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DISTRICT II

April 10, 2019

To:

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

2018AP751

In re the marriage of: Bruce Allen Weisser v. Sanella Weisser
(L.C. #2005FA94)

Before Neubauer, C.J., Reilly, P.J., and Gundrum, J.

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).

Bruce Allen Weisser appeals pro se from an order regarding 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 (2017-18).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2017-18 version.

Bruce and Sanella Weisser were divorced in August 2006. They have one minor child, who was twenty months old at the time of divorce.

On August 5, 2015, Sanella filed a motion to change child support. While that motion was pending, the circuit court awarded primary placement of the child to Bruce. Bruce subsequently filed his own motion to change child support on February 7, 2017.

Following a de novo hearing on the matter, the circuit court ordered Sanella to pay child support in the amount of \$329 per month commencing January 1, 2018. Because Bruce had sought both a greater amount of child support and an earlier start date, he now appeals.

This court reviews an order regarding child support under an erroneous exercise of discretion standard. *See Ladwig v. Ladwig*, 2010 WI App 78, ¶15, 325 Wis.2d 497, 785 N.W.2d 664. A court properly exercises its discretion when it examines the relevant facts, applies a proper standard of law, and, using a demonstrated rational process, reaches a conclusion that a reasonable judge could reach. *Id.*

Here, the circuit court deviated downward from the percentage standard when setting the amount of child support due. It did so after reviewing the parties' financial resources, which is a permissible consideration. *See* WIS. STAT. § 767.511(1m) (a court may deviate from the percentage standard after considering certain factors, including the financial resources of both parents). The court noted that Bruce “[o]bviously” had more resources than Sanella, as evidenced by the many properties he owned.² Accordingly, it ordered Sanella to pay seventeen

² Bruce testified that he owns nine rental properties in Fond du Lac and West Bend.

percent of her adjusted net income after certain payroll deductions as opposed to the standard seventeen percent of her gross income.

The circuit court also denied Bruce's request to order child support to start on the day after his motion was filed. WISCONSIN STAT. § 767.805(4m) permits a court to order child support to start on the day after a motion is filed; however, it does not require it. In this case, the court concluded that a later start date was appropriate because Sanella had filed an earlier motion to change child support that it may have granted, thereby offsetting any amount due to Bruce. The court ultimately selected the date of January 1, 2018, as that was the first day of the month following the court commissioner's determination of the issue. The court noted that the court commissioner had considered both motions to change child support at its hearing, which preceded the court's.

Reviewing the circuit court's decision, we are satisfied that it properly exercised its discretion in both setting the amount of child support due and determining the start date. Accordingly, we affirm.

Upon the foregoing reasons,

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

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

Sheila T. Reiff
Clerk of Court of Appeals