SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4719-15T4

LAURICE A. FAHERTY, n/k/a
LAURICE A. GRAE-HAUCK,

Plaintiff-Respondent,

v.

SCOTT L. FAHERTY,

Defendant-Appellant.

Argued August 1, 2017 – Decided December 8, 2017

Before Judges Sabatino and O'Connor.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Essex County, Docket No. FM-07-0527-13.

Robert H. Siegel argued the cause for appellant (Ansell Grimm & Aaron, PC, attorneys; Robert H. Siegel, on the brief).

Laurice A. Grae-Hauck, respondent, argued the cause pro se.

PER CURIAM

In this post-divorce judgment matrimonial action, defendant Scott L. Faherty filed a motion to reduce his obligation to pay

child support to plaintiff Laurice Grae-Hauck from $305 per week to $150 per week. In a June 20, 2016 order, the Family Part court reduced defendant's child support obligation to $301 per week. Defendant appeals from that order. We affirm.

I

The parties were divorced in 2013. Among other things, the parties' property settlement agreement (PSA) stated that: plaintiff was designated the primary caretaker of the parties' one child; defendant was to pay plaintiff $180 per week in child support, a sum calculated in accordance with the Child Support Guidelines; for the purpose of calculating child support, $67,392 in gross annual income was imputed to defendant and $15,000 was imputed to plaintiff; and plaintiff was entitled to limited duration alimony, until August 2014.

Expecting the amount he paid in child support would decrease when plaintiff's alimony expired, in August 2014, defendant moved to adjust his child support obligation. However, on September 22, 2014, the court entered an order increasing defendant's child support obligation from $180 per week to $305 per week.

In his brief submitted to us, defendant claims the court did not issue a statement of reasons explaining the bases for the relief granted in the September 22, 2014 order. However,

the Child Support Guidelines worksheet attached to the order reveals the court found defendant was or was capable of earning a gross annual income of $207,064. Similarly, the worksheet indicates the court found plaintiff was or was capable of earning $19,916 per year in gross annual income. Defendant did not challenge the September 22, 2014 order by filing a notice of appeal, see Rule 2:4-1(a), or a motion for reconsideration, see Rule 4:49-2.

In 2015, defendant unsuccessfully moved to reduce his child support payment on the ground the cost of providing health insurance for the child had increased. On June 26, 2015, the court denied such request without prejudice. In the order, the court stated defendant's application failed because he did not provide proof health insurance costs had risen. Defendant did not seek reconsideration of or leave to appeal this interlocutory order.

In 2016, defendant moved, among other things, to reduce his child support payment from $305 to $150 per week. As indicated in the certification he submitted in support of his motion, defendant's principal reason was the child support he was paying did not accurately reflect the cost to provide health insurance for the child and the number of overnights he had with the child.

Defendant did not specifically advocate the court attribute $67,392 in annual income to calculate child support. He merely mentioned that if his child support obligation were calculated using current health insurance costs, the correct number of overnights the child spent in his home, and an annual income of $67,392 for him and $15,080 for plaintiff, his child support obligation would be $150 per week.

Just before oral argument on the motion, the court issued a written tentative decision, see Rule 5:5-4(e). That tentative decision was replaced by a "revised tentative decision" a day or so later. In the latter document, the court tentatively decided defendant's child support obligation should be $301 per week, just four dollars less than what he had been paying since the entry of the September 22, 2014 order.[1]

In the revised tentative decision, the court did not provide its reasons for rejecting defendant's request to reduce child support as much as he requested. However, in the June 20, 2016 order, in which the terms of the revised tentative decision were memorialized, paragraph five of the order states in pertinent part:

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[1] The court included other tentative rulings in the revised tentative decision, but none of these rulings has been challenged on appeal.

> Effective February 9, 2016 — the filing date of defendant's cross motion, defendant's child support obligation is $301 [per] week . . . . Said amount reflects the addition of the health insurance credit due defendant. With regard to defendant's income, the court finds that there is no reason to depart from the amount imputed to defendant in the September 22, 2014 Order, as defendant has claimed to have virtually the same income in his current application.
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> [Emphasis supplied.]

II

On appeal, defendant raised a number of arguments in his brief but during oral argument, defendant retracted all but one of these arguments. That argument is as follows.

In his brief, defendant complained the Family Part court did not provide, as required by Rule 1:6-2(f), a written or oral statement of reasons explaining its rulings in the September 22, 2014 order. Defendant noted such failure deprived the parties of learning the court's reasoning for imputing $207,064 in annual income to defendant at that time.

He further contended the fact the court referenced the September 22, 2014 order in its June 20, 2016 order entitled him to appeal the September 22, 2014 order. During oral argument before us, defendant retracted the latter argument, conceding the reference to the September 22, 2014 order in the June 20, 2016 order did not toll the time within which to appeal the

September 22, 2014 order. But he still sought to have the Family Part court compelled to explain the basis for imputing $207,064 in annual income to him at the time it issued the September 22, 2014 order. He then withdrew any remaining arguments in his brief.

We decline to remand this matter to the Family Part court with the direction it now provide the basis for imputing $207,064 in income to defendant back in September 2014. The time to appeal the September 22, 2014 order has long expired, see Rule 2:4-1(a), and that includes any claim the court failed to provide a statement of reasons as required by Rule 1:6-2(f).

Moreover, defendant appeals from only the June 20, 2016 order; he does not appeal from the September 22, 2014 order. "It is clear that it is only the orders designated in the notice of appeal that are subject to the appeal process and review." W.H. Indus., Inc. v. Fundicao Balancins, Ltda, 397 N.J. Super. 455, 458 (App. Div. 2008) (citing Sikes v. Township of Rockaway, 269 N.J. Super. 463, 465-66 (App. Div.), aff'd o.b., 138 N.J. 41 (1994)).

Finally, in the June 20, 2016 order, the court does refer to its prior imputation of $207,064 in annual income to defendant, but only to note "there is no reason to depart from the amount imputed to defendant in the September 22, 2014 Order,

as defendant has claimed to have virtually the same income in his current application." In this context, the court's reference to the income imputed to defendant in 2014 does not permit us to review such imputation, a premise even defendant no longer advocates and has in fact abandoned. In addition, in the motion he filed that resulted in the entry of the June 20, 2016 order, defendant did not advocate the court alter the $207,064 in annual income imputed to him. However, defendant is not of course precluded from filing a new motion in the Family Part should he wish to seek a prospective modification of child support based on current financial circumstances.

Affirmed.