IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of MARY LEE LINARES, Respondent, and DAVID R. BEACH, Appellant.	)	No. 64427-1-I DIVISION ONE UNPUBLISHED OPINION FILED: July 26, 2010

Leach, J. — David Beach appeals from an order modifying his child support obligation. He contends the trial court miscalculated the parties' current income and should have found that Mary Linares was voluntarily unemployed. Finding no error or abuse of discretion, we affirm.

FACTS

David Beach and Mary Linares dissolved their marriage in February 2006. The couple have two children. Beach is a systems engineer who worked for Microsoft from about 2000 until May 2008. Since leaving Microsoft, Beach has been unemployed and worked in a series of contract positions.

Linares worked as an escrow closer but was laid off several times. She is currently unemployed, attending nursing school, and plans to become a registered nurse.

At the request of each party, the court previously adjusted or modified Beach's child support obligation. In March 2009, after Beach again petitioned for modification, the issue went to arbitration. After the arbitrator filed the award, which required Beach to make a monthly transfer payment of $921, Beach requested a trial de novo.

On April 29, 2009, the trial court entered a temporary support order pending trial. The order required Beach to make a monthly transfer payment of $1,024, based on Linares's monthly net income of $1,566 and Beach's monthly net income of $4,425. Among other things, the trial court found that "It is clear given the totality of the circumstances that the father loses a job when child support is raised and gets a job when child support is lowered."

At the end of May 2009, Beach became unemployed. On June 12, 2009, the trial court found Beach in contempt for failure to pay child support, day-care expenses, and attorney fees. Among other things, the court found that Beach had made decisions "in his own financial disadvantage to avoid support of his own children."

Following trial on September 18, 2009, the trial court entered a child support order providing for a monthly transfer payment of $1,158. The court noted the difficulty of determining Beach's income "given the game playing regarding his employment." The court found Beach's current monthly net income to be $5,287,

based on Beach's year-to-date income from employment and unemployment benefits. The court determined Linares's monthly net income to be her unemployment benefits of $1,628. The court also ordered Beach to file an amended 2008 tax return to obtain a refund of $6,981 that Beach had requested be applied to his 2009 taxes. The court found much of Beach's testimony not credible.

DECISION

In this child support modification proceeding, we review the trial court's decision for an abuse of discretion.[1] In order to prevail on appeal, Beach must therefore demonstrate that the trial court's decision was manifestly unreasonable or was based on untenable grounds or untenable reasons.[2]

Beach first contends the trial court erred in calculating his monthly income for purposes of child support. The trial court calculated Beach's gross monthly income of $6,868 on the basis of his year-to-date income at the time of trial. This included Beach's contract income from January 1, 2009, to May 31, 2009, and unemployment income from June 1, 2009, through September 2009.

Beach argues that the trial court's calculation was unreasonable because it relied solely on "temporary employment." The trial court expressly noted the difficulty of determining Beach's income because of the intermittent and contractual nature of his employment. But contrary to Beach's assertion, the court also

[1] In re Marriage of Schumacher, 100 Wn. App. 208, 211, 997 P.2d 399 (2000).
[2] In re Marriage of Littlefield, 133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997).

considered his historical income, which was $65,000 for 2004; $72,000 for 2005; $79,000 for 2006; and $89,000 for 2007. Viewed in light of Beach's historical income, employment patterns, and actual earnings for 2009, the trial court's calculation method was not unreasonable. Beach has failed to demonstrate any error or abuse of discretion.

Beach next contends the trial court erred in failing to impute additional income to Linares because she was voluntarily unemployed. He alleges that Linares's existing job skills establish her employability and that her decision to pursue a three-year nursing degree rather than some shorter training program was unreasonable.

A parent may not avoid a child support obligation by remaining voluntarily unemployed or underemployed.[3] "Voluntary unemployment" has been defined as "unemployment . . . brought about by one's own free choice and is intentional rather than accidental."[4]

Linares testified that she had worked in various capacities in the mortgage industry, including as an escrow closer and loan processor. After experiencing her third layoff, Linares entered nursing school in order to obtain a registered nurse's license. She explained that opportunities in her prior field had diminished substantially and that any future opportunities would pay less than they had in the

[3] See RCW 26.19.071(6) (court shall impute income to parent when the parent is voluntarily unemployed or underemployed); see In re Marriage of Goodell, 130 Wn. App. 381, 389, 122 P.3d 929 (2005).
[4] In re Marriage of Blickenstaff, 71 Wn. App. 489, 493, 859 P.2d 646 (1993).

past. At the time of trial, Linares was attending a six-quarter program and intended to graduate in March 2011.

Linares continued to receive extended weekly unemployment benefits of $430 while she attended school. The Washington State Employment Security Department granted Linares's application for Commissioner Approved Training, noting that the jobs for which Linares was qualified "do not exist or are decreasing so that frequent or long periods of unemployment are likely" and there would be a reasonable number of jobs available in the nursing field.

The trial court set Linares's income at the level of her extended unemployment benefits, for a gross monthly income of $1,849. In making this determination, the court noted that the field in which Linares had previously worked had "tanked" and that the market for nurses was "booming."

Beach has not addressed Linares's work history, education, health, or age.[5] Nor has he identified any evidence in the record establishing the level of employment at which Linares is capable or qualified. He has therefore failed to demonstrate any abuse of discretion in the trial court's failure to enter a finding of voluntary unemployment.

Beach appears to challenge the calculation of child care expenses, the

[5] See RCW 26.19.071(6) (setting forth factors to determine full employment). Beach's reliance on In re Marriage of Pollard, 99 Wn. App. 48, 991 P.2d 1201 (2000), and Goodell is misplaced, as both cases involve a parent's voluntary decision to quit employment.

amount of past support obligations, the start date of the trial court's support order, a judgment for back support, the trial court's order requiring him to file an amended tax return, the trial court's consideration of irrelevant testimony, and various rulings made during previous support proceedings, including the arbitration. He also makes sweeping allegations of perjury and fraud. But because Beach fails to support these conclusory allegations with relevant authority, references to the record, or meaningful analysis, we decline to consider them.[6]

Beach argues that if the trial court had determined the child support obligations on the basis of the parties' correct income, he would have improved his position as a result of the trial de novo and would not have had to pay Linares's attorney fees under MAR 7.3.[7] Because Beach has failed to demonstrate any error or abuse of discretion in the trial court's determination of income or child support calculation, his challenge to the award of attorney fees under MAR 7.3 necessarily fails.

Linares has moved to strike portions of Beach's reply brief. To the extent that the reply brief contains exhibits that are not part of the record and arguments that

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[6] See Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); State v. Johnson, 119 Wn.2d 167, 171, 829 P.2d 1082 (1992) (passing treatment of an issue or lack of reasoned argument is insufficient to merit judicial consideration).

[7] See MAR 7.3; RCW 7.06.060(1) (party who appeals an arbitration award and fails to improve his or her position following trial de novo must pay costs and attorney fees).

are not in response to issues in the respondent's brief or that are raised for the first time, the motion is granted.[8] Linares's request for sanctions is denied.

Linares has requested an award of attorney fees "for defending this appeal" but offers no further argument supporting this request as required by RAP 18.1(b). RAP 18.1 "requires more than a bald request for attorney fees on appeal."[9] The request for attorney fees is therefore denied.

The motion to strike is granted in part; the request for attorney fees is denied; the judgment of the trial court is affirmed.

Leach, J.

WE CONCUR:

Grosse, J.

Dwyer, C. J.

[8] See RAP 10.3(c).
[9] Wilson Court Ltd. P'ship v. Tony Maroni's, Inc., 134 Wn.2d 692, 710 n.4, 952 P.2d 590 (1998) (citing Thweatt v. Hommel, 67 Wn. App. 135, 148, 834 P.2d 1058 (1992)).