SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0094-22

RANDALL BENSON,

Plaintiff-Appellant,

v.

STACY I. BENSON,

Defendant-Respondent.

Submitted February 13, 2024 – Decided June 10, 2024

Before Judges Rose and Perez Friscia.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Somerset County, Docket No. FM-18-1071-12.

Randall Benson, appellant pro se.

Stacy I. Benson, respondent pro se.

PER CURIAM

Married in 1989, plaintiff Randall Benson and defendant Stacy I. Benson divorced after twenty-three years of marriage in 2012, when their children –

born in 1996, 1997, 2000, and 2004 – were between the ages of eight and sixteen. Their post-judgment litigation has been nothing short of protracted and contentious. Following several rounds of motions before the same Family Part judge, the crux of the issues raised on this appeal is plaintiff's financial obligation to the parties' two youngest children, the two oldest children having been emancipated.

In particular, plaintiff appeals from an August 12, 2022 Family Part order, denying his motion for reconsideration of a June 16, 2022 order that denied his application to emancipate the parties' third child, age twenty-two at the time of his application and a recent college graduate, and required plaintiff to procure a $250,000 life insurance policy on behalf of the parties' two unemancipated children; and a May 6, 2022 order that required plaintiff to pay half the college expenses for the parties' youngest child, age eighteen at the time of plaintiff's application and starting college. Plaintiff also appeals from an August 19, 2022 order, recalculating child support for the youngest child, contending defendant failed to provide the requisite supporting financial documentation.

Having considered plaintiff's arguments in view of the governing law, we are persuaded the motion judge erroneously denied his application to emancipate the third child. Plaintiff's remaining contentions either are moot or lack

sufficient merit to warrant discussion in a written opinion, R. 2:11-3(e)(1)(E), beyond the brief comments that follow. We therefore affirm in part, and reverse and remand in part.

I.

We summarize the pertinent facts and procedural history from the limited record provided on appeal, noting the parties' self-representation throughout the duration of their dissolution and post-judgment proceedings. They also represent themselves on this appeal.

The parties' marriage was dissolved by a December 2, 2012 final judgment of divorce, incorporating a February 26, 2011 property settlement agreement (PSA) and a November 13, 2012 addendum. Pertinent to this appeal, under the terms of the PSA, the parties "agree[d] that post high school education as to all the children shall be equally borne of the Husband and Wife." The PSA also required the parties to "each maintain a term life insurance policy for the benefit of the minor children until the oldest [sic] becomes emancipated, and which policy(s) shall have a face amount of [$]400,000.00 (five [sic] hundred thousand

dollars), with the beneficiaries to be named as [all four children], equally."[1] Neither the PSA nor the addendum provides a triggering emancipation event.

The present litigation commenced when defendant moved to compel plaintiff to: provide proof of life insurance; pay half their youngest child's college expenses for a school of his choice; and reimburse defendant for half their youngest child's college expenses. Plaintiff also sought other relief that is not pertinent to this appeal. On April 18, 2022, plaintiff opposed defendant's application, countering "he should not be required to pay life insurance for emancipated children," and the third child, who was then twenty-two years old, "should be emancipated as he was graduating [college] on May 20, 2022." Plaintiff further argued he was not obliged to pay the youngest child's college expenses absent his input into the child's school selection. The same day, plaintiff moved for similar relief.[2]

---

[1] In her statement of reasons accompanying the May 6, 2022 order, the judge explained the parties did not dispute the term, "oldest," in the PSA was "a typographical error" and should have stated, "youngest." The same error is continued in the addendum. This clause otherwise is identical in the addendum, except the term, "five" is replaced with "four."

[2] Apparently, plaintiff's April 18, 2022 motion was not timely filed for consideration with plaintiff's motion on the May 6, 2022 return date, and was heard on June 16, 2022.

After hearing argument on May 6, 2022, the motion judge granted defendant's motion to compel plaintiff to provide proof of life insurance but, with defendant's consent, reduced coverage to "a minimal amount of $250,000" because the two eldest children had been emancipated. In her accompanying statement of reasons, the judge noted:

> Importantly, plaintiff's opposition appears to rely on a motion that he has filed that has not yet been adjudicated concerning the emancipation of his children. The court will not speculate on a future order and predetermine plaintiff's responsibilities in the event the children may be deemed emancipated. Per the parties' certifications, the two older children are emancipated. The court, however, will not modify plaintiff's obligation to ensure support for [the two youngest children] until they are deemed emancipated by a court of law.

