

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2013 IL App (4th) 120509-U
NO. 4-12-0509
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
February 25, 2013
Carla Bender
4th District Appellate
Court, IL

In re: the Marriage of)	Appeal from
MICHAEL GADSON,)	Circuit Court of
Petitioner-Appellant,)	Adams County
and)	No. 02D368
JOYCE GADSON,)	
Respondent-Appellee.)	Honorable
)	Chet W. Vahle,
)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Appleton and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding that the trial court did not err by rejecting the petitioner's request to terminate maintenance.

¶ 2 In April 2011, petitioner, Michael T. Gadson, filed a petition to terminate maintenance, in which he claimed that he was unable to continue his work as a psychiatrist because he was "impaired to [en]gage in any gainful employment" due to a mental disability brought on by being twice "attacked" by his patients. In January 2012, the trial court entered a written order, rejecting Michael's petition to terminate his maintenance obligation.

¶ 3 Michael appeals, arguing that the trial court erred by rejecting his petition to terminate maintenance. We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 In December 1982, Michael and Joyce P. Gadson married. By 2004, Michael was

a practicing psychiatrist, earning \$293,784 per year, and Joyce was a stay-at-home mother to the couple's two children. In January 2005, the Gadsons divorced. As part of the trial court's judgment of dissolution, the court awarded Joyce (1) \$2,500 per month as child support and (2) \$2,200 per month as maintenance.

¶ 6 In June 2005, the trial court reviewed Michael's maintenance and child support as contemplated in the court's January 2005 judgment of dissolution. In October 2005, following a hearing, the court reduced Michael's child-support obligation but did not reduce the amount he was required to pay Joyce as maintenance, finding that Michael's decision to move and take a position that paid \$150,000 per year was not unreasonable. Nevertheless, no reason existed to reduce his maintenance obligation, given that he was capable of being "successful again."

¶ 7 In April 2009, Michael *pro se* filed a motion to terminate or reduce maintenance, claiming that he was unemployed and receiving disability. In August 2009, the trial court denied that motion.

¶ 8 In January 2010, Michael filed a petition to terminate maintenance, claiming that he was injured in the course of his employment and could no longer work. Following an April 2010 hearing at which Michael testified that he could no longer work due to his mental state, the court denied Michael's petition. The court based its decision on the fact that the Social Security Administration had denied his disability claim, but also that the court was not convinced, based on Michael's conduct, that he was not able to work, as follows:

"So, [the Social Security disability denial] is on appeal.

That's fine, but right now, as it sits, we have his testimony that he is disabled, and we have an adjudication by the federal government

twice that he is not. They denied benefits. To [the court], that's *** tantamount to an adjudication. He *** gave them his best shot, expert testimony and research, and they denied it. They said he can work.

Now, can he? Will he? [The court does not] know. That's what [the court] was saying earlier. [The court is] not going to pretend to know. He's the only one who knows if he is emotionally or mentally ill and disabled and unable to work. He's the only one that knows.

But, the history of it, [Michael], is that you have *** done so many things *** that [make] it hard to give you the benefit of any doubt. You have caused more financial turmoil in this family and more heartache and difficulties on account of your failure to live up to your obligations along the way, that it is really tough[,] *** it doesn't carry any weight.

[The court is] not convinced. You know, it's not much of an analogy, but we all have things we don't want to do, but we do them because we have to support a family and dependants. It is not always enjoyable. It's frustrating, and [the court] would guess that a lot of us suffer from depression now and again on account of the difficulties, but you've dug some real holes, and to claim that the holes that you dug are now tripping you up or at least in part, [the

court has not] seen the proof.

So, [the court] can't grant the petition to terminate. ***.

* * *

If at some point in the future you come in with a Social Security adjudication of disability, [the court will] be happy to reconsider, but right now, today, we don't have the proof."

¶ 9 Michael appealed, and this court affirmed. *In re Marriage of Gadson*, No. 4-10-0327 (Dec. 29, 2010) (unpublished order under Supreme Court Rule 23). In April 2011, Michael filed a petition to terminate maintenance, in which he again claimed that he was unable to continue his work as a psychiatrist because he was "impaired to [en]gage in any gainful employment" due to a mental disability brought on by being twice "attacked" by his patients. In December 2011, the Social Security Administration entered an adjudication in Michael's favor. Michael pointed to the Social Security Administration adjudication and his expert psychiatrist's testimony that he was unable to work to prove that Michael was unable to meet his maintenance obligation. In January 2012, the trial court denied Michael's motion to terminate maintenance, finding that his expert psychiatrist's evaluation was unpersuasive.

