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APPROVAL OF THE APPELLATE DIVISION**

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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1633-24

P.P.T.,¹

Plaintiff-Appellant,

v.

L.O.,

Defendant-Respondent.

Submitted December 16, 2025 – Decided February 10, 2026

Before Judges Chase and Augostini.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Passaic County,
Docket No. FD-16-0141-14.

P.P.T., self-represented appellant.

Respondent has not filed a brief.

PER CURIAM

¹ We use initials to protect the confidentiality of the proceedings and the privacy interests of the parties. See R. 1:38-3(d)(3).

In this non-dissolution matter, plaintiff P.P.T. appeals from portions of a December 19, 2024 family court order² that denied his request to reduce his child support obligation, conduct a plenary hearing, and compel him to satisfy his child support arrears and prior attorney's fee award within thirty days or a bench warrant would issue for his arrest. Plaintiff further contends that the court denied him due process by threatening incarceration for non-compliance without the appointment of counsel and by over broadly restricting his right to file future applications. We affirm the family court's order as to child support modification, denial of a plenary hearing, and lack of the appointment of counsel. We reverse and remand, however, for further findings regarding the court's broad restriction on plaintiff's future filings.

I.

Plaintiff and defendant were never married and have one child together who was born in 2013. The parties share joint legal custody, with defendant being the parent of primary residence and plaintiff being the parent of alternate residence. In 2014, the parties agreed to a weekly child support obligation of \$193 retroactive to September 2013. An arrears payment of \$30 was established,

² The December 19, 2024 order memorializes the court's rulings from the December 4, 2024 hearing.

making plaintiff's total child support obligation \$223 weekly. Over the years, the parties filed numerous applications litigating custody, parenting time, and child support.

Relevantly, in 2021, plaintiff's child support obligation increased to \$272 weekly with an arrears amount of \$45, making his weekly obligation \$317. As of March 2021, plaintiff's arrears were \$2,578. Two years later, as of February 3, 2023, plaintiff's arrears had increased to \$3,974.45.

In June 2024, plaintiff filed for modification of child support, custody and parenting time, and credit for child health insurance. The matter was scheduled for a hearing on October 4, 2024, but was adjourned to December 4, 2024.

On September 4, 2024, plaintiff, an electrician, fell off a ladder at work and was injured. At the December 4, 2024 hearing, he advised the family court that he was "out on disability" and unsure when he would return to work. Plaintiff sought to reduce his current \$337 weekly support obligation, which included a base obligation of \$292 and an arrears amount of \$45. Plaintiff argued that his child support obligation had been "over-calculated" for eleven years. He also claimed he had been evicted due to his excessive child support

obligation, which he asserted was based on an overestimation of his working hours.

When questioned as to the changed circumstances warranting a decrease in support, plaintiff stated that he had been out on disability since September 19, 2024, and was awaiting a worker's compensation determination. The family court noted that the documentation plaintiff provided only showed that he had surgery scheduled and did not establish a permanent inability to work in his chosen field. Indeed, plaintiff acknowledged that this documentation did not address his "prognosis, diagnosis or ability to work." Because plaintiff's medical documentation was insufficient to demonstrate changed financial circumstances, the court denied his application without prejudice, stating:

If at some point in time, sir, you have something from a physician or from the disability office, whatever the case may be, that indicates that due to your current disability or injury you're unable to work and unable to work for a specific period of time, then there could be something looked at with regards to child support.

The family court reviewed plaintiff's payment history and determined that as of December 4, 2024, he owed \$21,013.30 in child support, with the last payment of \$467 having been made in October 2024. During the hearing, defendant alleged, and plaintiff admitted, that plaintiff received a lawsuit settlement of approximately \$100,000 in July 2024, and yet has not paid his

outstanding child support arrears. Defendant alleged that plaintiff used the money to buy two trucks and a boat, which plaintiff denied, claiming he simply traded in his earlier vehicle for a "2019 Nissan Rouge." Reasoning that plaintiff was obligated to pay his child support arrears "first and foremost," the court ordered him to pay \$21,013.30, as well as a prior attorney's fee award of \$8,339.33 within thirty days. The court further directed that if plaintiff did not pay the child support arrears and attorney's fees within the prescribed time frame, a bench warrant for his arrest would be issued.

The family court denied plaintiff's remaining reliefs. Specifically, the court denied plaintiff's request to receive a child support credit for the cost of health insurance, explaining that this issue was previously adjudicated as memorialized in the February 3, 2023 order and determining there had been no change in circumstances to warrant reconsideration of this issue. The court also denied plaintiff's request for a best interest evaluation to address custody and parenting time based on a lack of changed circumstances.

On appeal, plaintiff contends the family court erred by (1) denying changed circumstances warranting a downward modification of child support; (2) threatening the issuance of arrest warrants without the appointment of counsel if plaintiff fails to satisfy his monetary obligations; (3) failing to

consider plaintiff's injury and disability when refusing to reduce child support; and (4) violating his rights by "globally ordering [him] to get permission to file future motions with the [c]ourt."

II.

"[O]ur review of the Family Part's determinations regarding child support is limited." Avelino-Catabran v. Catabran, 445 N.J. Super. 574, 587 (App. Div. 2016). "When reviewing decisions granting or denying applications to modify child support, we examine whether, given the facts, the trial judge abused his or her discretion." J.B. v. W.B., 215 N.J. 305, 325-26 (2013) (quoting Jacoby v. Jacoby, 427 N.J. Super. 109, 116 (App. Div. 2012)). "The trial court's 'award will not be disturbed unless it is manifestly unreasonable, arbitrary, or clearly contrary to reason or to other evidence, or the result of whim or caprice.'" J.B., 215 N.J. at 325-26 (quoting Jacoby, 427 N.J. at 116).

A child support order is reviewable upon a showing of changed circumstances. Lepis v. Lepis, 83 N.J. 139, 157 (1980). A party seeking to modify a child support obligation has the burden of demonstrating changed circumstances. Ibid. Any decision must be made consistent with the child's best interests. Hand v. Hand, 391 N.J. Super. 102, 105 (App. Div. 2007). Such changes may include a significant increase or decrease in income, new

dependents, or other financial circumstances. J.B., 215 N.J. at 327-28. However, not every change in circumstance justifies a review of child support; instead, modifications based on permanent changes generally warrant the court's review. Lepis, 83 N.J. at 151. If a movant has made a prima facie showing of changed circumstances, "a plenary hearing is only required if there is a genuine, material and legitimate factual dispute." Segal v. Lynch, 211 N.J. 230, 264-65 (2012). "Without such a standard, courts would be obligated to hold hearings on every modification application." Lepis, 83 N.J. at 159.

Furthermore, it is well-established that "the enforcement, collection, [and] modification . . . of unpaid arrearages in . . . child support payments are matters addressed to the sound discretion of the court." In re Rogiers, 396 N.J. Super. 317, 327 (App. Div. 2007) (quoting Mastropole v. Mastropole, 181 N.J. Super. 130, 141 (App. Div. 1981)).

III.

A.

Having reviewed the record and guided by these principles, we reject plaintiff's arguments that the family court's denial of his request to reduce child support was either an abuse of discretion or a misapplication of the law. Initially, plaintiff's assertion that the family court erred in not finding changed

circumstances and reducing his child support obligation is without merit. The court correctly found that plaintiff did not present competent evidence to support a modification or recalculation of child support. The proofs provided showed that plaintiff had surgery scheduled but did not show that plaintiff was unable to work on a permanent basis. Indeed, plaintiff acknowledged that the proofs he submitted did not show that he was unable to work. Moreover, the court did not preclude plaintiff from refileing a modification application supported by medical evidence establishing his current disability or injury and his inability to work.

For the first time on appeal, plaintiff submitted medical documentation related to his injuries sustained from his fall as well as kidney complications that he acknowledges were not part of the record before the family court because they were issued after his June 3, 2024 filing. Indeed, plaintiff's documentation relating to his kidney failure was obtained in January 2025—well after the December hearing. We do not consider as our "review is confined to the record made in the trial court . . . and appellate courts will not consider evidence submitted on appeal that was not in the record before the trial court." Scott v. Salerno, 297 N.J. Super. 437, 447 (App. Div. 1997) (first citing Wallach v. Williams, 52 N.J. 504, 505 (1968) then citing Middle Dep't Insp. Agency v.

Home Ins. Co., 154 N.J. Super. 49, 56 (App. Div. 1977)). As the family court noted, plaintiff was not without recourse. He was able to refile his application seeking a modification of child support and support it with appropriate medical documentation.

We also reject plaintiff's arguments that the family court abused its discretion by not conducting a plenary hearing on his modification request and recalculating child support based on the statutory factors set forth in N.J.S.A. 2A:34-23 (a)(1) to (10). A plenary hearing is only required to resolve materially disputed facts once a party has made a threshold showing of changed circumstances. Lepis, 83 N.J. at 159. In this case, the court properly ruled that plaintiff did not meet his initial burden of showing a significant change in his financial circumstances since the last order to justify a review of child support.

Plaintiff's assertion that the court was required to analyze the factors enumerated in N.J.S.A. 2A:34-23(a) is unsupported. In establishing or modifying child support, the New Jersey Child Support Guidelines "shall be applied" except where "good cause is shown" to deviate from those guidelines. R. 5:6A. In cases where the family's income exceeds the maximum amount in Appendix IX-F, for example, the statutory factors in N.J.S.A. 2A:34-23 would

apply. Pressler & Verniero, Current N.J. Court Rules, cmt. 1.2 on R. 5:6A (2026); see Caplan v. Caplan, 182 N.J. 250, 266 (2005).

The guidelines have been used in this case since the establishment of plaintiff's child support obligation in 2014. Plaintiff did not request to deviate from the guidelines, nor is there a basis to do so. Even had plaintiff established changed circumstances to modify child support, the guidelines would again have been utilized to review and modify plaintiff's obligation absent a specific showing of good cause. R. 5:6A.

B.

We next turn to plaintiff's contention that the family court mistakenly exercised its discretion by threatening to issue a bench warrant for his arrest without appointing counsel should he not satisfy his financial obligations. We disagree. Rules 1:10-3 and 5:3-7 provide the family court affirmative measures to enforce its orders, including a child support award. "The particular manner in which compliance may be sought is left to the court's sound discretion." Bd. of Educ., Twp. of Middletown v. Middletown Twp. Educ. Ass'n, 352 N.J. Super. 501, 509 (Ch. Div. 2001).

Rule 1:10-3 "provide[s] a mechanism, coercive in nature, to afford relief to a litigant who has not received what a [c]ourt [o]rder or [j]udgment entitles

that litigant to receive." D'Atria v. D'Atria, 242 N.J. Super. 392, 407 (Ch. Div. 1990). "The particular manner in which compliance may be sought is left to the court's sound discretion." Bd. of Educ., Twp. of Middletown, 352 N.J. Super. at 509. Rule 1:10-3 also states that a court in a family action may grant additional remedies to a party as provided by Rule 5:3-7. Rule 5:3-7 provides:

On finding that a party has violated a[] . . . child support order the court may, in addition to remedies provided by R. 1:10-3, grant any of the following remedies, either singly or in combination: (1) fixing the amount of arrearages and entering a judgment upon which interest accrues; (2) requiring payment of arrearages on a periodic basis; (3) suspension of an occupational license or driver's license consistent with law; (4) economic sanctions; (5) participation by the party in violation of the order in an approved community service program; (6) incarceration, with or without work release; (7) issuance of a warrant to be executed upon the further violation of the judgment or order; and (8) any other appropriate equitable remedy.

Consistent with these Rules, the family court may issue a bench warrant upon further violation, and require the execution to occur within regular business hours so that the individual may be brought promptly before the court. Cf. Saltzman v. Saltzman, 290 N.J. Super. 117, 123 (App. Div. 1996). In this case, the family court acted within its discretion by ordering the issuance of a bench warrant if plaintiff failed to satisfy his financial obligations by the established deadline.

If the bench warrant were to issue for non-compliance with the order for support or attorney's fees, plaintiff "must be brought before [the] court as soon as possible." Pasqua v. Council, 186 N.J. 127, 153 (2006). The court then conducts an ability to pay hearing, or in other words, an enforcement hearing. "The objective of the hearing is simply to determine whether [plaintiff's failure to comply with the court's orders] was excusable or willful—i.e., the obligor was able to pay and did not." Schochet v. Schochet, 435 N.J. Super. 542, 548 (App. Div. 2014). At this hearing, plaintiff will be entitled to the appointment of counsel. See Pasqua, 186 N.J. at 146-49 (holding under New Jersey law, an indigent litigant "facing jail for allegedly willfully refusing to pay a child support judgment" has a right to legal counsel during contempt proceedings).