The judge also granted plaintiff's application concerning the youngest child's college tuition and expenses.

The following month, defendant filed a letter brief in opposition to plaintiff's April 18, 2022 application. In her brief, defendant stated the third child's emancipation was within "the court's discretion." However, defendant noted the child had graduated college in May but: "is presently unemployed"; "continuing to weigh his options as to graduate school"; "has moved home [with defendant]"; and is "now dependent on [her]." Among several other issues,

defendant also opposed plaintiff's May 25, 2022 informal request to reconsider the court's prior determinations obligating plaintiff to contribute toward the youngest child's college tuition and expenses, and life insurance.

After oral argument on June 16, 2022, the motion judge issued an order denying plaintiff's various applications. We summarize those provisions at issue here. Recognizing "termination of child support and emancipation are distinct legal concepts and require separate analysis," the judge addressed plaintiff's child support application under N.J.S.A. 2A:17-56.67, and emancipation application under the "sphere of influence" standard. See Bishop v. Bishop, 287 N.J. Super. 593, 598 (Ch. Div. 1995). Citing our decision in Keegan v. Keegan, 326 N.J. Super. 289, 294 (App. Div. 1999), the judge noted: "A college-age child who takes a hiatus from college and works full-time is not automatically emancipated." The judge held:

> Plaintiff failed to convince the court that [the third child] is beyond the sphere of influence of [the child's] parents. Although it is undisputed that [the child] graduated from college in May 2022, [the child] remains unemployed and continues to reside with defendant. The court cannot find [the child] beyond the sphere of influence of his parents when he remains reliant on defendant for his finances and shelter.

The judge denied plaintiff's application to emancipate the third child, but terminated plaintiff's child support obligation for the third child, effective May

20, 2022, the college graduation date. In reaching her decision, the judge referenced the statements set forth in defendant's opposition brief. We therefore glean from the record defendant did not file a certification in opposition to plaintiff's motion.

Turning to plaintiff's life insurance obligation, the judge found "the PSA specifies that life insurance shall be maintained for the benefit of a child until their emancipation." The judge granted plaintiff's request as to the two oldest children, who had been emancipated, but not regarding the youngest two children. Both parties were ordered to comply with the May 6, 2022 order, procuring a $250,000 life insurance policy for the benefit of the two unemancipated children.

The motion judge also denied plaintiff's application to emancipate the youngest child, finding it was based on "the occurrence of a speculative event," namely, "graduating high school and not attending college." The judge noted the record suggested the youngest child would be attending a specific college in the fall. However, in view of the child's upcoming high school graduation and college matriculation, the judge granted plaintiff's request to modify child support for the youngest child, pending receipt of defendant's financial information.

Shortly thereafter, plaintiff moved for reconsideration of the June 16 order, requesting the court: (1) emancipate the third child; (2) terminate plaintiff's obligation to maintain a $250,000 life insurance policy on behalf of the two youngest children; and (3) terminate his obligation to pay the youngest child's college tuition, stating he "should be able to have a say in what college [the child] attend[ed]." Defendant opposed plaintiff's "frivolous" application noting it was not formally filed, contrary to the Rules of Court, and was an untimely request to reconsider the May 6, 2022 order. Neither party requested oral argument.

The judge nonetheless held oral argument on August 12, 2022, and immediately thereafter denied the relief at issue on this appeal. In her written statement of reasons accompanying the order, the judge rejected plaintiff's argument that her June 16, 2022 emancipation order "[wa]s based on an irrational basis." The judge reiterated the undisputed record demonstrated the child had graduated college but "lived with defendant who continued to provide . . . financial support and shelter."

Turning to plaintiff's life insurance policy argument, the judge found plaintiff's reconsideration motion was time-barred because it was not filed within twenty days of the May 6, 2022 order under Rule 4:49-2. Moreover, the

judge noted: "At oral argument, plaintiff admitted that he dropped life insurance for the benefit of the children in 2020 in contravention of the PSA and [a]ddendum." The judge also denied plaintiff's request to modify the life insurance amount set forth in the June 16, 2022 order.

