

FILED: April 18, 2012

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of the Marriage of

JAMES RUSSELL NIX,
Petitioner-Respondent,

and

JACLYN ANNE NIX,
Respondent-Appellant.

Coos County Circuit Court
03DM0568

A147427

Michael J. Gillespie, Judge.

Argued and submitted on March 15, 2012.

Kevin J. Jacoby argued the cause and filed the brief for appellant.

George W. Kelly argued the cause for respondent. On the brief was Carol Poli Cyphers.

Before Ortega, Presiding Judge, and Sercombe, Judge, and Hadlock, Judge.

PER CURIAM

Reversed and remanded with instructions to correct the retroactive child support award;
otherwise affirmed.

1 PER CURIAM

2 Mother appeals a supplemental judgment modifying custody, child support,
3 and parenting time. She raises six assignments of error. We reject five of mother's
4 assignments of error without discussion and write only to address her sixth assignment of
5 error, in which she contends that the trial court erred in awarding retroactive child
6 support for a period of 60 days prior to the entry of the supplemental judgment. After
7 entry of the supplemental judgment, the trial court issued a letter opinion indicating that it
8 agreed with mother's assertion that retroactive child support should not be awarded in this
9 case and instructing father's counsel to "immediately submit an amended supplemental
10 judgment correcting the time for commencement of the payment of child support." On
11 appeal, father does not contend that the retroactive support award was proper in this case,
12 but asserts that in light of the trial court's letter opinion, "the court ruled in [m]other's
13 favor, and the issue is moot." Father acknowledges, however, that "an amended
14 supplemental judgment was not submitted to the trial court for signature * * * because
15 [m]other had previously filed her [n]otice of [a]ppeal."

16 Notwithstanding the trial court's determination that retroactive support
17 should not have been awarded in this case, the judgment on appeal provides for payment
18 of retroactive support. Accordingly, mother's sixth assignment of error is not moot. *See*
19 *Brumnett v. PSRB*, 315 Or 402, 406, 848 P2d 1194 (1993) (a case is moot when "a court's
20 decision no longer will have a practical effect on or concerning the rights of the parties").

21 Reversed and remanded with instructions to correct the retroactive child

1 support award; otherwise affirmed.