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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0275-20**

QUEEN LIZZY ONUKOGU,

Plaintiff-Respondent,

v.

CHIDI M. ONUKOGU,

Defendant-Appellant.

Submitted March 30, 2022 – Decided June 13, 2022

Before Judges Gilson and Gooden Brown.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Hudson County,
Docket No. FM-09-0543-14.

Chidi M. Onukogu, appellant pro se.

Respondent has not filed a brief.

PER CURIAM

In this post-divorce-judgment matter, defendant, the father, appeals from a September 4, 2020 order that enforced his child support obligations.

Defendant challenges the provision of the order that calls for an arrest warrant to be issued if defendant fails to make two lump-sum payments towards his support arrears. Discerning no abuse of discretion, we affirm.

The parties were married in April 2001 and divorced in December 2014. They have two children, who were born in March 2004 and September 2006. Plaintiff, the mother, is the primary parent of residential custody and defendant is obligated to pay child support.

In September 2020, the probation department brought an enforcement action to compel defendant to pay his support obligations and arrears. At that time, defendant had a weekly child-support obligation of \$143 and he owed over \$100,000 in support arrears.

On September 4, 2020, following a hearing, the family court entered an order requiring defendant to (1) pay two lump sums of \$500 and \$1,000 within thirty days towards his arrears; and (2) pay his child support of \$143 weekly, plus \$50 towards his arrears. The order also stated that if defendant failed to pay the lump sums or if he missed two child-support payments, a warrant for his arrest would be issued.

Defendant appealed from the September 4, 2020 order. While this appeal was pending, defendant filed several motions before the family court seeking relief from enforcement of the September 4, 2020 order.

On March 9, 2021, the family court entered an order that (1) denied defendant's request for a stay of his obligations to make the two lump-sum payments under the September 4, 2020 order; and (2) granted a stay of the provision of the September 4, 2020 order that called for the issuance of an arrest warrant. In an accompanying written statement of reasons, the family court explained that the stay of the arrest warrant was being issued because at that time the court was not issuing arrest warrants due to the COVID-19 pandemic.

In the brief that he has filed before us, defendant states that he is appealing the family court order requiring him to make two lump-sum child support payments. He argues that he is unable to make those lump-sum payments because he has been unemployed since January 2017. He also asserts that his unemployment benefits have been garnished by the probation department and, therefore, a portion of his support obligations are being paid.

Orders for child support "may be revised and altered by the court from time to time as circumstances may require." N.J.S.A. 2A:34-23. We use an abuse of discretion standard "[w]hen reviewing decisions granting or denying

applications to modify child support." J.B. v. W.B., 215 N.J. 305, 325-26 (2013) (quoting Jacoby v. Jacoby, 427 N.J. Super. 109, 116 (App. Div. 2012)). "An abuse of discretion 'arises when a decision is "made without a rational explanation, inexplicably depart[s] from established policies, or rest[s] on an impermissible basis.'" Jacoby, 427 N.J. Super. at 116 (quoting Flagg v. Essex Cnty. Prosecutor, 117 N.J. 561, 571 (2002)). Additionally, the family court's factual findings and discretionary decisions are given deference because of the court's "special jurisdiction and expertise in family matters." Milne v. Goldenberg, 428 N.J. Super. 184, 197 (App. Div. 2012) (quoting Cesare v. Cesare, 154 N.J. 394, 413 (1998)).

Rule 1:10-3 allows a family court to "grant additional remedies as provided by R. 5:3-7." Rule 5:3-7(b), in turn, provides that when a court finds a party has violated a support order, the family court may grant remedies, including requiring payments of arrears on a periodic basis; directing that a warrant for arrest will be issued for further violations of the order; and other appropriate equitable remedies. Those remedies can be granted either singly or in combination. R. 5:3-7(b).

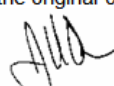
Accordingly, a parent charged with violating child-support orders faces arrest and potential incarceration to coerce compliance, subject to a hearing to

determine the parent's ability to pay. Milne, 428 N.J. Super. at 198 (citing R. 1:10-3). Because the aim is not to punish but to compel compliance, "incarceration may be ordered only if made contingent upon defendant's continuing failure to comply with the order." State v. Lawrence, 463 N.J. Super. 518, 524-25 (App. Div. 2020) (quoting Pasqua v. Council, 186 N.J. 127, 140 (2006)).

Having reviewed defendant's contentions in light of the record and law, we find that his arguments do not have merit. We discern no abuse of discretion in any of the provisions of the September 4, 2020 order. While the enforcement provision calling for defendant's arrest was subsequently stayed, the family court continues to have discretion to vacate that stay given changed circumstances concerning the COVID-19 pandemic. In short, we affirm all the provisions of the September 4, 2020 order, and the family court has the discretion to lift the stay on the enforcement provision in that order when it deems appropriate.

Affirmed and remanded to the family court for further proceedings. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION