2021 IL App (4th) 210129-U

NO. 4-21-0129

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 24, 2021
Carla Bender
4th District Appellate
Court, IL

In re MARRIAGE OF	)	Appeal from the
JENNIFER A. LYONS,	)	Circuit Court of
Petitioner-Appellee,	)	Adams County
and	)	No. 01D173
AARON T. ALTMIX,	)	
Respondent-Appellant.	)	Honorable
	)	Holly Henze,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Holder White and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in denying respondent's petition to abate his child support arrearage.

¶ 2 In 2020, respondent, Aaron T. Altmix, filed a petition to terminate his child support obligation and abate the payments in arrears. The trial court entered a written order finding the support obligation had already terminated and declining to abate the arrearage. Respondent appeals, arguing the court's refusal to abate the child support arrearage was erroneous. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In August 2001, the trial court entered a judgment dissolving the marriage between petitioner and respondent. That same month, the court entered a uniform order of

support requiring respondent to make biweekly child support payments of $350. Pursuant to the order, respondent's child support obligation was set to terminate on September 20, 2017, the date the parties' youngest child turned 18 years of age.

¶ 5 In October 2007, the Illinois Department of Healthcare and Family Services (Department) filed a petition to intervene and a petition for entry of judgment against respondent requesting a judgment be entered in the amount of approximately $9000 to reflect unpaid child support. The trial court granted the Department's petitions and amended the order of support to reflect the amount in arrears and change the termination date of the child support obligation to June 1, 2018.

¶ 6 In May 2009, the Department filed a petition for downward modification of child support. Petitioner filed a motion to dismiss the petition, which the trial court granted.

¶ 7 On September 11, 2020, respondent filed the instant petition to terminate his child support obligation and abate the payments in arrears. According to the petition, respondent has been unable to pay child support since 2009, when he was civilly committed as a sexually violent person pursuant to the Sexually Violent Persons Commitment Act (725 ILCS 207/1 *et seq.* (West 2008)). Respondent attached to his petition a "Monthly Billing Statement of Child Support Account" from the Department indicating he was approximately $160,000 in arrears as of September 30, 2019. The trial court entered a written order denying respondent's request to abate the arrearage. The court's order states as follows: "The children are emancipated and no current child support is owed, only arrears which are not waived. Respondent owes arrears only."

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 On appeal, respondent argues the trial court erred in denying his petition to abate the child support arrearage. We disagree.

¶ 11 "It is a general principle that past-due installments of child support are the vested right of the designated recipient and cannot be terminated by the defendant [citation], and neither can they be modified as to amount or time of payment." *In re Marriage of McDavid*, 97 Ill. App. 3d 1044, 1050, 425 N.E.2d 442, 447 (1981); see also *In re Marriage of Hardy*, 191 Ill. App. 3d 685, 690, 548 N.E.2d 139, 142 (1989) ("[P]ast due installments are a vested right and the court has no authority to modify them."). "In an appropriate case, however, courts will give effect to either an agreement between the parties or to the doctrine of equitable estoppel to reduce the amount of child support arrearages." *McDavid*, 97 Ill. App. 3d at 1050.

¶ 12 Here, defendant did not file his petition until two years after his child support obligation had terminated. As a result, petitioner's right to receive all of the past-due installments was already vested at that time. And, as the trial court correctly noted, petitioner did not waive her right to those payments, nor does respondent make any contention on appeal that the doctrine of equitable estoppel operates to alleviate him of his obligation to satisfy the support arrearage. Accordingly, the court lacked authority to abate the support arrearage and did not err in denying defendant's petition. See *Hardy*, 191 Ill. App. 3d at 690.

¶ 13 III. CONCLUSION

¶ 14 For the reasons stated, we affirm the trial court's judgment.

¶ 15 Affirmed.