

RENDERED: NOVEMBER 2, 2012; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-002071-MR

CARLOS JOSE PAPPE

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JERRY BOWLES, JUDGE
ACTION NO. 06-CI-500121

DONNA MICHELLE PAPPE

APPELLEE

OPINION
REVERSING AND REMANDING

** ** * * * * *

BEFORE: KELLER, TAYLOR, AND VANMETER JUDGES.

KELLER, JUDGE: Carlos Jose Pappe appeals from the October 12, 2010, order of the Jefferson Circuit Court that denied his motion to discontinue health insurance for his adult children. We reverse and remand for additional findings.

Appellant and Donna Michelle Pappe were divorced in 2006. The parties' property division, maintenance, and child custody and support issues were set forth in the findings of fact, conclusions of law, and order of the trial court

entered on May 10, 2007. Therein, it was ordered that appellant would pay child support and provide health insurance for the couples' two minor children. In addition, the judgment contained a statement, pursuant to KRS 403.211, that provided:

if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

KRS 403.211(7)(c)(2). At the time the parties divorced, the children were fifteen and seventeen years of age.

In August 2010, appellant filed a motion in which he sought to have the trial court enter an order that he is no longer required to provide health insurance for the children. In support of his motion, he indicated that both of the children were emancipated. The trial court denied appellant's motion and indicated by written notation on appellant's proposed order: "children still qualify for coverage under judgment in this action." That order was entered on October 12, 2010. This appeal followed.

Appellant's only argument to this Court is that the trial court erred when it required him to continue providing health insurance for his emancipated children. Because we hold that the trial court entered insufficient findings to support its judgment, we agree.

It is undisputed that the 2007 judgment of the trial court provided that appellant shall be required to provide health insurance for the children if certain conditions were met, pursuant to KRS 403.211(7)(c)(2). Indeed, the judgment even cites to the statute. However, there is no indication here that the trial court found that those conditions existed, namely whether: 1) the children are full time students; 2) the children are enrolled in and attending an accredited educational institution; and 3) the children are primarily dependent upon the insured parent, appellant, for their maintenance and support. KRS 403.211 governs the trial court's ability to enter orders with respect to a minor child. Unless the specific conditions of KRS 403.211(7)(c)(2) are met, and absent an agreement between the parties, the court is without jurisdiction to enter additional orders regarding the custody and support of an emancipated child. Therefore, absent additional findings regarding the children's satisfaction of the KRS 403.211(7)(c)(2), the trial court's judgment was entered in error.

For the foregoing reasons, we reverse the October 12, 2010, order of the Jefferson Circuit Court, and remand with instructions to enter additional findings of fact as to whether the children meet the criteria found in KRS 403.211(7)(c)(2). If the trial court should find that the children do meet the necessary criteria, then it shall enter an order requiring appellant to continue providing coverage as long as those criteria are met. However, if the trial court should find that the children do not meet the necessary criteria, then it shall grant appellant's motion for relief.

ALL CONCUR.

BRIEF FOR APPELLANT:

Amy L. Revlett
Louisville, Kentucky

BRIEF FOR APPELLEE:

No brief was filed on behalf of
appellee.