2011 IL App (1st) 110273-U

No. 1-11-0273



SIXTH DIVISION
December 23, 2011

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| SUHA SLEWA, | ) | Appeal from the |
| | ) | Circuit Court of |
| Petitioner-Appellee, | ) | Cook County. |
| v. | ) | |
| | ) | No. 09 D 230719 |
| HAMFRI RAHANA, | ) | |
| | ) | The Honorable |
| Respondent-Appellant. | ) | Jeanne Reynolds, |
| | ) | Judge Presiding. |

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Robert E. Gordon and Justice Garcia concurred in the judgment.

**O R D E R**

¶ 1 *HELD*: The trial court did not abuse its discretion in modifying respondent's child support.

¶ 2 Respondent, Hamfri Rahana, appeals the trial court's judgment as it relates to child support. Respondent contends the trial court impermissibly deviated from section 505 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/505 (West 2010)) when it failed to adequately reduce his child support obligation despite a substantial change in

circumstances, namely, his reduced salary. Based on the following, we affirm.

¶ 3 FACTS

¶ 4 Petitioner, Suha Slewa, and respondent were married on July 5, 2007, and had a child on August 15, 2008. Petitioner filed a verified petition for the dissolution of the parties' marriage on December 28, 2009.

¶ 5 The trial court entered an initial order for support on May 10, 2010. The support order was based on respondent's employment at Pep Boys where he earned $1,567 biweekly. Respondent was ordered to pay child support in the amount $313.54 biweekly, representing 20% of respondent's net income. Thereafter, respondent left his job at Pep Boys. He subsequently obtained a job at 7-11 earning $638.56 biweekly.

¶ 6 On June 25, 2010, petitioner filed a rule to show cause for respondent's failure to comply with the terms of the May 10, 2010, order. On August 3, 2010, respondent filed a response and a petition to modify the child support order contending there had been a substantial change in circumstances such that respondent was no longer employed as a manager at Pep Boys. Respondent alleged that:

> "[d]uring the pendency of this divorce, [petitioner] has been showing up at [respondent's] place of employment creating scenes and calling police. During one of those visits, [petitioner] ran over [respondent] with her car ([respondent] jumped on top of the hood, uninjured). Police has paid visits to Pep-Boys interviewing employees in connection with this divorce and domestic disputes. The entire staff and management at Pep-Boys became privy to the parties' divorce

> matters causing [respondent] great embarrassment. [Respondent] could no longer handle the stress and responsibilities of the job and was written up for poor performance."

Respondent further alleged that he "had no other alternative to leave his employment at Pep-Boys or be terminated, in that he was on the verge of a nervous breakdown and could no longer perform his work duties." Respondent requested a reduction in child support based on his salary at 7-11.

¶ 7 On August 16, 2010, the trial court entered an order granting petitioner's rule to show cause for respondent's failure to pay child support. Respondent was ordered to pay $741.36. In its August 16, 2010, order, the trial court additionally denied respondent's motion to modify child support. No transcript appears in the record.

¶ 8 Respondent filed a motion to reconsider the trial court's August 16, 2010, order denying his motion to modify child support. Respondent attached seven affidavits in an effort to substantiate the allegation that he was forced to terminate his employment with Pep Boys due to petitioner's behavior at his workplace. On November 2, 2010, a hearing was held on, *inter alia*, respondent's motion to reconsider the August 16, 2010, order. No transcript appears in the record. Respondent's motion was denied. The written order provided that "respondent's motion to reconsider [is] denied, the court's ruling of 8.13th[1] stands. The court finds there was no new evidence presented that was not available at the time of the 8.13th hearings. The court further finds the credibility judgment of the parties made at the time of the 8.13th hearing was proper."

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[1]Based on our reading of the record, the accurate date of the ruling is August 16, 2010.

