COURT OF APPEALS
DECISION
DATED AND RELEASED

July 30, 1996

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

NOTICE

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

No. 95-1565

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

IN RE THE MARRIAGE OF:

JULIE A. HASLBECK,

Petitioner-Respondent,

v.

DARREN HASLBECK,

Respondent-Appellant.

APPEAL from an order of the circuit court for Milwaukee County: FRANCIS T. WASIELEWSKI, Judge. *Affirmed*.

Before Wedemeyer, P.J., Sullivan and Schudson, JJ.

PER CURIAM. Darren Haslbeck appeals from an order modifying his child support. The trial court agreed with Darren's former wife, Julie A. Haslbeck, that Darren's bankruptcy discharge was a substantial change in circumstances justifying a change in Darren's child support. Darren argues that the trial court erroneously exercised its discretion in modifying his child

support and that the Supremacy Clause of the United States Constitution protects a party from a modification of child support after the party's debts were federally discharged in bankruptcy. We reject his arguments and affirm.

I. BACKGROUND.

Darren and Julie were divorced on August 26, 1993. They had one child and were awarded joint custody. On the parties' written agreement, the trial court held support open and denied maintenance. Darren agreed to assume his gambling debts approximating $19,550 and agreed to hold Julie harmless with respect to these liabilities. Otherwise, the property division was approximately equal.

In late 1993, Darren filed for bankruptcy and his debts were subsequently discharged. Julie contested the dischargeability of the debts. The creditors later deemed her responsible for a number of them. Julie's credit rating has also been damaged by the assumption of these debts.

Julie later moved the trial court for a modification of child support under § 767.32(1), STATS., arguing Darren's bankruptcy discharge resulted in a substantial change in circumstances justifying the modification. The trial court found that Julie paid $736 installments per month in satisfaction of the debt discharged in Darren's bankruptcy, and that she incurred attorney fees in connection with the bankruptcy proceedings in excess of $5,500, which she paid in monthly installments of $400. Additionally, the trial court found that Julie earned approximately $3,300 per month and had gross monthly rental income of $610 from a townhouse which had been awarded to her in the property division. Finally, the trial court found that she received a payment of $25,000 from a life insurance policy upon the death of her grandmother, subsequent to the judgment, and that she expects a distribution of $50,000 from the grandmother's estate. Neither party disputes the trial court's findings of fact.

The trial court agreed with Julie's argument and further found it appropriate to deviate from the percentage standards for child support under § 767.25(1)(m) and the shared placement formula of WIS. ADM. CODE § HSS 80.

Hence, the trial court ordered Darren to pay Julie $300 per month for the support of their child.

II. ANALYSIS.

Darren first argues that the trial court erroneously exercised its discretion in modifying his child support. He contends that the trial court should not have considered his bankruptcy discharge a substantial change of circumstance and that the trial court should have considered the entire financial circumstances of the parties when determining child support.

Whether to modify child support is a question left to the sound discretion of the trial court. ***Smith v. Smith,*** 177 Wis.2d 128, 133, 501 N.W.2d 850, 852 (Ct. App. 1993). A court properly exercises discretion when it applies the relevant law to the facts of record and reaches a reasonable decision. ***Id.***

> "[W]here there has been a substantial or material change in the circumstances of the parties or the children," the court may modify child support. Whether a change in circumstances is substantial is a question of law, although we may give weight to the trial court's determination. The burden of demonstrating a substantial change in circumstances is on the party seeking modification.

Kelly v. Hougham, 178 Wis.2d 546, 555-56, 504 N.W.2d 440, 444 (Ct. App. 1993) (citations omitted); *see* § 767.32(1), STATS.

The record clearly supports the trial court's modification in this case. Darren's discharge relieved him of his debts and diverted his frustrated creditors to pursue payment from Julie. The trial court found that Julie was obligated to pay $736 per month to satisfy these creditors, and an additional $400 per month to pay legal fees incurred in her challenge to Darren's discharge of his gambling debts. The trial court also noted that Julie had placed the proceeds from her grandmother's life insurance policy into an education fund

for their child. Further, the trial court concluded that Julie should not be obligated to use her inheritance from her grandmother's estate to pay Darren's discharged debts. The trial court clearly applied the relevant law to the applicable facts and reached a reasonable conclusion under Wisconsin law. *See* ***Eckert v. Eckert,*** 144 Wis.2d 770, 777, 424 N.W.2d 759, 762 (Ct. App. 1988) (stating trial court could properly consider the "consequences" of husband's bankruptcy discharge as a substantial change justifying maintenance modification). Thus, we reject Darren's cursory arguments that the trial court erroneously exercised its discretion. Further, contrary to Darren's contention, the record clearly shows that the trial court considered the entire financial circumstances of the parties when it reached its decision.

Darren also argues that the Supremacy Clause protects him from a modification of his child support after his debts were federally discharged in bankruptcy. His argument is specious. We rejected this argument in ***Eckert***, holding: "[A] state family court may modify a payor spouse's support obligation under sec. 767.32(1), STATS., following the payor's discharge in bankruptcy without doing `major damage' to the `clear and substantial' federal interests served by the bankruptcy code." ***Eckert,*** 144 Wis.2d at 779, 424 N.W.2d at 763 (citation omitted). In short, a trial court modification of child support does not violate the Supremacy Clause of the United States Constitution. ***Id***. at 772-73, 424 N.W.2d at 760.

The order of the trial court modifying Darren's child support is affirmed.

By the Court.—Order affirmed.

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