SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2707-15T3

T.C.,

Plaintiff-Respondent,

v.

N.M.,

Defendant-Appellant.

Argued September 12, 2017 – Decided October 5, 2017

Before Judges Fisher and Sumners.

On appeal from Superior Court of New Jersey, Chancery Division, Family Part, Middlesex County, Docket No. FD-12-2807-96.

Deborah A. Rose argued the cause for appellant.

Respondent has not filed a brief.

PER CURIAM

Defendant appeals from the January 5, 2016 amended order increasing his child support for his son who attends a county community college and requiring him to contribute to the college education of his daughter conditioned upon her completion of at

least five parental unification sessions, payable by defendant. Defendant contends that Judge Lisa Vignuolo abused her discretion by requiring him to continue to pay child support for his son, and misapplied the Newburgh[1] factors by requiring him to contribute to his daughter's college education that he cannot afford and was excluded from her college selection. We disagree, and affirm substantially for the reasons stated by Judge Vignuolo in her written decision dated December 18, 2015.

The parties, who were never married, are the parents of twin children, born in 1996. Defendant moved for emancipation of the children, and plaintiff cross-moved for contribution towards their college expenses and recalculation of child support. After the court ordered mediation was unsuccessful, a plenary hearing was conducted.

At the time of the hearing, the twins were college sophomores; the daughter, a residential student at an out-of-state public university, and the son, a county community college student living at home with plaintiff. Neither plaintiff nor the children sought to have defendant contribute to any of the children's higher educational expenses before or while they were incurred. Since high school, the children have had a strained relationship with

[1] Newburgh v. Arrigo, 88 N.J. 529, 545 (1982)

defendant, and did not consult him regarding their college decisions. To pay for college, the daughter obtained student loans and received the benefit of a $25,000 Parent PLUS Loan taken out by plaintiff, and the son secured student loans in excess of his tuition.

Based upon the parties' income, assets, and debts, as well as defendant's raising of four other children with his wife who did not work, Judge Vignuolo determined that the parties would not be able to support their daughter's college expenses. Nevertheless, since they both wanted their children to receive a college education and the children were progressing academically, the judge considered the Newburgh factors and found that they should share the financial burden.

The judge recognized that based upon a pro rata income comparison, defendant should be paying sixty-two percent of his daughter's college tuition. However, considering plaintiff had already taken out a $25,000 loan, defendant is raising four other children, and defendant's input was not sought regarding his daughter's college choice, defendant was required to contribute the same amount as plaintiff. The judge ordered defendant to apply for a $25,000 Parent PLUS Loan, and if unable to secure a loan, he must pay $5000 per semester, limited to $10,000 per year, and no more than $25,000 in total for his daughter's education.

The judge noted that any expenses beyond this amount were the daughter's sole responsibility because she should have considered her parent's income limitations and matriculated to a less expensive in-state public college.

As for the son's education, the judge found it was unnecessary to order defendant to contribute to his schooling at that time because his son's student loans more than covered his tuition. Yet, since the son was still living with plaintiff and was no longer having overnight visits with defendant, defendant's obligation to pay child support for him remained. Applying the child support guidelines, the judge determined that defendant's child support should increase from $139 per week to $232 per week. The judge, however, reduced this amount by twenty percent to reflect defendant's financial situation as permitted in N.J.S.A. 2A:34-23.[2] This appeal followed.

The scope of our review of the Family Part's orders is limited. Cesare v. Cesare, 154 N.J. 394, 411 (1998). We owe substantial deference to the Family Part's findings of fact based on adequate, substantial and credible evidence in the record, understanding the court's special expertise in family matters. Id. at 412-13; MacKinnon v. MacKinnon, 191 N.J. 240, 253-54 (2007).

[2] Defendant does not challenge the weekly $15 child support for his daughter.

We appreciate that parents' payment of their children's college education is an expensive undertaking that requires significant sacrifice. In this case, Judge Vignuolo's decision is supported by adequate, substantial and credible evidence in the record. We therefore affirm substantially for the reasons the judge expressed in her thoughtful written decision.

Affirmed.