

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2015 CA 0963

T.D.

VERSUS

F.X.A.

Judgment Rendered: DEC 23 2015

APPEALED FROM THE TWENTY-SECOND JUDICIAL DISTRICT COURT
IN AND FOR THE ST. TAMMANY
STATE OF LOUISIANA
DOCKET NUMBER 99-13466, DIVISION L

HONORABLE DAWN AMACKER, JUDGE

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BEFORE: McDONALD, McCLENDON, AND THERIOT, JJ.

McDONALD, J.

The history of this case has been set forth extensively in our previous rulings and will not be repeated herein.¹ On October 30, 2012, the district court issued a judgment that designated F.X.A. as the sole custodian of V.D., found T.D. in contempt of court, and terminated child support. T.D. appealed only the portions of the judgment that designated F.X.A. as the sole custodian of V.D and found T.D. in contempt of court. In a January 9, 2014 judgment, this court reversed the portions of the district court judgment that designated F.X.A. as the sole custodian of V.D and found T.D. in contempt of court.²

T.D. thereafter filed a rule for past due child support, attorney fees, and costs in the district court. She also sought reinstatement of child support as a result of this court's January 9, 2014 judgment, retroactive to the district court's termination of child support.³ F.X.A. filed an exception raising the objection of no cause of action to that portion of T.D.'s pleading asking for past due support, attorney fees, and costs. After a hearing, the district court granted the exception raising the objection of no cause of action pertaining to past due child support but granted T.D.'s motion to reinstate child support from the date of judicial demand until V.D. attained the age of majority. T.D. has appealed that portion of the judgment granting the exception raising the objection of no cause of action.

T.D. makes two assignments of error:

1. The trial court committed legal error by granting Appellee's Exception of No Cause of Action in response to [T.D.]'s Rule for past due child support. Appellant presented authoritative case law to support her position that the District Court's October 10, 2012 judgment that transferred sole custody to [F.X.A.], which was subsequently reversed by this Honorable Court on January 9, 2014, should be considered as never having existed. Therefore, [T.D.], as domiciliary parent, stated a cause of action for past due child support from the date of that erroneous trial court decision (October 10, 2012)

¹ *T.D. v. F.X.A.*, 2013-0453 (La. App. 1 Cir. 1/9/14), 148 So.3d 187, writ denied, 2014-0189 (La. 2/6/14), 132 So.3d 958, and *T.D. v. F.X.A.*, 2012-1590 (La. App. 1 Cir. 5/22/14), 2014 WL 2199799 (unpublished).

² Although V.D. is no longer a minor, we refer to the parties by their initials in conformity with our earlier opinions. Uniform Rules - Courts of Appeal, Rules 5-1(b) and 5-2.

³ T.D. asked for past due child support in the amount of \$87,741.92, plus judicial interest.

to the date of the child's eighteenth (18th) birthday (March 27, 2014). The District Court erred by limiting the recovery of support from the date of judicial demand (February 11, 2014) to the date of majority, reducing Mother's support award from \$87,741.92 to approximately \$7,500.00.

2. The trial court committed legal error by denying Appellant's Rule for Past Due Child Support where she established that, subsequent to this Court's reversal of the lower court's erroneous judgment transferring custody to [F.X.A.], [T.D.] was entitled to child support from the date of the erroneous District Court judgment (October 10, 2012) to the date of the child's eighteenth (18th) birthday (March 27, 2014).

T.D. did not appeal that portion of the district court judgment that terminated F.X.A.'s child support obligation and this court did not rule on that issue in its January 9, 2014 judgment. Further, during the time period that F.X.A. was granted sole custody of V.D., F.X.A. paid all of her expenses. Under the terms of the district court's judgment F.X.A. was no longer obligated to pay T.D. child support. Under the facts of this case we find no legal error in the district court judgment granting F.X.A.'s exception raising the objection of no cause of action as to past due child support.

For the foregoing reasons, the district court's judgment is affirmed. Costs of this appeal are assessed against T.D. This memorandum opinion is issued in compliance with the Uniform Rules – Courts of Appeal, Rule 2-16.1.B.

AFFIRMED.