NO. COA10-1195
NORTH CAROLINA COURT OF APPEALS

Filed: 20 September 2011

MAUREEN PLOMARITIS (WARD),
Plaintiff,

v. Guilford County
No. 03 CVD 12636

TITUS PLOMARITIS,
Defendant.

Appeal by defendant from orders entered 9 November 2007 and 17 March 2010 by Judge Susan R. Burch in Guilford County District Court. Heard in the Court of Appeals 23 March 2011.

Hill Evans Jordan & Beatty, PPLC, by Elaine Hedrick Ashley and Robert E. Gray III, for defendant.

The Law Office of Robert N. Weckworth, Jr., by Robert N. Weckworth, Jr., for defendant.

ELMORE, Judge.

Titus Plomaritis, Jr. (defendant), appeals from child support orders entered 9 November 2007 and 17 March 2010. Under the orders, defendant must pay his ex-wife, Maureen Plomaritis Ward (plaintiff), $35,861.21 for extraordinary golf expenses on the behalf of his daughter and $15,862.10 in regular child

support arrears. After careful consideration, we affirm the orders.

Before the Plomaritises divorced, they had four children, the youngest of whom, Molly, was born in 1992. Although she has now reached the age of majority, the issues surrounding the support for her care remain unresolved. The first child support order, dated 29 March 2004, required defendant to pay $1,375.00 monthly to plaintiff for the support of their three minor children, who were then living with plaintiff. The order was modified on 27 July 2006, and defendant's monthly obligation was reduced to $1,000.00, but a number of other expenses were laid out. Of particular relevance to the appeal is the trial court's decree that "Defendant shall be responsible for one hundred percent (100%) of all golf expenses incurred by the minor children, including, lessons, tournaments, travel, and equipment. Plaintiff shall not incur golf related expenses and seek reimbursement from defendant."

Following a motion by defendant to modify child support, the trial court held another set of hearings across several court dates in 2006 and 2007. It entered an order on 9 November 2007, making fifty-nine findings of fact about both parties' income as well as expenses incurred on behalf of the two

remaining minor children. The court concluded that modification of the prior child support orders was appropriate because a substantial change in circumstances had occurred. It also concluded that "both parties acted in bad faith with regard to their purported reduction in income." The court ordered defendant to pay $700.00 per month and plaintiff to pay $60.00 per month as child support.

The court detailed more arrangements regarding the extraordinary expense of Molly's golf training. Molly was a gifted junior golfer, having at one point attained the world rank of number two in her age group, and the parties spent a significant amount on her training and competition. The conclusions of law addressing Molly's golf expenses are as follows:

> 5. The Court finds that deviation from the North Carolina Child Support Guidelines is contemplated regarding the income amount attributed to the family and that the calculation of support is equitable in light of all of the evidence presented in this case and specifically in light of the extraordinary expenses for golf for the minor child Molly.
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> 6. Both parents, in light of their ratio of contribution, have the means and ability to meet the extraordinary golf related expenses of the minor child Molly.
>
> 7. That further affidavits of actual

> expenses incurred by each parent for the appropriate golf-related categories of golf academy/instruction cost, tournament entry fees, tournament transportation and lodging cost, practice round cost and equipment cost from the date of filing of the motion is necessary to correctly apportion each parent's contribution to the cost of the expenses.
>
> 8. That the Defendant should be provided a copy of the IGA schedule of fees for tournaments as they are issued.
>
> 9. That future expenditures for golf-related expenses for the minor child Molly shall be made in accordance with this order and shall be submitted for reimbursement within 20 days of incurring the expense.

The court then made the following decrees addressing Molly's golf expenses:

> 2. Each party shall prepare an affidavit of any golf-related expenses paid which are for golf academy/instruction, tournament entry fees, tournament transportation and lodging cost, practice round cost and equipment cost within 20 days of the entry of this order and shall serve same upon the other and submit each to the Court.
>
> 4. The Defendant shall pay 85% of the extraordinary expenses related to golf for the minor child Molly. These expenses shall include the cost of the golf academy, tournament entry fees, transportation and lodging cost, practice round cost and equipment cost. These expenses shall not include food costs or clothing. Defendant shall not be responsible for any amount of equipment cost which exceeds $500 per calendar year. The expenses shall be the actual cost paid by Plaintiff, but shall not

> exceed the estimated amounts as provided by the IGA golf academy.
>
> 5. Plaintiff shall submit evidence of actual expenses for such golf-related activities to Defendant within 30 days of incurring them. Defendant shall reimburse Plaintiff for 85% of said expenses within 30 days of its receipt. Submission of expenses to Defendant by registered or certified mail to the address [of] his business, Piedmont Joint Replacements, shall be sufficient notice and Defendant's actual signature is not required. Defendant shall not refuse delivery of mail from the Plaintiff.

