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NOT TO BE PUBLISHED

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0116-MR

STEPHEN HENSLEY — APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT
FAMILY COURT DIVISION
HONORABLE DERWIN L. WEBB, JUDGE
ACTION NO. 14-CI-502284

DEBRA HENSLEY — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: THOMPSON, CHIEF JUDGE; EASTON AND ECKERLE, JUDGES.

EASTON, JUDGE: Stephen Hensley (Stephen) appeals from the Jefferson Family Court's order which reduced, but did not terminate, his maintenance obligation to his former spouse (Debra). After review of the record and the applicable law, we have determined the family court did not abuse its discretion and affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Stephen and Debra married in November 1985 and separated in February 2014. Debra filed for dissolution of the marriage in July 2014. The parties attended mediation, and they agreed on all issues, with the exception of maintenance. A hearing on the issue of maintenance occurred in January 2015. The family court decided Debra was entitled to permanent maintenance in the amount of $5,330 per month. The order contained this provision:

> [T]he parties shall follow the statutory provision regarding the termination of maintenance under KRS[1] 403.250(2) providing that "[u]nless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is *terminated* upon the death of either party or the remarriage of the party receiving maintenance."[2]

Stephen filed a motion to alter, amend, or vacate this order, which was denied by the family court. This interlocutory order was not separately appealed. The family court entered the Decree of Dissolution of the marriage in March 2015, incorporating the parties' agreement and this order for maintenance.

Almost immediately, Stephen failed to pay his maintenance as ordered, and a substantial arrearage accumulated. Throughout the next few years, Stephen filed several motions to reduce or terminate his maintenance, which were

[1] Kentucky Revised Statutes.

[2] Order entered March 20, 2015, Trial Record (TR) at page 53 (emphasis added).

denied. Debra filed several motions to hold Stephen in contempt for failing to pay maintenance as ordered.

Stephen was found in contempt on two occasions. At the first hearing for contempt, which occurred in June 2016, the family court noted that Stephen had recently and suddenly relocated to Mexico with his paramour. It further stated that Stephen "further claims that he liquidated a substantial asset and then gambled away hundreds of thousands of dollars in Las Vegas in early April shortly before he went to Mexico. He provided no proof of those losses."[3]

In February 2019, Stephen again filed a motion to terminate or "substantially reduce" his maintenance obligation. The parties were ordered to mediate, and they reached an agreement. An agreed order was entered in October 2019, which reduced Stephen's maintenance obligation to Debra to $2,000 per month (less than 40% of the original obligation), plus $875 per month toward his arrearage, effective as of the date of his motion. This Agreed Order contained the provision: "Maintenance shall be subject to modification based on KRS 403. Maintenance shall *terminate* upon Petitioner's death, remarriage, or cohabitation as if married."[4]

[3] Order of July 22, 2016, TR at page 120.

[4] Agreed Order entered October 16, 2019, TR at page 247 (emphasis added).

Stephen again filed a motion to terminate maintenance in August 2025. A hearing was held in November 2025. The family court again declined to terminate maintenance, but it determined it was appropriate to modify the maintenance "based on the parties' significant and continuing change of circumstances pursuant to KRS 403."[5] It therefore reduced Stephen's maintenance obligation to $1,000 per month (less than 20% of the original amount), effective as of September 1, 2025. Stephen filed a motion to alter, amend, or vacate, as well as a motion to make specific findings of fact. These motions were denied. Stephen timely filed his appeal.

STANDARD OF REVIEW

Modification of maintenance is reviewed for abuse of discretion. *Tudor v. Tudor*, 399 S.W.3d 791, 793 (Ky. App. 2013). "We cannot substitute our judgment for the family court's if there is substantial evidence supporting that court's decision. Further, we may not set aside the family court's factual findings unless they are clearly erroneous." *Andrews v. Andrews*, 611 S.W.3d 271, 273 (Ky. App. 2020) (citation omitted). "The circuit court abuses its discretion when its decision is arbitrary, unreasonable, unfair, or unsupported by sound legal principles. While the circuit court's factual findings are given deference, questions

[5] Order of November 26, 2025, TR at 276.

of law are reviewed *de novo*." *Tudor*, 399 S.W.3d at 793 (internal quotation marks and citations omitted).

