COURT OF APPEALS
DECISION
DATED AND FILED

March 20, 2001

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

No. 00-1271

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT III

IN RE THE MARRIAGE OF:

SHEILA L. DAVIS, N/K/A FOX,

PETITIONER-RESPONDENT,

V.

CAREY K. DAVIS,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Eau Claire County: THOMAS H. BARLAND, Judge. *Affirmed.*

Before Cane, C.J., Hoover, P.J., and Peterson, J.

¶1 PER CURIAM. Carey Davis appeals an order determining the amount of interest owed on his child support arrearage. Davis argues that based upon a previous stipulation and order, the total amount owing, including interest,

is $15,400. The trial court, however, determined that $15,400 excludes interest of $4,931. We affirm the order.

¶2 The parties were divorced in 1982 and had one daughter. Sheila Fox, Carey's former wife, had primary placement and Carey was ordered to pay child support. In August 1997, the parties stipulated to an order providing that Carey's child support obligation would be $400 per month. The order provided "That [Carey's] child support arrears due and owing are $14,600.00 with interest accruing from July 11, 1997." The order also provided that Carey was relieved of paying the arrearage until the support order ended.

¶3 In July 1998, the Eau Claire County Child Support agency initiated contempt proceedings and filed an affidavit asserting that Carey failed to pay support as ordered and:

> That the Respondent is now in arrears in the amount of $1,003.86 plus interest of $353.63; $100.00 for receipting and disbursing fees, due to the State of Wisconsin, and has child support arrears in the amount of $18,627.00 and interest of $1,929.02 … as of July 8, 1998.

¶4 In September 1998, the parties stipulated that because the child was living with Carey, his child support obligation was suspended. Additionally, the stipulated order read:

> That due to the change in residence of the minor child in the fall of 1997, the Respondent's account record maintained by the Eau Claire County Child Support Agency shall be adjusted to reflect a total of $15,400 outstanding child support arrears … as of September 1, 1998.

¶5 In November 1998, Sheila moved the court to require Carey to pay the child support arrearage and determine interest thereon. At the motion hearing,

both parties offered arguments of counsel. Sheila's position was that interest on the arrearage equaled $4,931. Carey claimed the stipulated sum, $15,400, included interest. His counsel maintained that the $800 difference between $14,600 and $15,400 did not reflect missed child support payments, but represented Sheila's agreement to forego interest.

¶6 The trial court ruled: "I think that my interpretation should be limited to the face of the order, because if we were to go into the background that led to it, every time any dispute arose concerning how to interpret an order we would go back into the background, which could be lengthy or convoluted or amount to a retrial of the whole case …."

¶7 The court determined that it would interpret the order based upon its plain language. The court noted that the stipulation and order did not specify what the $800 represented. Because the stipulation and order gave no indication that it included interest, the court concluded that the sum of $15,400 excluded interest. As a result, the court granted Sheila a $20,331 lien against Carey's house. This appeal follows.

¶8 Carey argues that the trial court erroneously interpreted the order. He contends that the order is plain on its face that the "account record … shall be adjusted" and this phrase, in his view, demonstrates that it included interest. He argues that if the order did not include interest, presumably there would be no reason to adjust the record. He contends that if this language related to a missed payment, it would have been placed in a previous paragraph relating to child support.

¶9 We are unpersuaded. We are governed by the standards recently set forth in ***Washington v. Washington***, 2000 WI 47, 234 Wis. 2d 689, 611 N.W.2d

47, stating: "A divorce judgment that is clear on its face is not open to construction." ***Id.*** at ¶17. Divorce judgments are interpreted in the same manner as other written instruments. ***Id.*** Determining whether an ambiguity exists is a question of law. ***Id.*** at ¶18. An ambiguity exists if the written instrument is reasonably susceptible to more than one meaning. ***Id.*** Absent an ambiguity, we need not consider extrinsic evidence. ***Production Credit Ass'n v. Rosner,*** 78 Wis. 2d 543, 549, 255 N.W.2d 79 (1977).

¶10 Here, the language of the stipulated order is unambiguous. It does not refer to the inclusion of interest. Therefore, we agree with the trial court's interpretation that the order was exclusive of interest.

¶11 Carey argues that this interpretation results in a retroactive change in the child support order, contrary to law. Without citation to authority or to the record, Carey maintains that if the current order stands, he "will have agreed to child support arrears in excess[] of what accrued on a month by month basis." Carey, however, fails to demonstrate that the adjustment could not have been for a myriad of other reasons. We are satisfied that the stipulation and order do not support Carey's interpretation.

¶12 Alternatively, Carey alleges that the trial court may look to the entire record when there is an ambiguity and that it erred when it refused to admit extraneous information. The problem is that the order is not ambiguous. The order's failure to specifically refer to interest does not necessarily render it susceptible to more than one reasonable interpretation. In absence of an ambiguity, extrinsic evidence has no relevance. *See* ***Id.*** at 550. Therefore, the court did not err by rejecting extraneous evidence.

¶13 Further, the record lacks an appropriate offer of proof. *See* WIS. STAT. § 901.(1)(b). The record fails to illuminate what the extraneous evidence, if any, would have shown. Accordingly, there is no showing the rejection of extraneous evidence was reversible error. *See* WIS. STAT. § 805.18(2).

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.