANIE PUCKETT
(NOW ROBINSON)

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: COMBS, KELLER, AND LAMBERT, JUDGES.

KELLER, JUDGE: Leon Puckett (Leon) appeals, *pro se*, from an order of the Jefferson Family Court. For the reasons set forth below, we affirm.

FACTS

Leon and Stephanie Puckett, now Stephanie Robinson (Stephanie), were divorced on March 11, 1994. There was one child born of the marriage, Jessica. On March 11, 1994, the parties entered into a Marital Settlement Agreement (the separation agreement), which was incorporated in their divorce decree. Under the separation agreement, Leon agreed to “pay one-half of the cost of all of [Jessica’s] new school clothes as reasonably determined by [Stephanie].” This obligation continued until Jessica reached the age of majority, and for up to one year beyond the age of majority provided that Jessica was still a full-time high school student. Additionally, Leon agreed to pay “100% of the cost of [Jessica’s] college books and parking while [Jessica] is in college, including both undergraduate and graduate school.”

On June 20, 2007, Stephanie filed a motion seeking reimbursement for Jessica’s clothing expenses for the “past ten to twelve years,” and a hearing was held in the Jefferson Family Court on October 19, 2007. At the time of the hearing, Jessica was seventeen years old. On October 25, 2007, the family court entered a judgment against Leon in the amount of \$1,375.00 for reimbursement of Jessica’s school clothing for the past ten years with interest at the rate of 12% per annum from the date of judgment until paid.

On June 23, 2009, Stephanie filed another motion in the Jefferson Family Court to have Leon pay for Jessica’s college books and parking and for an order requiring Leon to pay the October 25, 2007, judgment. A hearing was held

on August 11, 2009. At the time of this hearing, Jessica was nineteen years old and was entering her sophomore year of college at Jefferson Community and Technical School (JCTS). The family court entered an order on August 21, 2009.

In its order, the family court made findings which we summarize as follows. The trial court noted that at the time of the hearing, Jessica had already attended JCTS for the Fall 2008, Spring 2009, and Summer 2009 semesters and was registered for the Fall 2009 semester. She had recently purchased books for the Fall 2009 semester and paid the \$35.00 fee for her annual parking pass at JCTS. Jessica received need and merit based financial aid in the form of grants and scholarships, which covered her tuition and expenses. The family court also noted that Jessica has other expenses associated with her college education, such as transportation, computer expenses, food, and clothing.

Leon paid for Jessica's college books for the Fall 2008 semester and the parking expense for the 2008-2009 school year. However, Leon did not pay for Jessica's book expenses for the Spring 2009 and Summer 2009 semesters. For the Spring 2009 and Summer 2009 semesters, Jessica incurred book expenses of \$427.70 and \$216.25, respectively.

The family court granted Stephanie's motion for Leon to pay for Jessica's college books and parking and entered a judgment against Leon in the amount of \$643.95 for books for the Spring 2009 and Summer 2009 semesters. Additionally, the family court ordered Leon to reimburse Jessica for her future

book and parking expenses within 30 days after receiving documentation and proof of payment from Stephanie for those expenses.

With respect to the October 25, 2007, judgment against Leon in the amount of \$1,375.00 plus interest for his nonpayment of Jessica's clothing expenses, the family court noted that Leon had only paid Stephanie \$400 since the entry of that order. With interest, the family court concluded that the current balance on the judgment was \$1,238.66. The family court ordered Leon to pay a sum of \$400.00 per year on the judgment on or before September 30 of every year with interest to accrue as previously ordered. This appeal followed.

STANDARD OF REVIEW

The terms of a separation agreement incorporated into a divorce decree "are enforceable as contract terms." Kentucky Revised Statutes (KRS) 403.180(5). The interpretation and construction of an incorporated separation agreement are questions of law for the courts and are subject to *de novo* review. *Hunter v. Hunter*, 127 S.W.3d 656 (Ky. App. 2003). Furthermore, findings of fact will "not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses." Kentucky Rules of Civil Procedure (CR) 52.01; *see also Bailey v. Bailey*, 231 S.W.3d 793, 796 (Ky. App. 2007).

