SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1248-21

T.S.,

Plaintiff-Appellant,

v.

P.T.,

Defendant-Respondent.

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Submitted February 7, 2023 – Decided April 18, 2023

Before Judges Gilson, Rose, and Gummer.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Bergen County, Docket No. FM-02-1804-07.

Donahue, Hagan, Klein & Weisberg, LLC, attorneys for appellant (Francis W. Donahue, of counsel and on the briefs).

Laterra & Hodge, LLC, attorneys for respondent (Jeffrey B. Hodge, of counsel and on the brief).

PER CURIAM

This matter returns to us following a remand to recalculate child support. Plaintiff now appeals from a November 16, 2021 order modifying his child support obligations. In essence, plaintiff argues that the family court failed to follow our instructions and did not correctly recalculate his child support obligations. We disagree and affirm because the family court followed our instructions and did not err in recalculating plaintiff's child support obligations based on the Child Support Guidelines as adjusted for plaintiff's above-guideline income.

The facts and procedural history were summarized in our prior opinion, T.S. v. P.T., No. A-0679-18 (App. Div. Dec. 22, 2020), and the family court's written opinion issued on November 16, 2021. We, therefore, summarize only certain facts and procedures relevant to this second appeal.[1]

The parties were married in 1994 and divorced in 2010. They have three children. The oldest child was born in February 2001, and the other two children are twins born in April 2003. All three children have special needs.

[1] We use initials to protect the privacy of the litigants and preserve the confidentiality of certain records because we discuss some of their financial circumstances. See R. 1:38-3(d).

Plaintiff filed for divorce in 2007. In 2010, after discovery and extensive litigation, the parties negotiated and entered into a matrimonial settlement agreement (MSA). The MSA was incorporated into a final judgment of divorce entered on June 7, 2010.

Under the MSA, plaintiff agreed to pay defendant child support of $12,000 per month. In addition, plaintiff agreed to pay defendant alimony of $10,000 per month for ten years. Those obligations were based on plaintiff's income and assets. At that time, plaintiff was earning over $1 million in income and had interests in a technology company and a real estate holding company.

In May 2013, plaintiff moved to terminate or reduce his child support and alimony obligations, contending that his technology company had lost its major contract and, as a result, he could no longer earn the high income he had previously enjoyed. The parties engaged in extensive discovery, and the family court conducted a multi-day plenary hearing in 2017 and 2018.

On August 30, 2018, the family court issued an order and decision reducing plaintiff's child support and alimony obligations. In its opinion, the family court made detailed findings of facts, including imputing income to plaintiff and defendant. The court found that plaintiff had the ability to earn an annual income of $300,000 and defendant had the ability to earn an annual

income of $80,000. Based on those findings, the court reduced plaintiff's child support obligations from $12,000 per month to $3,000 per month and reduced his alimony obligations from $10,000 per month to $5,000 per month. In reducing the child support obligations, the family court did not use the Child Support Guidelines. Instead, the court reduced the child support based on the percentage of the reduction in plaintiff's income.

Both parties appealed from the August 30, 2018 order and certain related orders. In our December 22, 2020 opinion, we affirmed the family court's August 30, 2018 order in all respects except for the child support calculation. We held that the family court had "erred in reducing plaintiff's child support obligations without using the Child Support Guidelines to determine a base child support award and then analyzing the factors in N.J.S.A. 2A:34-23(a) to determine the supplemental child support award." T.S., slip op. at 16. We remanded that one issue for a recalculation of the child support obligations.

On remand, the family court allowed the parties to submit additional briefs and proposed findings of facts and conclusions of law. The court then heard argument. On November 16, 2021, the court issued an order and a twenty-eight-page written opinion supporting its ruling on child support. In the November 16, 2021 order, the court modified plaintiff's child support obligations to $7,000

per month for the period from May 13, 2013 to May 31, 2020, and $7,476 per month after plaintiff's alimony obligations ended, beginning in June 2020.

In calculating child support, the court used the Child Support Guidelines and adjusted the amount based on the needs of the children and the parties' income, assets, and ability to contribute to the support of their children. In that regard, the court used the four-step analysis set forth in our opinion in Caplan v. Caplan, 364 N.J. Super. 68, 86-90 (App. Div. 2003).

Plaintiff now appeals from the November 16, 2021 order. He argues that the family court erred in (1) failing to analyze the children's basic needs and supplemental needs; (2) relying on an expert opinion without analyzing that opinion; and (3) relying on unsupported facts and expert opinions. We reject plaintiff's arguments and affirm substantially for the reasons set forth in the family court's thorough November 16, 2021 written opinion. Plaintiff's arguments on this appeal do not warrant extensive discussion. See R. 2:11-3(e)(1)(E). We add only a few brief comments.

Plaintiff first contends that on remand the family court failed to analyze the needs of the children. That argument is not supported by the record. When the parties signed the MSA in 2010, they agreed that the basic needs of the three children were $12,000 per month. The court relied on the parties' agreed-to

amount of the children's needs. In doing so, the court recognized that the parents were in a particularly good position to assess the needs of their children. Just as importantly, after receiving the parties' new submissions on remand, the court found that plaintiff submitted no evidence demonstrating that the needs of the children had substantially changed. That finding is supported by the substantial credible evidence in the record. See Cesare v. Cesare, 154 N.J. 394, 411-12 (1998).

In his second argument, plaintiff seeks to attack the family court's finding concerning his imputed income. We affirmed the family court's income finding in our December 22, 2020 opinion. Plaintiff's argument that our affirmance pertained only to an evidentiary ruling on the admission of defendant's expert opinion is incorrect. In its August 2018 decision, the family court relied on defendant's expert opinion, as well as other factual findings, to determine plaintiff's imputed income. We affirmed that determination, and that issue was not open to re-litigation on remand.

Plaintiff's third argument suffers from the same flaw as his second argument. Our remand was for a limited purpose: to recalculate child support based on the Child Support Guidelines and to make adjustments given the parents' income levels. The family court correctly rejected plaintiff's attempt to

re-litigate issues that had been resolved in the order issued in August 2018 following a plenary hearing.

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

CLERK OF THE APPELLATE DIVISION