Similarly, the judge denied as time-barred plaintiff's request for financial information about, and a voice in, the youngest child's college selection. Nonetheless, the judge determined plaintiff was entitled to "any and all information concerning any financial aid [the child] applied for or received within five . . . days," and continued access to the child's student account.

Shortly thereafter, on August 18, 2022, the judge entered an order granting plaintiff's motion to recalculate child support for the youngest child. The judge reduced plaintiff's obligation from $149 to $61 per week, while the child attends college.

After plaintiff filed his notice of appeal, but before the parties filed their briefs, another judge granted defendant's emergent application on December 13, 2022, "direct[ing] plaintiff to obtain $250,000 of life insurance coverage." However, the judge modified the coverage amount to $100,000 and ordered defendant named "the sole beneficiary on the policy." According to the December 13 order, the judge set forth his statement of reasons in an oral

decision issued on December 5, and December 12, 2022. Plaintiff included the order in his reply appendix, but did not include the transcripts of the court's decision.

II.

Our review of Family Part orders is limited. See Cesare v. Cesare, 154 N.J. 394, 411 (1998). "Appellate courts accord particular deference to the Family Part because of its 'special jurisdiction and expertise' in family matters." Harte v. Hand, 433 N.J. Super. 457, 461 (App. Div. 2013) (quoting Cesare, 154 N.J. at 412). "Only when the trial court's conclusions are so 'clearly mistaken' or 'wide of the mark' should we interfere." Gnall v. Gnall, 222 N.J. 414, 428 (2015) (quoting N.J. Div. of Youth & Fam. Servs. v. E.P., 196 N.J. 88, 104 (2008)).

We also review a trial court's denial of reconsideration for abuse of discretion. Palombi v. Palombi, 414 N.J. Super. 274, 288 (App. Div. 2010); see also D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Governed by Rule 4:49-2, reconsideration is appropriate for a "narrow corridor" of cases in which either the court's decision was made upon a "palpably incorrect or irrational basis," or where "it is obvious that the [c]ourt either did not consider, or failed to appreciate the significance of probative, competent evidence."

Fusco v. Bd. of Educ., 349 N.J. Super. 455, 462 (App. Div. 2002) (quoting D'Atria, 242 N.J. Super. at 401).

"However, we confer no deference to a trial court's interpretation of the law, which we review de novo to determine whether the judge correctly adhered to applicable legal standards." Llewelyn v. Shewchuk, 440 N.J. Super. 207, 214 (App. Div. 2015); see also Ricci v. Ricci, 448 N.J. Super. 546, 565 (App. Div. 2017).

A.

We first consider plaintiff's contention that the motion judge erroneously denied his application to emancipate the third child. As a threshold matter, ordinarily our review might be hampered by plaintiff's merits brief, which lacks citation to the motion record, see R. 2:6-2(a)(5), "the place in the record where the opinion . . . is located," R. 2:6-2(a)(6), and legal authority, see ibid. Further, we have long recognized "pro se litigants are not entitled to greater rights than litigants who are represented by counsel." See, e.g., Ridge at Back Brook, LLC v. Klenert, 437 N.J. Super. 90, 99 (App. Div. 2014); Venner v. Allstate, 306 N.J. Super. 106, 110 (App. Div. 1997); Rubin v. Rubin, 188 N.J. Super. 155, 159 (App. Div. 1982).

However, because the law concerning emancipation is well-settled, and we review legal issues de novo, Ricci, 448 N.J. Super. at 565, our review is not hampered in this case.

Emancipation is a legal concept, imposed when "the fundamental dependent relationship between parent and child" concludes. See Dolce v. Dolce, 383 N.J. Super. 11, 17 (App. Div. 2006). "It is not automatic and 'need not occur at any particular age.'" Llewelyn, 440 N.J. Super. at 216 (quoting Newburgh v. Arrigo, 88 N.J. 529, 543 (1982)). "When the circumstances surrounding the parent-child relationship support a finding the child is emancipated, 'the parent relinquishes the right to custody and is relieved of the burden of support, and the child is no longer entitled to support.'" Ibid. (quoting Filippone v. Lee, 304 N.J. Super. 301, 308 (App. Div. 1997)).

However, the law "provides that once a child reaches the age of majority, i.e., eighteen, N.J.S.A. 9:17B-3, a parent has established 'prima facie, but not conclusive, proof of emancipation.'" Llewelyn, 440 N.J. Super. at 216 (quoting Johnson v. Bradbury, 233 N.J. Super. 129, 136 (App. Div. 1989)). Once established, "the burden of proof to rebut the statutory presumption of emancipation shifts to the party or child seeking to continue the support obligation." Ibid. The presumption "may be overcome by evidence that a

dependent relationship with the parents continues because of the needs of the child." Ibid.; see also Dolce, 383 N.J. Super. at 18. As in this case, a child's attendance in postsecondary education is one basis to delay emancipation and continue support. See Patetta v. Patetta, 358 N.J. Super. 90, 93-94 (App. Div. 2003); Keegan, 326 N.J. Super. at 295.

"[T]he essential inquiry is whether the child has moved beyond the sphere of influence and responsibility exercised by a parent and obtains an independent status of his or her own." Llewelyn, 440 N.J. Super. at 216 (alteration in original) (quoting Filippone, 304 N.J. Super. at 308). This "'determination involves a critical evaluation of the prevailing circumstances including the child's need, interests, and independent resources, the family's reasonable expectations, and the parties' financial ability, among other things.'" Ibid. (quoting Dolce, 383 N.J. Super. at 18); see also N.J.S.A. 2A:17-56.67; R. 5:6-9. Issues of emancipation typically require a plenary hearing, especially "when the submissions show there is a genuine and substantial factual dispute" that the trial court must resolve. Hand v. Hand, 391 N.J. Super. 102, 105 (App. Div. 2007); see also Llewelyn, 440 N.J. Super. at 217.

In the present matter, the judge's order denying plaintiff's motion to emancipate the third child upon his graduation from college is erroneous on a

few grounds. Initially, the judge mistakenly placed the burden on plaintiff to demonstrate the third child "is beyond the sphere of influence of [the child's] parents," when that onus shifted to defendant upon the child's eighteenth birthday. See Llewelyn, 440 N.J. Super. at 216.

Secondly, although the judge correctly recognized the parties did not dispute the third child was unemployed and lived with defendant when plaintiff's application was filed, the judge cited no authority for her conclusion that the parents were legally obligated to provide for the child, who was then twenty-two years old and a college graduate. Based on our review of the motion record, there is no competent evidence in the record to support the judge's finding that the parties were obligated to continue supporting the third child in these circumstances. The third child satisfies none of the exceptions established by the caselaw because, for example, the child no longer is enrolled in school, see Newburgh, 88 N.J. at 543, and is not disabled, see Filippone, 304 N.J. Super. at 312.

We conclude on the facts presented, the judge was obliged to declare the third child emancipated. Defendant's financial support of her emancipated child is voluntary. Although such parental support may be laudatory and is not

uncommon, it does not render an adult child, who has completed education, and who is not disabled, unemancipated.

B.

For the sake of completeness, we briefly address plaintiff's remaining contentions. We reject plaintiff's challenge to the judge's orders requiring payment of the youngest child's college expenses for the reasons set forth in the judge's August 12, 2022 statement of reasons. In essence, we agree that plaintiff's reconsideration motion is time-barred. R. 4:49-2.

Similarly, we are unpersuaded by plaintiff's contentions concerning the August 19, 2022 support order and affirm for the reasons set forth in the court's accompanying written decision. We note only the judge decreased support from $149 to $61 per week.

Finally, as we understand plaintiff's argument concerning life insurance, he is satisfied with the December 13, 2022 order, reducing the coverage amount to $100,000, thereby rendering his argument moot. See Redd v. Bowman, 223 N.J. 87, 104 (2015) (an issue is moot when "our decision can have no practical effect on the existing controversy").

We therefore reverse and remand for the entry of an order emancipating the third child as of May 20, 2022. Notably, however, because the judge

terminated child support for the third child, effective the date of graduation, it is unnecessary to recalculate child support under the emancipation order.

Affirmed in part, reversed and remanded in part. Jurisdiction is not retained.