¶ 10 Michael filed a motion to reconsider, and in May 2012, the trial court entered a written order, rejecting Michael's motion to reconsider its denial of his petition to terminate his maintenance obligation, in pertinent part, as follows:

"Following a hearing on [Michael's] Motion to Reconsider, the court took the matter under advisement and has struggled with the issue of whether the Social Security Administration's

classification of [Michael] as disabled provides sufficient weight to reverse the court's prior decision that denied [Michael's] request to terminate maintenance.

The court has come to the conclusion that the Social Security Administration based its decision on information available to it under the standards and guidelines contained in its rules and regulations. That decision *** does not bind this court where this court has previously made a determination that [Michael] is not credible based on information likely not known to that agency. All of the reasons stated in the court's January 5, 2012, order's paragraphs are significant to the court, and outweigh the substantial weight that the Social Security Administration's findings deserve.

Thus, [Michael] would have us believe that two isolated incidents where mentally ill patients attacked their doctor, certainly not an unusual occurrence in the mental health field, combined with the difficulties in his life to render him hopelessly and permanently unable to work, and that no medication or treatment or personal effort on his part can ever change that. Here there is no indication that [Michael] has exhausted his medical and treatment resources, and the conclusion reached by the court is that [Michael] has chosen to be satisfied with his present situation. That is

certainly his right, but it is not a basis for terminating his maintenance obligation. ***."

¶ 11 This appeal followed.

¶ 12 II. MICHAEL'S CLAIM THAT THE TRIAL COURT ERRED BY DENYING HIS MOTION TO TERMINATE MAINTENANCE

¶ 13 Initially, we note that Joyce did not file a brief with this court. However, the issue in this case is such that we can decide this appeal on the merits without the aid of Joyce's appellee brief. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133, 345 N.E.2d 493, 495 (1976) (noting that when "the claimed errors are such that the court can easily decide them without the aid of an appellee's brief, the court of review should decide the merits of the appeal").

¶ 14 Michael argues that the trial court erred by rejecting his petition to terminate maintenance. Specifically, Michael contends that the court abused its discretion by failing to accept the testimony from his treating psychiatrist and the decision of the Social Security Administration, thereby "interject[ing] its own view of how psychiatric illnesses should be analyzed, instead of giving the proper weight to the psychiatric testimony and evidence presented." We disagree.

¶ 15 In *In re Marriage of Reynard*, 378 Ill. App. 3d 997, 1003, 883 N.E.2d 535, 540 (2008), this court outlined the standards applicable to a challenge to a trial court's decision not to modify maintenance, as follows:

"The trial court's ruling on a request to modify or terminate maintenance will not be disturbed absent an abuse of discretion.

See *In re Marriage of Pedersen*, 237 Ill. App. 3d 952, 956, 605 N.E.2d 629, 632 (1992). The burden is on the party seeking the modification to show a substantial change in circumstances since the entry of the original maintenance award. *Pedersen*, 237 Ill. App. 3d at 956, 605 N.E.2d at 632; 750 ILCS 5/510(a-5)(West 2004) (requiring a substantial change and listing various factors to consider). A maintenance award can be modified either when the needs of the spouse receiving the payments change or the ability of the spouse making the payments changes. *Pedersen*, 237 Ill. App. 3d at 956, 605 N.E.2d at 632-33, quoting *In re Marriage of Garelick*, 168 Ill. App. 3d 321, 326, 522 N.E.2d 738, 742 (1988)."

¶ 16 The record in this case reveals that the trial court's decision is not an abuse of discretion. Michael had been before the court numerous times—including hearings on Joyce's rules to show cause—each time arguing that he was unable to meet his obligation because he was injured in the course of his employment and could no longer work. As such, the court has had the opportunity to observe and evaluate, firsthand, Michael's testimony as well as the other evidence related to his condition and ability to work. The court clearly believes that Michael can work. The court's written orders are clear that the court gave substantial weight to the Social Security Administration's adjudication, as well as the testimony from his expert psychiatrist. Nevertheless, the court rejected Michael's claim that his maintenance obligation should be *terminated*.

¶ 17 In its January 5, 2012, order, the trial court made clear that it did not believe that

