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COUNSEL FOR DEFENDANT/APPELLANT

AFFIRMED.

This is an appeal from a judgment for child support. The trial court, in setting the amount of child support, found as a matter of fact that the appellant was entitled to certain partnership income. The appellant argues that the trial court erred in that factual finding. Because we find that the trial court was not clearly wrong-manifestly erroneous, we will affirm.

Appellee Patricia Thompson Noel and appellant Rickey Martin Noel divorced. Mrs. Noel sought child support. A hearing was held. The chief issue at the hearing was whether Mr. Noel was still a partner in a family partnership and thus, still entitled to receive partnership income. The partnership was formed when Mr. Noel's parents won the lottery. The partners were Mr. Noel's parents, Mr. Noel and Mr. Noel's siblings. The partnership received periodic payments of lottery proceeds and then distributed them equally to the partners.

Mr. Noel asserts that, several years before the divorce, he and Mrs. Noel had "trouble" handling the money they received from the partnership.

Thus, he asserts that, several years prior to the divorce, he donated to his parents his interest in the partnership. The record includes a purported written act of donation of Mr. Noel's partnership interest to his parents. However, evidently, the trial court concluded that the purported donation was a sham and that, in reality, Mr. Noel remained a partner.

Mr. Noel did not testify. Mrs. Noel and Mr. Noel's mother testified and a number of checks written on the partnership account by Mr. Noel's mother, as the managing partner, were introduced into evidence. The result of this testimony and these exhibits were several items of evidence which support the trial court's finding of fact.

First, even after Mr. Noel's purported donation of his partnership interest, he continued to receive money from, and to have expenses paid by, the partnership. For example, on one occasion, the partnership wrote to Mr. Noel a check for \$29,000. Many other checks, for thousands of dollars each, were written to "cash" and it was admitted by Mr. Noel's mother that at least some of that cash probably went to Mr. Noel. Partnership checks were written to pay for a car or truck that was used regularly, and perhaps exclusively, by Mr. Noel. Mr. Noel's mortgage payments were made by the partnership. In short, Mr. Noel never ceased to receive the financial benefits of the partnership.

Second, Mrs. Noel testified that, some years before the divorce, Mr. Noel had been found liable in a paternity suit relative to a child with another woman, as a result of DNA testing, and had both quit his job as a janitor and purportedly donated his partnership interest to his parents in an effort to avoid that child support obligation. In the present case, Mr. Noel points to the fact that his purported donation of his partnership interest to his parents occurred several years before his divorce as evidence of the genuineness of the donation. However, the timing of the donations is explained by his desire to avoid paying child support in connection with the paternity suit and, thus, the timing does not suggest genuineness of the donation. Also, in view of Mr. Noel's years of unemployment, he would have had no other means to support himself other than his partnership income, which suggests that he was able to count on that income.

In sum, based upon the record as a whole, we cannot say that the trial court's finding of fact was unreasonable and, therefore, we cannot say that the trial court was clearly wrong-manifestly erroneous. Accordingly, we will affirm the judgment of the trial court.

AFFIRMED.