COURT OF APPEALS OF VIRGINIA

Present: Judges Bray, Annunziata and Overton

RALPH FRANKLIN BACON

v. Record No. 1820-95-4 MEMORANDUM OPINION*
PER CURIAM
PATRICIA LYNN BACON MARCH 19, 1996

FROM THE CIRCUIT COURT OF FAUQUIER COUNTY
Carleton Penn, Judge Designate

(Vernon H. Miles, Sr., on brief), for appellant.

(Robert A. Niles; Niles, Dulaney, Parker & Lauer, on brief), for appellee.

Ralph Franklin Bacon (father) appeals the decision of the circuit court finding him liable to Patricia Lynn Bacon (mother) for child support arrearages. Father argues that the care he gave his children while they were living with him should be credited against his nonconforming child support payments. Upon reviewing the record and briefs of the parties, we conclude that this appeal is without merit. Accordingly, we summarily affirm the decision of the trial court. Rule 5A:27.

> Under familiar principles we view [the] evidence and all reasonable inferences in the light most favorable to the prevailing party below. Where, as here, the court hears the evidence ore tenus, its finding is entitled to great weight and will not be disturbed on appeal unless plainly wrong or without evidence to support it.

*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

Martin v. Pittsylvania County Dep't of Social Servs., 3 Va. App. 15, 20, 348 S.E.2d 13, 16 (1986).

It was uncontested that father was required to pay $50 a month per child in child support to mother pursuant to the parties' Property Settlement and Separation Agreement signed on July 1, 1992 and incorporated into their final decree of divorce entered June 22, 1993. The parties agreed to have "joint care custody, and control" of the two children, who lived with father from January 1992 through October 1994. Father never sought to modify his child support obligation.

Code § 20-112 provides that "[n]o support order may be retroactively modified, but may be modified with respect to any period during which there is a pending petition for modification . . . ." "Child support payments required under a valid court order become vested as they accrue, and the court is without authority to make any change as to past due installments." Commonwealth ex rel. Comptroller of Virginia v. Skeens, 18 Va. App. 154, 158, 442 S.E.2d 432, 434-35 (1994).

Unlike the situation in Acree v. Acree, 2 Va. App. 151, 157, 342 S.E.2d 68, 71 (1986), we find no evidence here that the parties agreed that father would no longer make child support payments. The agreement to pay $100 per month in child support was expressly set out in the final divorce decree, even though the children had been living with father for over a year at the time the decree was entered. Therefore, the decision of the

circuit court was not plainly wrong and was supported by the evidence.

Accordingly, the decision of the circuit court is summarily affirmed.

Affirmed.