ANALYSIS

Stephen argues the family court's findings of fact are clearly erroneous and not supported by the evidence. He further alleges the family court's order was an abuse of discretion and contrary to existing Kentucky law. He specifically claims it was error for the family court to fail to recognize that Debra's financial situation is "far superior" to his. He also claims it was error for the family court to fail to make specific findings of fact, and he argues he provided sufficient evidence of a substantial and continuing change of circumstances sufficient to justify termination of his maintenance obligation. He finally contends the family court abused its discretion by failing to follow KRS 403.250.

The statute governing modification of maintenance is KRS 403.250, which reads in relevant part:

> (1) . . . the provisions of any decree respecting maintenance may be modified only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable. . . .
>
> (2) Unless otherwise agreed in writing or expressly provided in the decree, the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

Stephen was originally ordered to pay permanent maintenance to

Debra in the amount of $5,330 per month pursuant to the family court's October 2014 order. Then, in October 2019, the parties entered an Agreed Order that reduced Stephen's maintenance obligation to $2,000 per month, with an additional $875 per month to go toward his arrearage. This Agreed Order contained the term: "Maintenance shall be subject to modification based on KRS 403. Maintenance shall terminate upon Petitioner's death, remarriage or cohabitation as if married."

Stephen argues the family court erred by not terminating his maintenance because Debra's financial position is better than his, making any amount of continued maintenance unconscionable. The factors that Stephen claims the family court should have taken into consideration, such as their respective social security benefits, employment income, monthly expenses, and retirement accounts, are factors to be considered in an initial maintenance award, pursuant to KRS 403.200. The sole factor to be used in determining the modification of maintenance is "changed circumstances so substantial and continuing as to make the terms unconscionable." *Bickel v. Bickel*, 95 S.W.3d 925, 927 (Ky. App. 2002). "'Unconscionable' means 'manifestly unfair or inequitable.'" *Id.*

The question is not whether Debra would be entitled to maintenance if that question was decided today, but whether continued maintenance is unconscionable. *See Holland v. Herzfeld*, 610 S.W.3d 360 (Ky. App. 2020). The family court clearly did take the parties' financial positions into consideration, as it

modified Stephen's maintenance; it decreased the amount again in half from $2,000 monthly to $1,000 monthly. As Debra aptly pointed out in her brief: "What [Stephen] seeks is not additional findings from the trial court, but different ones."[6]

Stephen argues that the family court violated KRS 403.250, when it failed to terminate his maintenance. We disagree. As stated, the family court modified his maintenance; it just did not terminate it. In the Agreed Order from 2019, the parties agreed that "Maintenance shall terminate upon Petitioner's death, remarriage or cohabitation as if married." An "[a]greement is an enforceable contract between the parties, and it is not the place of courts to disturb it absent some showing of fraud, undue influence, overreaching or manifest unfairness." *Pursley v. Pursley*, 144 S.W.3d 820, 826 (Ky. 2004). While Stephen is correct that "modification" can also mean "termination" when it comes to a maintenance obligation (*See Jaburg v. Jaburg*, 558 S.W.3d 11, 13 (Ky. App. 2018)), the parties expressly limited the circumstances under which maintenance could be terminated in their agreement. While Stephen may now argue the terms are unfair, such agreements have been upheld under similar circumstances. *See id.* at 14.

The parties' agreement allows modification of maintenance, but it specifies under what conditions the maintenance obligation may be terminated. The family court heard the evidence, and it determined Stephen's maintenance

[6] Appellee Brief at 15.

should be reduced again, this time by half. It considered the parties' changed circumstances and granted partial relief to Stephen.

CONCLUSION

It was not an abuse of discretion for the family court to reduce, but not terminate, Stephen's maintenance obligation. We AFFIRM the order of the Jefferson Family Court.

ALL CONCUR.

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