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December 16, 2015

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You are hereby notified that the Court has entered the following opinion and order:

2014AP2007

In re the Support or Maintenance of R.M.M.: State of Wisconsin v.
Jacob McCann (L.C. #2004FA182)

Before Reilly, P.J., Gundrum and Hagedorn, JJ.

Jacob M. McCann appeals pro se from an order denying his motion to modify child support. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We affirm the order of the circuit court.

¹ All references to the Wisconsin Statutes are to the 2013-14 version.

In 2004, McCann acknowledged paternity of R.M.M. and was ordered to pay child support. In April 2014, McCann moved to modify child support on the ground that there was a substantial change in circumstances due to his incarceration.²

The court commissioner denied McCann's motion to modify child support. McCann then sought de novo review, which the circuit court granted. Following a hearing on the matter, the circuit court also denied McCann's motion to modify child support. This appeal follows.

Generally, we review a circuit court's decision to modify child support for a proper exercise of discretion. *See Zutz v. Zutz*, 208 Wis. 2d 338, 342, 559 N.W.2d 919 (Ct. App. 1997). We will affirm a court's exercise of discretion if it examined the relevant facts, applied the proper legal standards, and reached a logical decision. *Id.*

Here, the circuit court acknowledged that incarceration is an appropriate factor to consider when reviewing a motion to modify child support. The court also recognized that incarcerated persons are not automatically relieved of their child support obligations. *See Rottscheit v. Dumler*, 2003 WI 62, ¶30, 262 Wis. 2d 292, 664 N.W.2d 525. Ultimately, the court declined to grant McCann relief, citing the intentional nature of the crime that led to his incarceration. *See id.*, ¶¶41-42 (the nature of the criminal conduct is a relevant factor in determining whether a parent's child support obligation should be modified).

² In November 2011, McCann was convicted of repeated sexual assault of the same child. He was sentenced to ten years of initial confinement followed by ten years of extended supervision.

Reviewing the circuit court's decision, we are satisfied that it properly exercised its discretion in denying McCann's motion to modify child support. Accordingly, we affirm the order.³

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals

³ McCann also complains that the circuit court erred when it denied his pre-hearing request to expand the record and order briefs. The court found no need to order such relief. The record supports this determination.