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DISTRICT II

June 21, 2023

To:

Hon. Larisa V. Benitez-Morgan
Circuit Court Judge
Electronic Notice

Benjamin Anderson
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Rebecca Matoska-Mentink
Clerk of Circuit Court
Kenosha County Courthouse
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Brenda J. Dahl
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You are hereby notified that the Court has entered the following opinion and order:

2020AP2084

Maureen Therese Skurski v. Matthew Joel Skurski
(L.C.# 2018FA836)

Before Gundrum, P.J., Neubauer and Grogan, 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).

Matthew Joel Skurski appeals from a judgment of divorce from his former wife Maureen Therese Skurski. He challenges the circuit court's determinations of child support and maintenance. 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 (2021-22).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

Matthew and Maureen were married in 1981, and this divorce action was commenced in 2018. The parties have ten children, nine of whom had reached the age of majority when the action began. The remaining minor child, J.S., was in high school.

At the time of the divorce trial, Matthew was fifty-nine years old, employed as a senior project manager, and earning approximately \$223,849.56 per year. Maureen, meanwhile, was sixty years old, a homemaker, and had not earned any income since 1986. Maureen had raised and home schooled the parties' children during the majority of the marriage.² She was also the caretaker for the parties' adult daughter, who suffers from a mental disability and has been deemed disabled.³

After trial and briefing, the circuit court entered a judgment of divorce. The court ordered child support in the amount of \$3,171.21 per month "until J.S. is 18 and graduated from high school or until J.S. is 19 if he is still in high school." This was an upward deviation from the standard child support calculation. The court further ordered maintenance in two amounts: (1) \$3,646.36 per month until the child support order ends; and (2) \$6,817.75 per month thereafter for an indefinite term. This represented approximately 55% of Matthew's disposable income. Matthew now appeals.

On appeal, Matthew challenges the circuit court's determinations of child support and maintenance. He complains that the court did not provide an adequate reason for its upward deviation on child support and suggests that the amount should be lower based on factors like his

² All of the parties' children were home schooled by Maureen until they went to high school.

³ According to the parties, their daughter has been diagnosed with "paranoia schizophrenia" and "slight retardation."

payment of J.S.'s high school tuition. Matthew also complains that the court's maintenance decision failed to impute an income to Maureen and failed to take into consideration monthly payments he makes pursuant to a bankruptcy the parties filed.

Determinations of child support and maintenance are reviewed for an erroneous exercise of discretion. See *Weiler v. Boerner*, 2005 WI App 64, ¶¶11, 19, 280 Wis. 2d 519, 695 N.W.2d 833. Under that standard, we will affirm as long as the circuit court reached a rational decision based upon the application of the correct legal standards to the facts of the case. *Id.*, ¶11. We generally look for reasons to sustain a circuit court's discretionary decision. *Miller v. Hanover Ins. Co.*, 2010 WI 75, ¶30, 326 Wis. 2d 640, 785 N.W.2d 493.

Here, we are satisfied that the circuit court properly exercised its discretion in ordering child support. A court may deviate from the standard child support calculation if, after considering a number of factors, it finds the standard's use to be unfair to the child or requesting party. See WIS. STAT. § 767.511(1n). The circuit court made that finding in this case, noting that, per the trial testimony, Matthew had "not exercised any placement" of J.S. and was "not contributing to any of the daily expenses or housing of the minor child as contemplated by the child support statutes."⁴ This was a sufficient explanation for its decision. The fact that Matthew pays for J.S.'s high school tuition does not undermine it as Matthew had previously agreed to pay tuition without objection.

Likewise, we are satisfied that the circuit court properly exercised its discretion in ordering maintenance. The court considered the appropriate factors in its maintenance

⁴ Matthew had not exercised any placement because J.S. did not wish to see him.

determination. *See* WIS. STAT. § 767.56. Its decision not to impute an income to Maureen was reasonable under the circumstances. After all, Maureen was sixty years old, had a very dated employment history, and had a responsibility of caring for someone that limited her ability to work.⁵ With respect to the monthly bankruptcy payments, the judgment shows that the court did take them into consideration. In any event, the issue is now moot. As explained in Maureen's response brief, the parties subsequently sold assets to satisfy the bankruptcy obligation. Thus, there are no longer monthly payments for Matthew to make.⁶

Upon the foregoing reasons,

IT IS ORDERED that the judgment 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.

Samuel A. Christensen
Clerk of Court of Appeals

⁵ There was testimony at trial that the parties' disabled daughter could not be left unattended for more than a few hours at a time.

⁶ To the extent we have not addressed an argument raised by Matthew on appeal, the argument is deemed rejected. *See State v. Waste Mgmt. of Wis., Inc.*, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).