

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA05-1186

NORTH CAROLINA COURT OF APPEALS

Filed: 16 May 2006

ELONA T. HUANG (TOMBRELLO),  
Plaintiff

WAKE COUNTY HUMAN SERVICES  
CHILD SUPPORT ENFORCEMENT,  
Intervenor Plaintiff

Wake County  
No. 95CVD1078

v.

JIM JAY HUANG,  
Defendant

Appeal by defendant from order entered 26 April 2005 by Judge Kristin Ruth in Wake County District Court. Heard in the Court of Appeals 8 May 2006.

*Elisabeth P. Clary and Kathryn L. Hunter for plaintiff-appellee.*

*Jim Jay Huang, defendant-appellant, pro se.*

HUNTER, Judge.

On 25 January 2005 defendant filed a "Motion to Modify Child Support Order" seeking to modify his child support obligation on the ground that he had lost his job. Following a hearing on the motion on 29 March 2005, the trial court entered an order containing the following findings of fact:

1. That the Defendant is currently under an Order of this Court dated January 31, 2005, to pay \$416.00 to the North Carolina Child Support Centralized Collections for the

support of the minor child, Rachel Huang, and \$10.00 per [m]onth toward liquidation of arrears.

2. That the Defendant is in arrears under the prior order of this Court to pay child support in the amount of \$475.54, as of February 28, 2005.

3. That the Defendant was laid off from his job on December 31, 2005 [sic] and he is currently receiving unemployment benefits in the amount of \$379.00 weekly.

4. That the Plaintiff caretaker is working temporary assignments where she is paid \$14.00 per hour and offered forty hours work per week[.]

5. That the Defendant does not have medical insurance available at this time for the minor child.

6. That the Plaintiff caretaker has medical insurance available for the minor child at a cost of \$85.30 per month effective March 1, 2005.

7. That the Plaintiff caretaker states she provides car insurance for the minor child even though she has no legal obligation to do so.

8. That the gross incomes of the Plaintiff caretaker and Defendant, and the responsibilities of the Plaintiff caretaker and Defendant, as they relate to the child support obligation of the Defendant, used in calculating the support obligation of the Defendant pursuant to the North Carolina Guidelines are included for future reference on the Child Support Obligation Worksheet prepared during the hearing of this matter.

9. That the Child Support Obligation Worksheet prepared during the hearing of this matter is incorporated herein by reference and attached hereto.

10. That Defendant's obligation was calculated for February 2005 without giving either party credit for health insurance and

the obligation was recalculated for March 2005 giving Plaintiff caretaker credit for health insurance costs.

Based upon these findings, the court concluded that a substantial change of circumstances had occurred warranting a reduction of defendant's child support obligation to the sum of \$285.00 per month effective 1 February 2005, and \$319.00 per month effective 1 March 2005. The trial court also concluded that the arrears of \$228.00 should be dismissed after retroactively reducing defendant's obligation effective 1 February 2005. The trial court accordingly modified the child support order. Defendant appeals.

Defendant lists five assignments of error in the record on appeal. In each assignment of error, he alleges a numbered finding of fact or conclusion of law is "incorrect" without any exposition of the basis for the allegation of error. Our Appellate Rules provide that an "assignment of error shall, so far as practicable, be confined to a single issue of law; and shall state plainly, concisely and without argumentation the legal basis upon which error is assigned." N.C.R. App. P. 10(c)(1). "The office of an assignment of error, as both the rule and the innumerable cases interpreting it plainly show, is to state directly, albeit briefly, what legal error is complained of and why." *Duke v. Hill*, 68 N.C. App. 261, 264, 314 S.E.2d 586, 588 (1984). An assignment of error which does not assert a legal basis "is designed to allow counsel to argue anything and everything they desire in their brief on appeal" and is improper. *Wetchin v. Ocean Side Corp.*, 167 N.C. App. 756, 759, 606 S.E.2d 407, 409 (2005).

In *Walker v. Walker*, \_\_\_ N.C. App. \_\_\_, \_\_\_, \_\_\_ S.E.2d \_\_\_, \_\_\_ (COA04-1601 filed 6 December 2005) (slip op. 7), we held an assignment of error asserting that a given finding, conclusion or ruling is “erroneous as a matter of law” is insufficient to identify or present issues for appellate review. We think an assignment of error asserting that a finding or conclusion is “incorrect,” without more, is virtually identical to an assignment of error asserting that a finding or conclusion is erroneous as a matter of law.

Because the assignments of error do “not set forth a legal issue for our determination[,]” we are constrained by *Viar v. N.C. Dep’t of Transp.*, 359 N.C. 400, 402, 610 S.E.2d 360, 361 (2005), from invoking Appellate Rule 2 to consider the arguments presented in defendant’s brief. *Broderick v. Broderick*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 623 S.E.2d 806, 807 (2006).

The appeal is dismissed.

Dismissed.

Judges WYNN and McGEE concur.

Report per Rule 30(e).