¶ 9 Following a bench trial, the court granted a judgment for the dissolution of the parties' marriage on December 23, 2010. The transcript demonstrates that the trial court made a prior factual finding that respondent voluntarily terminated his employment with Pep Boys. In its written dissolution order, the trial court provided, in relevant part:

> "Susan Granko and Elva Ortiz testified on [respondent's] behalf. These witnesses were friends of [respondent] and employees of Pep Boys. Neither witness testified as a representative from Pep Boys. Neither witness was a supervisor or had any control over [respondent's] employment with Pep Boys. Neither witness had any personal relationship with [petitioner]. [Respondent's] requests to present two additional witnesses, who were also friends of his and Pep Boys employees, testify as to these same issue[s] were denied. [Repondent] testified that he was a man[a]ger of Pep Boys and had been employed there for several years. [Respondent] claimed [petitioner's] behavior and the pending divorce action created an embarrassment for him at work. [Petitioner] denied any improper behavior, but did admit that she ripped up a check in front of his coworkers. There was no credible evidence presented that Pep Boys had reprimanded [respondent] or that he was in danger of being terminated prior to his voluntary termination.
>
> After the temporary child support order was entered on May 10, 2010, [respondent] voluntarily terminated his employment and took a lower paying job at 711 operated by his brother. [Respondent] has not actively sought employment

> in the auto industry or in any other industry. He has not attempted to seek reemployment with Pep Boys. The Court finds that [respondent] voluntarily terminated his employment and the change in circumstances in his employment is a direct result of his own actions.
>
> However, both parties have admitted that during the marriage they suffered from economic losses and financial strain prior to their separation. The marital residence is in foreclosure and no equity remains in the home. Accordingly, the Court will temporarily modify the child support amount to $250.00 biweekly and the $25.00 payment towards arrears temporarily suspended with the requirement that [respondent] actively seek full time employment keeping a job diary of at least 15 entries in it each week. [Respondent] shall tender a copy of his job diary to counsel for [petitioner] every 30 days and the matter shall be continued for status on employment for sixty days. In the event the Court determines [respondent] has failed to make a good faith effort to seek employment child support shall be reinstated in the amount of $313.54 biweekly and the $25.00 payment towards the arrears."

This appeal followed.

¶ 10 ANALYSIS

¶ 11 Section 510 of the Act governs the modification of child support. *In re Marriage of Eberhardt*, 387 Ill. App. 3d 226, 231, 900 N.E.2d 319 (2008). A child support obligation may be modified where a parent can demonstrate a substantial change in circumstances. *Id.*; 750 ILCS

510(a)(1) (West 2010). The parent seeking the modification has the burden of showing a change in circumstances that is substantial enough to warrant a change in support. *In re Marriage of Eberhardt*, 387 Ill. App. 3d at 231. In determining whether modification is appropriate, the trial court may consider "any substantial economic reversal resulting from a change in employment." *In re Marriage of Imlay*, 251 Ill. App. 3d 138, 140, 621 N.E.2d 992 (1993). The parent seeking a reduction in support, however, must demonstrate a good faith basis for voluntarily changing employment. 750 ILCS 5/510(a-5)(1) (West 2010); *In re Marriage of Imlay*, 251 Ill. App. 3d at 141. The decision whether to modify a child support award lies within the sound discretion of the trial court and will not be reversed absent an abuse of discretion. *Anderson v. Heckman*, 343 Ill. App. 3d 449, 453, 797 N.E.2d 1108 (2003).

¶ 12 There is no question that the trial court properly applied section 505 of the Act (750 ILCS 5/505(a)(1) (West 2010)) on May 10, 2010, when initially determining respondent's child support obligation as 20% of his Pep Boys income. Respondent contends that the trial court committed error in failing to reduce his support obligation when his income was reduced. Specifically, respondent argues that he should only be required to pay $127.70 biweekly based on his earnings at 7-11.

¶ 13 We find the trial court did not abuse its discretion in refusing to reduce respondent's support obligation as requested. Contrary to respondent's argument, the trial court considered his evidence that petitioner forced him to quit his job at Pep Boys and concluded instead that respondent voluntarily terminated his employment without a good faith basis for doing so. See *In re Marriage of Ross*, 355 Ill. App. 3d 1162, 1166, 824 N.E.2d 1108 (2005); *In re Marriage of*

*Imlay*, 251 Ill. App. 3d at 141-42 and cases cited therein. The court additionally found that respondent's efforts to secure employment for more than $10 per hour were lacking. Nevertheless, the trial court temporarily reduced respondent's support obligation from $313.54 biweekly to $250 biweekly. We, therefore, conclude there was no abuse of discretion.

¶ 14 CONCLUSION

¶ 15 The trial court properly modified respondent's child support.

¶ 16 Affirmed.