

RENDERED: DECEMBER 2, 2016; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2015-CA-001666-MR

MATT VONDERBRINK

APPELLANT

v. APPEAL FROM BOYLE CIRCUIT COURT  
HONORABLE DOUGLAS BRUCE PETRIE, JUDGE  
ACTION NO. 07-CI-00026

MARY VONDERBRINK

APPELLEE

OPINION  
AFFIRMING

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BEFORE: KRAMER, CHIEF JUDGE; D. LAMBERT AND TAYLOR,  
JUDGES.

D. LAMBERT, JUDGE: Matt Vonderbrink brings this appeal from the Boyle Family Court's October 1, 2015 order denying his motion to modify spousal maintenance. After reviewing the family court's application of the relevant facts to the controlling law, we affirm.

## I. FACTS

Matt and Mary Vonderbrink married in 1982 and divorced 25 years later. Their dissolution decree incorporated a property settlement, wherein the parties agreed that Matt would pay Mary varying amounts of spousal maintenance from September 2007 through May 2024.<sup>1</sup> At the time of divorce, Matt earned just under \$52,000 per year while Mary earned roughly \$8,000. Mary's annual income later increased to \$28,000. After Matt lost his job at the end of April 2015, he filed a motion to modify his maintenance obligation.

During a hearing on the motion, Matt presented evidence of Mary's higher income. Matt also testified that he quickly found new employment at a slightly higher yearly salary of \$52,000. After considering this information, the family court found that the parties expected Mary to earn more money when they entered into the settlement agreement. The family court then concluded that Mary's increased income was not enough under KRS<sup>2</sup> 403.250(1) to modify the maintenance schedule. This appeal followed.

## II. STANDARD OF REVIEW

The family court's decision whether to modify maintenance is reviewed for an abuse of discretion. *Block v. Block*, 252 S.W.3d 156, 159 (Ky. App. 2007). The family court's factual findings are reviewed under the clearly

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<sup>1</sup> The settlement agreement provided that Matt would pay Mary according to the following schedule: \$689.50 per month from September 2007-May 2009; \$1,200.00 per month from June 2009-May 2021; and \$700.00 per month from June 2021-May 2024.

<sup>2</sup> Kentucky Revised Statutes.

erroneous standard, which means they will not be set aside if supported by substantial evidence. *Jenkins v. Jenkins*, 325 S.W.3d 924, 927 (Ky. App. 2010).

### III. DISCUSSION

On appeal, Matt argues that the family court abused its discretion in declining to modify maintenance. In support of this argument, Matt claims the family court applied the incorrect legal standard in evaluating whether Mary's current income constituted a substantial change in circumstances warranting a reduction in support payments. Matt also claims the family court failed to adequately explain how Mary's current financial situation is similar to her situation at the time of divorce. For the following reasons, we do not find Matt's position persuasive.

The policy behind maintenance is to provide a former spouse with a standard of living similar to the one enjoyed during marriage, at least until he or she becomes financially viable. *See Casper v. Casper*, 510 S.W.2d 253, 254 (Ky. 1974). KRS 403.250(1) only allows a court to modify the maintenance provisions of a valid divorce decree "upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable." In simpler form, Kentucky law places the burden on the party seeking modification to show his current maintenance obligation is either manifestly unfair or inequitable in light of the circumstances that existed at the time the parties divorced. *Tudor v. Tudor* 399 S.W.3d 791 (Ky. App. 2013); *Bickel v. Bickel*, 95 S.W.3d 925, 927-30 (Ky. App. 2002).

Here, the family court found the settlement accurately reflected the parties' bargained-for expectation at the time of divorce that Mary would eventually find employment. This finding was appropriate based on the undisputed evidence that Mary only made \$8,000 a year when the divorce decree was entered and that she depended on Matt's higher income "all through the parties' twenty-five year marriage." The family court also appropriately found the former couple's wage disparity persisted post-divorce after comparing their current income levels and observing that Matt still made almost twice as much as Mary. From these findings, the family court ultimately determined that Mary's \$20,000 increase in yearly income did not introduce a change in circumstances sufficient to justify a modification. This determination was for the family court to make in its broad discretion, and we cannot agree that it was unreasonable.

Accordingly, we affirm the Boyle Family Court's order.

KRAMER, CHIEF JUDGE, CONCURS.

TAYLOR, JUDGE, CONCURS IN RESULT ONLY.

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