The order was signed 9 November 2007 but was effective as of 1 November 2005 and related back to that date.

On 17 March 2010, following an appeal by defendant of the 9 November 2007 order to this Court, the district court entered an order of child support supplemental to the 9 November 2007 order. Although the supplemental order states that the district court was responding to "instructions of the North Carolina Court of Appeals for entry of an order showing the calculation of child support owing between the parties pursuant to" the November 2007 order, the actual opinion issued by this Court merely dismissed defendant's appeal as interlocutory. *See Plomaritis v. Plomaritis*, 200 N.C. App. 426, 684 S.E.2d 702 (2009). Nevertheless, the district court laid out, in detail, its calculation of child support owing between the parties.

The court noted that defendant had paid a total of $9,490.80 from 5 October 2005 until the end of 2005 and a total of $26,299.34 from 1 January 2006 until 1 July 2006. Defendant did not pay any further golf expenses for Molly after 1 July 2006. Indeed, it appears he ceased all communication of any kind with her after that date. At that point, plaintiff began paying for all of Molly's golf expenses. The court noted that she paid a total of $39,948.62 from 1 July 2006 until 30 June 2007 and a total of $8,556.94 from 30 June 2007 through 2009. After attributing eighty-five percent of the expenses to defendant and fifteen percent of the expenses to plaintiff, the trial court determined that defendant owed plaintiff a total of $41,229.73. Defendant was entitled to credits for contributions due from plaintiff in the amount of $5,368.52, leaving him in arrears of $35,861.21. He was also in arrears of $15,862.10 for regular child support.

Defendant now appeals from both the 7 November 2007 order and the 17 March 2010 supplemental order. Defendant asks us to vacate both orders because, he alleges, the district court's findings of fact were not supported by competent evidence. He also argues that the district court erred by determining the

parties' expenses based only on affidavits when drafting the supplemental order. As to both arguments, we disagree.

In his first argument, defendant avers that the trial court "clearly did not consider and disregarded testimony and evidence in this case, leading to multiple errors in its findings and conclusions, whereby the trial court's ruling was completely arbitrary and manifestly unsupported by reason, thereby amounting to a clear abuse of discretion."

> Child support orders entered by a trial court are accorded substantial deference by appellate courts and our review is limited to a determination of whether there was a clear abuse of discretion. *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985). Under this standard of review, the trial court's ruling "will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision." *Id.* In a case for child support, the trial court must make specific findings and conclusions. The purpose of this requirement is to allow a reviewing court to determine from the record whether a judgment, and the legal conclusions which underlie it, represent a correct application of the law.

Leary v. Leary, 152 N.C. App. 438, 441-42, 567 S.E.2d 834, 837 (2002) (additional citations omitted). "The trial court, sitting as the trier of fact, is entitled to assess the credibility of the witnesses, and to determine the weight to be afforded their testimony." *Nix v. Nix*, 80 N.C. App. 110, 115,

341 S.E.2d 116, 119 (1986) (citation omitted). Thus, "the trial court's findings of fact are conclusive on appeal if there is evidence to support them, even though the evidence might sustain findings to the contrary." *Yurek v. Shaffer*, 198 N.C. App. 67, 80, 678 S.E.2d 738, 747 (2009) (quotations and citation omitted).

Defendant's argument, which plaintiff aptly characterizes as a "rant" that cites "no legal authority," focuses entirely on the weight that the trial court gave to the evidence. He argues that the trial court disregarded his testimony and evidence when making its findings of fact, and thus the findings must be in error. This is not the case. There is evidence to support all of the trial court's findings of fact, and that is sufficient to uphold them, even if defendant offered evidence that might sustain findings to the contrary. It is the trier of fact's purview to judge the credibility of witnesses and the weight of evidence, not ours. Accordingly, we conclude that the trial court did not abuse its discretion in making the findings of fact in the two challenged orders.

Defendant next argues that the trial court erred by making a determination of the expenses paid by each party based only on their affidavits, rather than conducting a hearing at which

defendant could challenge plaintiff's affidavits. Defendant cites no authority for this proposition. Defendant also did not object to the trial court's consideration of the parties' affidavits or decision not to hold an additional hearing, nor did he make a motion to challenge the trial court's approach. *See* N.C.R. App. P. 10(a)(1) (2011). Accordingly, defendant has failed to preserve this issue for our review.

Affirmed.

Judges BRYANT and GEER concur.

Report per Rule 30(e).