

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**June 23, 2011**

A. John Voelker  
Acting Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2010AP1847**

**Cir. Ct. No. 2008FA879**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**IN RE THE MARRIAGE OF:**

**MICHAEL C. PRUE,**

**JOINT-PETITIONER-APPELLANT,**

**V.**

**LUCINDA K. PRUE,**

**JOINT-PETITIONER-RESPONDENT.**

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APPEAL from an order of the circuit court for Dane County:  
NICHOLAS McNAMARA, Judge. *Affirmed.*

Before Lundsten, Sherman and Blanchard, JJ.

¶1 PER CURIAM. Michael C. Prue appeals an order that denied his motion to terminate or reduce the maintenance awarded to Lucinda K. Prue.

Michael argues that the circuit court erred when it determined that Michael had not established a substantial change in circumstances requiring a reduction in the maintenance award. We conclude that the circuit court properly exercised its discretion when it denied Michael's motion, and therefore affirm.

¶2 The relevant facts are that Michael and Lucinda were divorced in May 2009. Lucinda was awarded maintenance for a period of eight years. At the time of the divorce, Michael owned a business that he had purchased from his parents. In December 2009, Michael moved to terminate or reduce the maintenance award, arguing that he had undergone a substantial change in circumstances because his business was in receivership and he had been adjudicated bankrupt.

¶3 The circuit court held a hearing on the motion. After hearing testimony from both Michael and Lucinda, the court found that Michael's testimony that his financial condition had worsened since the divorce and as a result of bankruptcy was not, in some respects, credible. Specifically, the court found that Michael had not attempted to obtain other employment, that he received the same salary he received from the business as he had at the time of the divorce, that he had chosen not to enforce debts owed to his business by his parents, and that he had been relieved of some of his "burdensome debt" as a result of bankruptcy. The court also found that Lucinda had made reasonable efforts to obtain full-time work, but that her circumstances had not improved since the divorce. The circuit court concluded that Michael had not established a substantial change in either party's circumstances. The court denied the motion and awarded attorney fees to Lucinda.

¶4 We review the circuit court’s decision for an erroneous exercise of discretion. *Rohde-Giovanni v. Baumgart*, 2004 WI 27, ¶¶17-18, 269 Wis. 2d 598, 676 N.W.2d 452. The party seeking modification of a maintenance award must establish “that there has been a substantial change in circumstances warranting the proposed modification.” *Id.*, ¶30. As part of its exercise of discretion, the court must consider the objectives of support and fairness to the parties. *Id.*, ¶47.

¶5 We conclude that the circuit court properly exercised its discretion when it denied the motion. The court found, in essence, that the facts on which Michael based his motion had either been considered by the court when it originally set maintenance, or had not been proven. We are not convinced that the circuit court’s findings were erroneous. Further, the court considered the proper legal standard in making its determination. For these reasons, we affirm the order of the circuit court.

*By the Court.*—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2009-10).

