IN THE UTAH COURT OF APPEALS

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Tracy Lynn Nelson, Petitioner and Appellee, v. Jeffrey Scott Nelson, Respondent and Appellant.	)	MEMORANDUM DECISION (Not For Official Publication) Case No. 20041083-CA F I L E D (April 27, 2006) 2006 UT App 166

Fourth District, Provo Department, 034402243
The Honorable James R. Taylor

Attorneys: David R. Hartwig, Salt Lake City, for Appellant
Sidney Balthasar Unrau, Provo, for Appellee

Before Judges Bench, Greenwood, and Thorne.

THORNE, Judge:

Jeffrey Scott Nelson (Husband) appeals from the district court's order interpreting the alimony provision of the parties' divorce decree. We affirm.

The parties' divorce decree provides that Husband, a United States Army officer, is to pay alimony to Tracy Lynn Nelson (Wife) in the amount of $866 per month, with such amount to be reduced to $200 if Husband "is demobilized." In May 2004, Husband was transferred to a different full-time Army assignment at the same rank and pay, with a short interval between assignments. The Army characterizes this reassignment as a demobilization and remobilization, and in light of his orders stating that he had been "demobilized," Husband reduced his alimony payment to $200 monthly. Wife filed a motion for an order to show cause, arguing there had been no demobilization as envisioned by the divorce decree and seeking enforcement of the $866 monthly payment. The trial court agreed with Wife, found Husband in contempt, and ordered Husband to pay past due and prospective alimony of $866 per month plus attorney fees.

Husband first argues that the trial court's order constitutes a modification of the parties' divorce decree and that modifications to decrees are not allowed upon a mere motion

for an order to show cause. See Utah R. Civ. P. 106 ("Proceedings to modify a divorce decree shall be commenced by filing a petition to modify the divorce decree.").[1] Husband argues that the order is a modification because "the reduction in alimony upon [Husband's] demobilization was totally removed from the decree."

We do not view the trial court's order so drastically. Rather, it appears that the trial court recognized that a layperson's impression of demobilization is synonymous with separation from the armed forces and that the decree's alimony reduction provision, which had been entered by agreement of the parties, was premised on the assumption that Husband's separation from the Army would result in a substantial reduction in his income.[2] We agree with the trial court that the decree contemplated a reduction in alimony only upon Husband's separation from the Army and not upon his mere reassignment, regardless of the Army's characterization of that reassignment.[3]

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[1]Husband cites to an earlier version of rule 106 providing that "[n]o request to modify a decree shall be raised by an order to show cause." Utah R. Civ. P. 106 (Supp. Oct. 2003). That language was deleted by amendment effective April 1, 2004, prior to Wife's filing of her motion for an order to show cause. See id. (2005) (Amendment Notes). Rule 106 was again amended as of November 1, 2005, after the date of the trial court's order. See id. (Supp. Oct. 2005). We apply the version of the rule in effect between April 1, 2004, and November 1, 2005. See id. (2005).

As we affirm the trial court's order on other grounds, we express no opinion on the effect of the deletion of the "order to show cause" language from rule 106.

[2]The trial court's order can be read as changing the triggering event for alimony reduction from demobilization to "a substantial reduction in [Husband's] pay." This is not a reasonable interpretation of the decree, and we assume that the trial court was actually referring to the presumed reduction in pay that would accompany Husband's demobilization. In any event, the triggering event for alimony reduction under the decree remains Husband's demobilization, without regard to changes in Husband's pay.

[3]We note that Husband's counsel drafted the decree, and if the parties' intent was to apply strict military definitions it was within Husband's power to reflect that intent in the decree. Cf. U.P.C., Inc. v. R.O.A. Gen., Inc., 1999 UT App 303,¶39, 990

(continued...)

Husband also argues that the trial court's order violates the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. §§ 501-593 (the Act). Husband cites generally to several sections of the Act, but provides no caselaw or reasoned argument as to why the Act should preclude the trial court from interpreting its own order merely because Husband is stationed overseas.[4] While Husband presents an interesting question, particularly if the trial court's order could be deemed a modification rather than an interpretation, we decline to address the argument because it is inadequately briefed. See Smith v. Smith, 1999 UT App 370,¶8, 995 P.2d 14 ("An issue is inadequately briefed when 'the overall analysis of the issue is so lacking as to shift the burden of research and argument to the reviewing court.'" (citation omitted)).

For these reasons, we determine that Husband is entitled to an alimony reduction under the demobilization provision of the decree only upon his separation from the armed services. Accordingly, the trial court's order to that effect is affirmed.

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William A. Thorne Jr., Judge

WE CONCUR:

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Russell W. Bench,
Presiding Judge

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Pamela T. Greenwood,
Associate Presiding Judge

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[3](...continued)
P.2d 945 (noting the general rule that unresolved ambiguities in a document will ultimately be construed against the drafter).

[4]As noted by Husband in his reply brief, the trial court has stayed the enforcement of the alimony order pursuant to the Act.