STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0045

In re the Marriage of: Trudy Kay Morrell-Stinson, petitioner,
Appellant,

vs.

Erl Morrell-Stinson,
Respondent,

Hennepin County, intervenor,
Respondent.

Filed July 8, 2013
Reversed
Connolly, Judge

Hennepin County District Court
File No. 27-FA-09-6148

Trudy K. Morrell-Stinson, Maple Grove, Minnesota (pro se appellant)

Erl Morrell-Stinson, Lonsdale, Minnesota (pro se respondent)

Michael O. Freeman, Hennepin County Attorney, Manuel F. Guzman, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County)

Considered and decided by Rodenberg, Presiding Judge; Stoneburner, Judge; and Connolly, Judge.

U N P U B L I S H E D O P I N I O N

CONNOLLY, Judge

Appellant, a child support obligee, argues that the child support magistrate (CSM) abused his discretion in modifying the child-support obligation to which respondent-obligor stipulated when the parties' marriage was dissolved. Because respondent did not show a substantial change in either party's circumstances within the meaning of Minn. Stat. § 518A.39, subd. 2 (2012) since the dissolution, the modification of child support was an abuse of discretion. Consequently, we reverse.

FACTS

Appellant Trudy Kay Morrell-Stinson and respondent Erl Morrell-Stinson were married in 1988. During their marriage, they had five children, four of whom are now minors: M., 17; A., 15; K., 12; and J., 9. The marriage was dissolved in June 2010 on the basis of a stipulation; both parties were represented by counsel. The parties were given roughly equal parenting time. The CSM found that appellant was unemployed, had previously earned $2,567.72 monthly, and was receiving $1,689 monthly in unemployment benefits; it found that respondent was self-employed, had a gross monthly income of $1,437.33 in 2009, and had the capacity to earn 150% of minimum wage, or $2,012. Respondent was ordered to pay $640 monthly in child support, retroactive to August 2009. The dissolution judgment was not appealed.

In September 2012, respondent, acting pro se, moved for a decrease in his child-support obligation; he also sought the forgiveness of his child-support arrearage and the

reinstatement of his driver's license, which had been suspended for nonpayment of child support. Neither party was represented by counsel at the hearing before the CSM.

The CSM determined that: (1) parenting time is still approximately equal; (2) appellant is now employed, earning an average of $1,886 monthly, as opposed to the $1,689 she was receiving in unemployment benefits at the time of dissolution; (3) respondent is self-employed, voluntarily underemployed, and still capable of earning 150% of minimum wage, now valued at $1,886, monthly; (4) "the existing [stipulated] child support obligation did not take into account [r]espondent's current parenting time schedule"; (5) "[r]espondent's guideline basic support obligation is zero"; (6) there is no legal basis to forgive respondent's child-support arrearage of $19,300; (7) respondent is ordered to pay $500 monthly until the arrearage is paid off; and (8) respondent's driver's license should be reinstated.

Appellant argues that this decision was an abuse of discretion.[1]

D E C I S I O N

The district court has broad discretion to provide for the support of the parties' children. *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984).

> [Child] support may be modified upon a showing of one or more of the following . . . (1) substantially increased or decreased gross income of an obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program . . . (4) a change in the cost of living for either party . . . (5) extraordinary medical expenses of the child not provided for under section 518A.41; [or] (6) a change in the

[1] We infer this issue from appellant's pro se brief, where it is implied rather than stated.

> availability of appropriate health care coverage or a substantial increase or decrease in health care coverage costs . . . .

Minn. Stat. § 518A.39, subd. 2(a). Respondent did not show any of these factors. Appellant's income changed from $1,689 to $1,886, while respondent's imputed income changed from $2,012 to $1,886; these changes would not support a finding that either had "substantially increased or decreased . . . ."

Even assuming that the CSM's finding that "the existing child support obligation did not take into account [r]espondent's current parenting time schedule" was correct, respondent stipulated to and did not appeal that obligation, and he has shown no substantial change in circumstances that would provide a basis for its modification. In light of respondent's continuing arrearage, we see no basis for reinstatement of his driver's license. We therefore reverse the CSM's decision.

Reversed.