ANALYSIS

At the outset, we note that Leon's briefs fail to provide any citations to authority. If a party does not cite to any authority for an argument, we are not

required to address his arguments. *See* CR 76.12; *Cherry v. Augustus*, 245 S.W.3d 766, 781 (Ky. App. 2006). Nevertheless, because of the leniency afforded *pro se* litigants, we will address what we believe to be the merits of Leon's appeal. *See Beecham v. Commonwealth*, 657 S.W.2d 234, 236 (Ky. 1983).

It appears that Leon first argues that the family court erred when it concluded that he was required to pay for Jessica's college books and parking pass pursuant to the separation agreement. Specifically, Leon contends that he should not be responsible for the payment of Jessica's college books and parking pass because Jessica was receiving grants and scholarship money that covered these expenses. We disagree.

KRS 403.180(5) provides that the terms of a separation agreement "set forth in the decree are enforceable by all remedies available for enforcement of a judgment, including contempt, *and are enforceable as contract terms.*" (Emphasis added). As noted above, the separation agreement provides that Leon is to pay "100% of the cost of [Jessica's] college books and parking while [Jessica] is in college, including both undergraduate and graduate school." Leon argues that he is only required to pay for Jessica's college books and parking if these expenses are not already covered.

However, we believe that Leon has erroneously interpreted the above provision of the settlement agreement. By its plain terms, Leon is to pay 100% of the cost of Jessica's college books and parking. The settlement agreement does not state that he has to pay for these expenses unless Jessica receives scholarships,

grants, or some other form of financial assistance. Thus, under the clear and unambiguous terms of the separation agreement, Leon is required to pay for Jessica's college books and parking.

Furthermore, as correctly noted by the family court, the scholarship and grants Jessica received covered her tuition and expenses. The trial court noted that Jessica has other expenses associated with her college education, such as transportation, computer expenses, food, and clothing. Thus, while Jessica may be receiving financial aid in the form of grants and scholarships, she has other expenses besides her books and parking pass to which she can apply the money she receives from her financial aid. Accordingly, the family court did not err in enforcing the provision in the separation agreement requiring Leon to pay for Jessica's college books and parking.

It also appears that Leon is arguing that the family court erred in finding that the separation agreement obligates him to pay for Jessica's transportation, computer expenses, food, and clothing. We agree that the separation agreement does not include a provision requiring Leon to pay for these expenses. However, a review of the family court's order reflects that it did not conclude that the separation agreement required him to pay for these expenses. Instead, the family court noted that Jessica has other expenses associated with her college education, such as transportation, computer expenses, food, and clothing. Accordingly, this argument is without merit.

Leon further argues that at the hearing held on August 11, 2009, Stephanie presented Jessica as a witness even though Jessica was not sworn in as a witness. Leon also contends that his counsel did not have an opportunity to question Jessica. A review of that hearing reflects that while Jessica was present at the hearing, she was not a witness. Thus, this argument is also without merit.

Finally, although it is unclear from his brief, it appears that Leon argues that in its order entered on October 25, 2007, the family court incorrectly ordered Leon to reimburse Stephanie for half of the cost of Jessica's school clothes from the past ten years. However, Leon did not file a motion to alter, amend or vacate this judgment within ten days as required by CR 59.05. Nor did he file a notice of appeal of this judgment within thirty days of its entry as required by CR 73.02(1)(a). Accordingly, his appeal from the October 25, 2007, order is not properly before this Court.

CONCLUSION

For the foregoing reasons, we affirm the order of the Jefferson Family Court.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Leon Puckett, *Pro Se*
Louisville, Kentucky

BRIEF FOR APPELLEE:

Stephanie Robinson, *Pro Se*
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