



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

August 6, 2018

To:

Hon. Jon M. Counsell
Circuit Court Judge
Clark County Courthouse
517 Court Street
Neillsville, WI 54456

Heather Bravener
Clerk of Circuit Court
Clark County Courthouse
517 Court Street
Neillsville, WI 54456

Jacob C. Brunette
Corporation Counsel
517 Court Street, Rm. 206
Neillsville, WI 54456-1971

Alanna Jane Feddick-Goodwin
Feddick-Goodwin Law Office, S.C.
252 S. Central Ave., Ste. 1
Marshfield, WI 54449

Daniel L. Overbey
Easton John Overbey, LLP
513 Grant St.
Wausau, WI 54403

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

2017AP1406

In re the marriage of: Lisa Manthe v. Eric A. Bump
(L.C. # 2004FA43)

Before Sherman, Blanchard and Fitzpatrick, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Eric A. Bump appeals a circuit court order that modified the monthly child support that Bump is obligated to pay to Lisa Manthe. 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 (2015-16).¹ We summarily reverse.

In March 2017, the Clark County Child Support Agency moved to modify Bump's monthly child support obligation. At a hearing on the motion, the County argued that Bump's pay statement dated March 31, 2017, indicated that Bump had earned \$19,306.54 for the first twelve weeks of 2017. The County argued that, using those figures, Bump had a monthly gross income of \$6,918.17, and his monthly child support obligation should be \$1,176 per month.

Bump argued that the income on the March 31, 2017 pay statement reflected fourteen weeks of pay, not twelve. He also argued that his income should be calculated based on his guaranteed forty hours per week at \$27.29 per hour, resulting in a monthly child support obligation of \$804. Bump testified that his March 31, 2018 pay statement did not reflect his typical pay because it reflected his regular earnings as well as premium pay and overtime, and did not accurately reflect weeks that he worked shorter hours.

Bump also argued that the only way to accurately view his income was to look at five-week periods of pay. In support, he presented testimony by the union representative for his work. The union representative testified that Bump was guaranteed two hundred hours of work in a five-week period at his regular rate, which resulted in an average of forty hours per week when viewed during a five-week period. He also testified that Bump was not guaranteed any overtime.

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

The circuit court found that Bump's pay statement for the pay period ending on March 11, 2017, listed Bump's earnings for the first ten weeks of 2017 as \$16,220.27. The court calculated Bump's monthly child support obligation based on an income of \$16,220.27 for the first ten weeks of 2017 as \$1,180, and therefore granted the County's motion to modify Bump's child support obligation to \$1,176.

Regarding Bump's argument for monthly payments of \$804 based on a regular hourly rate of \$27.29 for forty hours per week, Bump does not develop any argument that the circuit court was required to consider only Bump's regular pay rate at forty hours per week, rather than Bump's actual earnings, which included overtime pay. Accordingly, we reject Bump's argument that the circuit court erred in determining his income by relying on his actual earnings rather than his regular rate at forty hours per week.

Alternatively, however, Bump argues that the court erroneously calculated his income for the first ten weeks of 2017 as \$16,220.27. As noted, the circuit court relied on that calculation in setting Bump's child support obligation. Bump argues that his pay statements reflect that his income for the first ten weeks of 2017 was \$13,057.07, which requires a monthly child support payment of \$961.87. We conclude that there is evidence in the record to support Bump's argument. At any rate, no respondent's brief has been filed, and thus the respondents have tacitly conceded that the circuit court made a mathematical error in calculating child support. See *State v. R.R.R.*, 166 Wis. 2d 306, 311, 479 N.W.2d 237, 239 (Ct. App. 1991). We agree with Bump's uncontested argument that the circuit court's calculation of child support was clearly erroneous.

Accordingly, we reverse and remand with directions for the circuit court to hold another hearing and modify Bump's monthly child support obligation based on all relevant evidence credited by the court, consistent with this opinion.

Therefore,

IT IS ORDERED that the order is summarily reversed and this matter is remanded with directions.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals