SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0263-21

LA MECIA ROSS
(f/k/a TIGGETT),

Plaintiff-Appellant,

v.

MAURICE TIGGETT,

Defendant-Respondent.

Submitted December 14, 2022 – Decided January 17, 2023

Before Judges Accurso and Firko.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Mercer County, Docket No. FM-11-0227-16.

La Mecia Ross, appellant pro se.

Oltman Law & Mediation, attorneys for respondent (C. Megan Oltman, on the brief).

PER CURIAM

In this post-judgment matrimonial matter, plaintiff La Mecia Ross challenges certain provisions of orders entered by the Family Part on June 4, 2021, and July 26, 2021, denying her motions to increase child support payments from defendant Maurice Tiggett, reinstate the arrearages balance, and change venue. Plaintiff also seeks enforcement of a December 12, 2014 order. Plaintiff and defendant have three daughters, Imani, Bryana, and Bonita, born in 1996, 1998, and 1999, respectively. Their divorce was final in December 2009. In her self-authored merits brief, plaintiff argues:

> POINT I
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> [THE] TRIAL COURT ERRED WHEN IT DISREGARDED CREDIBLE EVIDENCE AND FAILED TO ADDRESS THE WRONGFUL TERMINATION OF CHILD SUPPORT. (Raised Below).
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> A. THE TRIAL COURT FAILED TO ADDRESS THE IMPROPER TERMINATION OF SUPPORT, WHICH WAS NOT IN THE BEST INTERESTS OF THE CHILD(REN) AND RESULTED IN THE DENIAL OF ADMINISTRATIVE RIGHTS.
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> B. THE TRIAL [COURT] ERRED WHEN IT ACCEPTED DEFENDANT'S BALD ASSERTIONS AND MISREPRESENTATIONS AS FACT AND LEGAL CONCLUSIONS EVEN THOUGH THEY WERE NOT SUPPORTED BY ADEQUATE, SUBSTANTIAL OR CREDIBLE EVIDENCE.

C. [PLAINTIFF] WAS DENIED A MEANINGFUL OPPORTUNITY TO ADDRESS THE MISREPRESENTATIONS CONTAINED IN DEFENDANT'S REPLY.

POINT II

THE TRIAL COURT ERRED WHEN IT DENIED [PLAINTIFF'S] MOTION TO ENFORCE LITIGANT'S RIGHTS BECAUSE THE ANTI-RETROACTIVITY STATUTE DOES NOT APPLY. (Raised Below).

POINT III

THE TRIAL COURT ERRED WHEN IT DENIED [PLAINTIFF'S] MOTION TO TRANSFER VENUE AS MERCER COUNTY IS NOT THE MOST QUALIFIED TO TAKE JURISDICTION. (Raised below).

We disagree and affirm.

I.

Prior to filing her complaint for divorce, plaintiff filed an application for an order of support and residential custody of the three children in Mercer County under a non-dissolution (FD) docket number. In September 2000, defendant was ordered to pay $210 per week in unallocated child support to plaintiff. Before initiating their divorce, the parties both moved to modify the child support amount, and adjustments were made. The judgment of divorce

incorporated the most recent child support order entered in the FD case. In July 2014, plaintiff filed a motion to increase the child support amount in Mercer County under the dissolution (FM) docket number. Defendant did not oppose the motion. The matter was administratively transferred to Burlington County because the FD matter was "open" there and assigned to a judge for disposition.

The Burlington County judge determined plaintiff established a prima facie case of changed circumstances to warrant a child support review. The judge ordered defendant to file a case information statement (CIS) within thirty days in accordance with Rule 5:5-4(a). The order entered also provided plaintiff could file another application to increase child support "subject to appropriate proofs." If defendant failed to file a CIS, the order provided plaintiff was granted the right to have income imputed to defendant if she filed another child support application. The record shows defendant never filed a CIS. And, there is no dispute that plaintiff neither moved to enforce the 2014 order nor renew her application to increase the child support amount. The Burlington County judge also granted plaintiff's subsequent motion to transfer venue back to Mercer County.[1]

[1] The change of venue was granted conditionally upon the approval of the presiding judge of the Family Part. Ultimately, the matter was transferred to Mercer County.

In 2017, the Mercer County probation department mailed two notices of proposed child support obligation termination to the parties for Imani and Bryana, who were then twenty and nineteen years old, respectively, and attending college. The notices indicated the child support obligation for Imani and Bryana would be terminated on August 1, 2017, unless the custodial parent (plaintiff) submitted a request for continuation of their child support until they each attained the age of twenty-three, as long as "the child[ren are] participating full-time in a post-secondary education program." Any requests from the parties, along with supporting forms, orders, and documentation, had to be mailed and received by the probation department no later than June 17, 2017. The notices further explained that requests received after that date "will not be reviewed and will require a motion or application with the court to be considered."

The record shows no action was taken by either party by the stated deadline. However, on July 28, 2017, plaintiff sent an email to the Mercer County Family Division Manager, requesting termination of child support for Imani and Bryana be rescinded. She stated that because she was attending law school in New York, and the children had previously attended schools out of state, she could not timely produce the information requested, given the distance

of these institutions. In response, plaintiff received a phone call from a probation officer. During the conversation, plaintiff advised the probation officer that Imani and Bryana were transferring colleges. Plaintiff did not file a motion to continue child support for Imani and Bryana.

On July 31, 2017, a judge entered an order terminating defendant's child support obligation for Imani and Bryana as of August 1, 2017. Since the original child support amount for all three children was unallocated, the obligation continued at the same amount for the youngest child, Bonita, effective August 1, 2017. The July 31, 2017 order was not appealed by either party.

On April 23, 2021, after Bonita turned twenty-one years old, defendant filed a motion to emancipate her retroactively to 2018. In support of his motion, defendant asserted that Bonita completed high school three years earlier and only attended one semester of college. Plaintiff opposed defendant's motion and filed a notice of cross-motion seeking to enforce litigant's rights pursuant to the 2014 Burlington County order and to change venue back to Burlington County.

On June 4, 2021, the Mercer County judge conducted oral argument on the motions. At the conclusion of the argument, the judge denied plaintiff's cross-motion to transfer venue to Burlington County because plaintiff resided in

Mercer County. The judge reserved decision as to the other relief sought in the motion and cross-motion.

On July 26, 2021, the judge rendered an oral opinion granting defendant's motion to emancipate Bonita retroactively to the date his motion was filed, not when she left school as he requested. The judge also granted defendant's motion to convert the child support order to an arrears only order. With regard to plaintiff's cross-motion, the judge reiterated her earlier ruling that the application to transfer venue was denied. In addition, the judge denied plaintiff's cross-motion seeking to impute income to defendant retroactively to 2014, and denied her request to add expenses incurred for the children in the last seven years.

As to the emancipation of Imani and Bryana, the judge acknowledged that plaintiff claimed she did not timely receive the probation notices, but the judge underscored there was no prejudice to plaintiff because defendant continued to pay the same amount of child support for one child as he did for all three. The judge ordered defendant to pay $265 per week towards his child support arrearages, the same amount as the child support he was paying, until the $4,379.74 in arrearages were satisfied.

Regarding the emancipation of the two older children, the judge explained that the Anti-Retroactivity Statute, N.J.S.A. 2A:17-56.23a, [2] was applicable. The judge pointed out that plaintiff "had an obligation to keep probation notified of her current address whether she was in law school or not."[3] Therefore, the judge determined plaintiff "sat on her rights" by not enforcing the relief afforded to her seven years earlier in the 2014 order. The judge found plaintiff's argument

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[2] Pertinent to the matter under review, the relevant portion of N.J.S.A. 2A:17-56.23a states:

> No payment or installment of an order for child support, or those portions of an order which are allocated for child support established prior to or subsequent to the effective date of [this statute] shall be retroactively modified by the court except with respect to the period during which there is a pending application for modification, but only from the date the notice of motion was mailed either directly or through the appropriate agent. The written notice will state that a change of circumstances has occurred and a motion for modification of the order will be filed within [forty-five] days. In the event a motion is not filed within the [forty-five]-day period, modification shall be permitted only from the date the motion is filed with the court.

[3] Parties are required to notify the probation department of any change in employer, address, or healthcare coverage within ten days of the change. R. 5:7-4A(d)(7).

that defendant "committed a fraud" that "he shouldn't get away with" unpersuasive.

Citing Harrington v. Harrington, the judge considered the "equitable factors" involved when emancipation occurs with one or more of the children, and the child support order is unallocated. 446 N.J. Super. 399, 405-06 (Ch. Div. 2016). The judge explained some of the equitable factors include the passage of time from the date of the child or children's emancipation and the filing of the motion for modification. And, the judge stated a determination has to be made as to whether the delay was caused by the custodial parent or the child and whether a fraud had been committed. The court must also consider whether the proposed retroactive modification would be "unduly cumbersome and complicated." Id. at 408. Since plaintiff waited seven years to file an application to retroactively impute income to defendant back to 2014, the judge denied her cross-motion on this issue as untimely. There was no evidence of fraud found on this record.

II.

Plaintiff argues the judge erred by denying her request to address the alleged improper termination of support for Imani and Bryana, accepting defendant's bald assertions and misrepresentations of fact, and denying plaintiff

an opportunity to contradict defendant's statements. Plaintiff proffers she was denied administrative remedies that resulted in Imani and Bryana being emancipated in error.

We accord special deference to the trial court's findings of fact "when supported by adequate, substantial, credible evidence." Cesare v. Cesare, 154 N.J. 394, 411-12 (1998); Gnall v. Gnall, 222 N.J. 414, 428 (2015). That review is altered slightly, however, in family part cases "[b]ecause of the family courts' special jurisdiction and expertise in family matters, appellate courts should accord deference to family court factfinding." Cesare, 154 N.J at 413. Appellate courts "review the Family Part judge's findings in accordance with a deferential standard of review, recognizing the court's 'special jurisdiction and expertise in family matters.'" Thieme v. Aucoin-Thieme, 227 N.J. 269, 282-83 (2016) (quoting Cesare, 154 N.J. at 413).

"Parents have a legal duty to support their children from birth until emancipation, 'which presumptively occurs when the child reaches the age of majority.'" D.W. v. R.W., 212 N.J. 232, 246 (2012) (quoting R.A.C. v. P.J.S., Jr., 192 N.J. 81, 94 (2007)). "Majority occurs at age eighteen." State v. Horne, 463 N.J. Super. 224, 230 (App. Div. 2020) (citing N.J.S.A. 9:17B-3). Emancipation occurs "when the fundamental dependent relationship between

parent and child is concluded, the parent relinquishes the right to custody and is relieved of the burden of support, and the child is no longer entitled to support." Filippone v. Lee, 304 N.J. Super. 301, 308 (App. Div. 1997).

Plaintiff argues the judge erred by disregarding "credible evidence" that Imani and Bryana were both attending college and should not have been emancipated in 2017. We reject plaintiff's argument. It was incumbent upon plaintiff as the custodial parent to submit documentation confirming Imani's and Bryana's college status to the probation department and request the continuation of child support for them. Plaintiff missed the June 17, 2017 deadline to do that, but she was astute enough to email the Mercer County Family Division Manager six weeks later seeking continued support for the older two children.

We are also unpersuaded by plaintiff's contention that her attendance at law school in New York at the time should have relieved her of this task. Notably, plaintiff admitted she received the notices from the probation department and she reacted to them, albeit untimely and inappropriately, by emailing the Family Division Manager instead of filing an application or motion. The judge correctly noted that plaintiff had the responsibility of keeping the probation department informed of her current address, and she failed to do so. Moreover, the notices clearly stated that requests received after the June 17,

2017 deadline would not be considered and required a motion or application with the court to be considered.

Plaintiff could have filed an application or motion with the court in 2017 to address the emancipation issue regarding Imani and Bryana, but she never did. As the custodial parent, it was incumbent on her to do so. The record supports the judge's decision to deny plaintiff's cross-motion to retroactively obtain the relief she failed to request in 2017. Moreover, we are satisfied plaintiff was not prejudiced by Imani's and Bryana's emancipation because defendant was still obligated to pay child support for Bonita, the support was unallocated, and it continued at the same amount through Bonita's emancipation on April 23, 2021.

Next, plaintiff argues that defendant should not benefit, to the detriment of his children, from his failure to provide his financial information. See Lanza v. Lanza, 268 N.J. Super. 603, 607 (Ch. Div. 1993). While it is true defendant did not provide a CIS in 2014 as ordered, plaintiff also never pursued her remedy of filing a subsequent application to enforce the 2014 order either and have income imputed to defendant. There is simply no justification to support plaintiff's prayer that income should be imputed to defendant retroactive to 2014, and the judge properly denied plaintiff's cross-motion on this issue.

III.

Plaintiff also challenges the judge's denial of her motion to change venue to the Burlington County vicinage. It has long been held that motions for change of venue "are addressed to the sound discretion of the court." State v. Collins, 2 N.J. 406, 411 (1949). Recognizing that a court's exercise of discretion "must be neither arbitrary, vague nor fanciful and must be in consonance with well established principles of law[,] . . . [t]he exercise of such discretion will not be disturbed on review unless it has been clearly abused." Ibid. (citations omitted).

We analyze plaintiff's challenge to the judge's denial of her motion to change venue under Rule 4:3-3(a) which, in pertinent part, permits a change of venue:

> (1) if the venue is not laid in accordance with [Rule] 4:3-2; or
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> (2) if there is a substantial doubt that a fair and impartial trial can be had in the county where venue is laid; or
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> (3) for the convenience of parties and witnesses in the interest of justice; or,
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> (4) in Family Part post-judgment motions, if both parties reside outside the county of original venue and application is made to the court by either party to change venue to a county where one of the parties now resides.

[(emphasis added).]

Here, the judge found plaintiff was still residing in Mercer County. This satisfies Rule 4:3-3(a)(4). We do not find any support in the record for plaintiff's contention that venue should have been changed to Burlington County under the forum non conveniens doctrine because she should have an "opportunity to be heard" in the best interest of her children. Plaintiff asserts Mercer County has "no familiarity or connection with this family" and is not the most qualified venue for this case. However, we note the matter was originally venued in Mercer County and had been transferred back to Mercer County from Burlington County—at plaintiff's request—for over four years when the 2021 orders were entered. Indeed, Mercer County issued the 2017 probation notices and emancipation orders for Imani and Bryana. Saliently, the Mercer County probation department continues to handle enforcement of arrears. Thus, we discern no abuse of discretion in the judge's decision to deny transfer of venue.

We conclude that plaintiff's remaining arguments—to the extent we have not addressed them—lack sufficient merit to warrant any further discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.