

Commonwealth of Kentucky

Court of Appeals

NO. 2014-CA-000062-ME

STEVEN CRAWLEY, JR.

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JERRY J. BOWLES, JUDGE
ACTION NO. 11-CI-502712

SACHIKO A. MURPHY

APPELLEE

OPINION
AFFIRMING IN PART,
VACATING IN PART, AND REMANDING

** ** * ** * ** *

BEFORE: CLAYTON, COMBS, AND STUMBO, JUDGES.

COMBS, JUDGE: Steven Crawley appeals the order of the Jefferson Circuit Court which decided issues of child support, visitation, and attorney's fees. After our review, we affirm in part, vacate in part, and remand.

The only issue presented by this case is procedural. Therefore, it is unnecessary for us to conduct a lengthy recapitulation of the underlying facts.

Crawley and Sachiko Murphy are the parents of a minor child. In 2011, they became involved in litigation regarding timesharing of their child. As the case progressed, issues of child support, attorney's fees, and contempt arose from the proceedings.

On January 31, 2013, the family court held a hearing on all outstanding issues and entered an order on October 13, 2013, which disposed of them. It determined that the parties would have joint custody and that the temporary visitation schedule would be continued. Additionally, the family court calculated child support, ordered Crawley to pay attorney's fees, and found him to be in contempt. It denied Crawley's motion to find Murphy in contempt.

On October 18, 2013, Crawley filed a motion asking the family court to make additional findings of fact and to alter, amend, or vacate the order. The family court denied the motion on December 12, 2013. This appeal followed.

Crawley's sole contention is that the family court failed to make sufficient findings to support its decisions. Kentucky Rule[s] of Civil Procedure (CR) 52.01 requires the family court to make findings because custody determinations are matters conducted without a jury. The Supreme Court has held that in custody matters, the findings must be in writing.

CR 52.01 requires that the judge engage in at least a good faith effort at fact-finding and that the found facts be included in a written order. Failure to do so allows an appellate court to remand the case for findings, even where the complaining party failed to bring the lack of specific findings to the trial court's attention.

Anderson v. Johnson, 350 S.W.3d 453, 458 (Ky. 2011). In a subsequent opinion,

Justice Venters expanded on the Court's reasoning as follows.

We again state *with emphasis* that compliance with CR 52.01 and the applicable sections of KRS Chapter 403 requires written findings, and admonish trial courts that it is *their duty to comply with the directive of this Court* to include in all orders affecting child custody the requisite findings of fact and conclusions of law supporting its decisions. Consideration of matters affecting the welfare and future of children are among the most important duties undertaken by the courts of this Commonwealth. In compliance with these duties, it is *imperative* that the trial courts make the requisite findings of fact and conclusions of law to support their orders.

Keifer v. Keifer, 354 S.W.3d 123, 125-26 (Ky. 2011) (Emphases added.)

In this case, the court merely stated that its decisions were in the best interest of the child. It did not elaborate or state in any detail the facts on which it relied. It is indeed regrettable that the parties do not have resolution after years of litigation; however, we are compelled to remand for complete findings regarding the visitation.

We also agree with Crawley that the family court summarily disposed of the parties' motions for contempt without adequate foundation. A finding of contempt must be supported by evidence of "willful disobedience toward, or open disrespect for, the rule or orders of a court." *Commonwealth v. Pace*, 15 S.W.3d 393, 396 (Ky. App. 2000).

Murphy had filed a motion for contempt against Crawley because he failed to pay her attorney's fees pursuant to an order from 2012. Crawley had filed a

motion for contempt against Murphy because she had not contributed to some of the child's educational expenses. The court found that Murphy had presented evidence to support her actions and that she was not in contempt. Conversely, it found that Crawley had not presented evidence to support his actions and that, therefore, he was in contempt. However, it did not indicate *why* it made those findings.

We agree with Crawley that the trial court's findings are conclusory. It failed to consider the evidence that Crawley presented concerning his ability to pay. He was in the process of declaring bankruptcy. The court did not provide facts to support its findings that Crawley had acted with willful disobedience. Because we are remanding for further findings on the issue of visitation, we also remand for more complete findings with respect to the motions for contempt.

However, we are persuaded that the trial court's findings regarding child support are sufficient. The family court detailed each step of its calculation. Crawley does not argue that the family court based its findings on incorrect figures. Nor does he provide legal authority which indicates that the family court erred. Consequently, we affirm the family court's decision with respect to child support.

In summary, we affirm in part, vacate in part, and remand for thorough and complete findings.

ALL CONCUR.

BRIEF FOR APPELLANT:

Justin R. Key
Sarah A. Huyck
Louisville, Kentucky

BRIEF FOR APPELLEE:

None filed.