

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2009 CA 1084

LOLITA M. WHITMORE

VERSUS

KEVIN A. CARTER

Judgment rendered: FEB 12 2010

**On Appeal from the 23rd Judicial District Court
Parish of Ascension, State of Louisiana
Case Number: 60539; Division: D
The Honorable Jane Triche-Milazzo, Judge Presiding**

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Kevin Carter**

BEFORE: DOWNING, GAIDRY AND McCLENDON, JJ.

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DOWNING, J.

Lolita M. Whitmore appeals a judgment establishing arrearages she owed her former husband, Kevin A. Carter, appellee, for past due child support and holding her in contempt. We affirm the judgment of the trial court.

The current matter on appeal arises from a “Motion for Contempt and Rule Nisi” Carter filed against Whitmore. After a hearing on the matter, the trial court rendered written reasons, a judgment and then an amended judgment. The amended judgment merely corrected a date.

Whitmore now appeals the judgment, asserting two assignments of error:

1. The parties had a court-ordered agreement that entitled Whitmore to a \$25 per day credit when she had physical custody of the children in excess of seven consecutive days during the summer months. Because the parties agreed extrajudicially to extend this arrangement to include non-summer months, the trial court erred by denying Whitmore this credit.
2. To commit contempt of court a party must willfully disobey a court order. Whitmore paid child support based upon her good faith calculations of the amount owed according to an extrajudicial agreement between she and her ex-spouse. Because Whitmore did not willfully disobey a court order, she is not in contempt of court.

Both of these assignments of error are predicated on the existence of an extrajudicial agreement with regard to extension of a \$25.00 per day credit beyond the summer months. The trial court found, however, that Whitmore’s testimony in this regard was “unbelievable and lacks merit.” Having reviewed the record, we cannot conclude that the trial court was clearly wrong in making this finding. The trial court’s written reasons adequately explain the facts of the case and the rationale for the decision. Accordingly, we find no merit in Whitmore’s assignments of error.

DECREE

For the foregoing reasons, we affirm the judgment of the trial court. Costs of this appeal are assessed to Lolita M. Whitmore. We issue this memorandum opinion in compliance with URCA Rule 2-16.1.B.

AFFIRMED