In this case, plaintiff did not have a right to counsel at the December 4, 2024 hearing because it was not a contempt proceeding. We are satisfied the court did not err by not providing plaintiff with an attorney at this hearing because the right to counsel had not yet attached. Id. at 133, 146-49. Should plaintiff not comply with the court's order regarding his financial obligations and an arrest warrant is issued, he will have a right to counsel at a future contempt proceeding. Ibid.

C.

Lastly, we address plaintiff's contention that the family court abused its discretion by reinstating paragraph 7 of the February 23, 2023 order³ requiring him to seek permission from the court before filing any future applications. Plaintiff asserts that this requirement violates his due process rights and is overly broad.

When issuing a sanction order for frivolous litigation filings under Rosenblum v. Borough of Closter, 333 N.J. Super. 385, 392-97 (App. Div. 2000), a judge must evaluate "the volume and disposition of the cases" filed by the litigant, "address the allegations in the present complaints," "give reasons for her conclusion that the complaints may not be filed," "be assured that more traditional sanctions will not protect against frivolous litigation," and "must review the new complaint to be assured that a meritorious claim is not suppressed." Rosenblum, 333 N.J. Super. at 392-97; see also Parish v. Parish, 412 N.J. Super. 39, 54 (App. Div. 2010).

³ The December 19, 2024 order refers to "point 7 from Judge Jenkins' order dated 2/23/2023;" however, the record does not contain a February 23, 2023 order. Instead, the record contains only a February 3, 2023 administrative order, which refers to another order filed on the same date. This second order is not contained in the record.

Restrictions against a litigant's filing of prospective motions are appropriate in certain circumstances. See D'Amore v. D'Amore, 186 N.J. Super. 525, 530 (App. Div. 1982) (holding a trial court has the power to enjoin prospective harassing litigation). "However, 'that power must be exercised consistently with the fundamental right of the public to access to the courts in order to secure adjudication of claims on their merits.'" Rosenblum, 333 N.J. Super. at 396 (quoting D'Amore, 186 N.J. Super. at 530). In reviewing whether a filing is frivolous, a judge must "do more than conclude [a] plaintiff's prior complaints were frivolous. The [judge] must be assured that more traditional sanctions will not protect against frivolous litigation and must review the new complaint to be assured that a meritorious claim is not suppressed." Ibid.

Rule 1:7-4 states, in relevant part, that "[t]he court shall, by an opinion or memorandum decision, either written or oral, find the facts and state its conclusions of law thereon in all actions tried without a jury, on every motion decided by a written order that is appealable as of right." This requirement applies equally to the court's findings in a non-dissolution matter. J.G. v. J.H., 457 N.J. Super. 365, 374 (App. Div. 2019).

Here, the family court simply concluded that plaintiff's prior filings were frivolous. During the December 4, 2024 hearing, defendant's attorney requested

that paragraph seven of the February 23, 2023 order be reinstated, and without further explanation, the court granted this request. The court stated:

. . . I will reinstate Point 7 of the 2023 order which indicates that [plaintiff] is hereby estopped and enjoined from filing any further applications for relief with the [c]ourt, unless or until he first writes to the [c]ourt requesting permission to do so and provide[] [] full basis and rationale for the filing of any such application with copies to be provided to [] defendant and [] defendant's counsel . . . [.] So Point 7 of that application is going to be reinstated. Counsel, I've . . . got to continue on with my cases. Is there anything else?

Although our review of this issue is limited by plaintiff's failure to include the February 23, 2023 order referenced in the December 19, 2024 order, we nonetheless have sufficient information in the December order to address this issue.

In this case, the family court did not provide adequate reasons for reinstating the prior provision restricting plaintiff's filings by requiring him to first detail the reasons for the filing and then obtain the court's permission to proceed. The court did not explain why it had deemed plaintiff's filings and claims frivolous, thereby justifying this restraint. Rosenblum, 333 N.J. Super. at 392-97; see also Parish, 412 N.J. Super. at 54. Therefore, we are constrained to remand the matter as to this provision of the December 19, 2024 order for the

family court to make further findings regarding its reasoning for reinstating this broad restriction on plaintiff's access to the courts. See Rosenblum, 333 N.J. Super. at 392- 97; Parish, 412 N.J. Super. at 54.

Affirmed in part; reversed and remanded in part. We do not retain jurisdiction.

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

M.C. Hanley

Clerk of the Appellate Division