SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-4783-15T2

D.A.,

Plaintiff-Respondent,

v.

R.C.[1],

Defendant-Appellant.

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Submitted December 20, 2017 - Decided April 17, 2018

Before Judges Koblitz and Manahan.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Hudson County, Docket No. FD-09-1520-02.

R.C., appellant pro se (Markis M. Abraham and R.C., on the briefs).

Lesnevich, Marzano-Lesnevich and Trigg, LLC, attorneys for respondent (Francesca O'Cathain, of counsel; Georgia B. Barker, on the brief).

PER CURIAM

R.C., the father, appeals from an April 14, 2016 order rendered after failed mediation and a plenary hearing to determine

[1] The court elects to use initials for the parties to protect the identities of the minor children.

custody and child support for his son. He also appeals from a June 13, 2016 order denying reconsideration and a September 20, 2016 enforcement order assessing additional counsel fees. R.C. appeals the custody, child support, college payment allocation and attorney fees. We affirm substantially for the reasons placed on the record.

This matter returns to us after our 2014 remand for mediation and, if that failed, a plenary hearing to determine custody of the then sixteen-year-old child. D.A. v. R.C., 438 N.J. Super. 431, 433 (App. Div. 2014). We previously described the situation:

> The parties had a dating relationship from 1996 to 2000. Their son "Jeremy" (a fictitious name to protect his privacy) was born in December 1998. Represented by separate counsel, the parties agreed to mediate the legal issues concerning their son and entered into a Consent Order for Joint Custody and Parenting Time dated April 26, 2002. This Consent Order comprehensively addressed and resolved all of the issues generally associated with the rearing of the parties' then three-year-old son, including agreeing that the child would reside with plaintiff (mother), while giving defendant (father) "reasonable and liberal parenting time with the child." The Consent Order included a detailed description of the terms governing defendant's parenting time with his son.
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> [Id. at 433-34.]

After our remand, Jeremy graduated two years early from high school and was about to begin college in the fall of 2015. In

May, the parties agreed to R.C. obtaining primary custody of Jeremy with no child support paid by the mother, D.A. Jeremy moved in with his father for two weeks. Then, due to job requirements and without notice to the court, R.C. relocated out of state to Georgia with his wife and three children in July 2015. R.C. sought to obtain custody of Jeremy in Georgia, although Jeremy is going to college in New York City and D.A. lives close by in Jersey City where Jeremy grew up. Jeremy was seventeen years old at the time of the hearing. After the plenary hearing, the court awarded primary custody to D.A. and required R.C. to pay child support of $383 weekly, 77 percent of Jeremy's college costs after the child obtains all available loans and grants, and a portion of D.A.'s counsel fees in the amount of $6170.50 plus $1485.50 for R.C.'s nonappearance on a prior date. The court found that D.A. earned approximately $85,000 and R.C. earned approximately $280,000.

Because Jeremy was only seventeen years old and highly dependent on his parents, financially and otherwise, the court awarded significant child support as well as college expenses. The court found that Jeremy stays at his mother's house often, as it is close to his college and he returns to see friends, obtain haircuts, and enjoy his home environment as a child under the age of most college students. The court discussed the combination of child support and college expenses ordered and explained why a

higher child support was ordered than is usual when the child is attending college, based on the age of the child and the college's geographic proximity to his mother.

D.A. sought enforcement and R.C. sought a modification of child support based on his loss of employment. In its September order, the court enforced its earlier order, pursuant to Rule 5:3-7(a), but correctly determined it did not have jurisdiction to address the change of circumstances while the case was pending on appeal. The court awarded $3425 in counsel fees to D.A.

We now affirm substantially for the reasons stated by the court in its thorough and comprehensive April 14, 2016 oral opinion, where it discussed the facts in relation to both statutory factors and cases relating to custody and child support. "Because of the family courts' special jurisdiction and expertise in family matters, appellate courts should accord deference to family court factfinding," and the conclusions that flow logically from those findings of fact. Cesare v. Cesare, 154 N.J. 394, 413 (1998). "When reviewing a trial judge's order, we defer to factual findings 'supported by adequate, substantial, credible evidence.'" Ricci v. Ricci, 448 N.J. Super. 546, 564 (App. Div. 2017) (quoting Spangenberg v. Kolakowski, 442 N.J. Super. 529, 535 (App. Div. 2015)). The court gave a well-reasoned opinion based on the facts found.

We add only the following with regard to R.C.'s argument, raised for the first time on appeal, that forcing unmarried parents to pay for college costs unconstitutionally disfavors children of intact families. Because this argument was not raised in the trial court and does not go to the jurisdiction of the court or concern matters of great public interest, we decline to consider it. Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973). Nonetheless, we make the following brief comments. R.C. cites to Curtis v. Kline, 666 A.2d 265, 268-70 (Pa. 1995), where the Pennsylvania Supreme Court found that their statute requiring divorced parents to pay for college had no rational basis for distinguishing between the rights of children of divorced parents and children of married parents.

Under Pennsylvania law, a parent's duty to support ends when the child reaches eighteen or finishes high school, whichever is sooner, and there is no obligation to make a college contribution. Blue v. Blue, 616 A.2d 628, 632-33 (Pa. 1992). In contrast, the law of this State is that a parent's child support obligation does not automatically terminate at age eighteen, and the obligation encompasses a child's right to college contribution when the parents are financially capable and the child is college qualified. Newburgh v. Arrigo, 88 N.J. 529, 543-44 (1982); Ricci, 448 N.J. Super. at 555, 572. Our current emancipation provisions hold that

a child attending college full-time is not emancipated if under the age of twenty-three. R. 5:6-9; N.J.S.A. 2A:17-56.67(b). Additionally, in New Jersey, even parents who are not divorced or separated may be required to pay college costs. Ricci, 448 N.J. Super. at 571.

Affirmed.