SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1995-23

CAROL SAYERS,

Plaintiff-Respondent,

v.

JACK GREENFIELD,

Defendant-Appellant.

Argued November 6, 2024 – Decided January 3, 2025

Before Judges Susswein and Bergman.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Middlesex County, Docket No. FM-12-016017-81.

Jack Greenfield, appellant, argued the cause pro se.

Carol Sayers, respondent pro se.

PER CURIAM

Defendant, Jack Greenfield appeals from a trial court order denying his motion to vacate a judgment entered against him for child support arrearages

and denying his motion for reconsideration. Since we determine defendant's due process argument lacks merit and the trial court's findings were based on substantial, credible evidence and were not an abuse of discretion, we affirm.

I.

On March 17, 1983, a final judgment of divorce (FJD) was entered between the parties. The judgment incorporated a property settlement agreement and specifically ordered defendant to pay plaintiff $140 per week for the support of the two children born of the marriage. Defendant's child support obligation was ordered to be paid through the Middlesex County Probation Department.

In September 1986, defendant was arrested and taken into custody on a warrant for non-payment of child support and was later released after making a lump sum payment of $500 with the promise of another payment his counsel had arranged with the court. Later in September 1986, an order was entered by consent of the parties to require direct payments to plaintiff rather than payments to the probation department. This order also vacated all of defendant's child support arrearages.

On March 20, 1990, an order was entered against defendant for a judgment in the amount of $24,195 representing child support arrearages he owed to

plaintiff. The order also reinstated the prior requirement for payments to be made through the Middlesex County Probation Department. The record reflects no further orders were entered nor any proceedings were initiated until May 9, 2023, when a probation notice was sent to defendant to an address in Mesa, Arizona notifying him he owed $88,072.79 in child support arrearages to plaintiff.

In response to the notice, on August 30, 2023, defendant filed a motion to vacate the child support arrearages judgment. By order of September 26, 2023, the trial court denied defendant's motion. The court found defendant's request was "not supported factually or legally [and] [t]he failure to file with [regard] to the arrearage amount for the last 33 years constitutes laches." The court further denied defendant's claim his "civil and due process rights" were violated by the 1990 order. The court found that "defendant d[id] not provide any factual or legal basis to support the conclusory statements that his 'civil and due process rights' were violated." The court further denied defendant's request to find the court "lacked standing."' The court found defendant "d[id] not provide any factual or legal basis to support the conclusory statements the 1990 [c]ourt lacked standing to enter orders and judgments affecting the [d]efendant."

Defendant moved for reconsideration of the order, asserting he was never served with the motion which resulted in the March 20, 1990 order and was denied due process. The court granted defendant's motion to reevaluate and render specific findings concerning defendant's notice and due process arguments. In its order dated November 17, 2023, the court found:

> [1] The Defendant claims a violation of his Due Process rights for a lack of service of process by the Plaintiff dating back 33 years.
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> The Court's file discloses that the parties divorced in Union County on March 22, 1983. A Judgment of Divorce and a Property Settlement Agreement reflect this. The parties were represented by counsel. Defendant was obligated to pay $140 per week in child support.
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> Over the years' Probation initiated enforcement actions for defendant's nonpayment of child support. Each time the defendant appeared and sometimes with counsel. The dates of those filings were in 1986: 5/21, 9/8, 6/12, 6/20, 7/18, 9/12, & 9/23. Clearly the defendant was on notice. The last two (2) enforcement actions are the most relevant. On September 12, 1986, defendant was taken into custody for non-payment and later released due to a lump sum payment of $500 with a promise of another payment. His counsel arranged this with the Court. On September 21, 1986, payments through Probation were terminated in lieu of direct payments between the parties. That order of the Court also reduced to zero any child support arrearages.
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> On March 20, 1990, a civil judgment was entered against the defendant (J-041652-90) in the amount of

> $24,195. There is also a second Judgment (J-229360-911) which has grown to $88,072.89. It is unclear to this Court whether these payments are duplicative, reflect child support amounts, spousal support or an amount associated with equitable distribution. For those reasons the relief sought by the defendant is [denied without prejudice]. Probation is directed to examine the arrearage account of the parties, in light of the two (2) aforementioned judgments to determine the basis of the judgement amounts in light of the order of September 23, 1986 which purports to terminate the direct payment of child support and the elimination of child support arrearages.

Thereafter, an order was entered on February 16, 2024 which, in pertinent part, set forth amended findings based on the audit it had received of defendant's child support probation account. The order attached and incorporated a copy of the probation audit spanning from March 17, 1993 through July 2002.

Defendant appeals from the order denying his motion to vacate the judgment entered against him in the amount of $88,072.79 and further appeals the order denying his motion for reconsideration. On appeal, defendant reiterates the same arguments he made to the trial court.

II.

Family courts maintain "special jurisdiction and expertise in family matters," so "appellate courts should accord deference to family court factfinding." Cesare v. Cesare, 154 N.J. 394, 413 (1998). "Discretionary

determinations, supported by the record, are examined to discern whether an abuse of reasoned discretion has occurred." Ricci v. Ricci, 448 N.J. Super. 546, 564 (App. Div. 2017).

Under this deferential standard of review, we will not disturb a trial judge's factual findings when they are "supported by adequate, substantial and credible evidence." Rova Farms Resort v. Investors Ins. Co. of Am., 65 N.J. 474, 484 (1974). We only "disturb the factual findings and legal conclusions of the trial judge [when] we are convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." Ibid. (quoting Fagliarone v. Twp. of N. Bergen, 78 N.J. Super. 154, 155 (App. Div. 1963)). However, "all legal issues are reviewed de novo." Ricci, 448 N.J. Super. at 565 (citing Reese v. Weis, 430 N.J. Super. 552, 568 (App. Div. 2013)).

Defendant argues his due process rights were violated because he did not receive notice prior to the court entering the 1990 child support arrearages judgment. Defendant claims he never received plaintiff's motion requesting enforcement of the support obligation.

> Procedural due process requires notice and an opportunity to be heard. Mettinger v. Globe Slicing Machine Co., 153 N.J. 371, 389 (1998); see also Doe v. Poritz, 142 N.J. 1, 106 (1995). "Due process is not a

> fixed concept . . . but a flexible one that depends on the particular circumstances." Doe v. Poritz, 142 N.J. at 106. "Fundamentally, due process requires an opportunity to be heard at a meaningful time and in a meaningful manner." Ibid. "The minimum requirements of due process, therefore, are notice and the opportunity to be heard." Ibid.
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> [State (County of Bergen) v. Polanca, 332 N.J. Super. 436, 442 (App. Div. 2000).]

Laches arises from "the neglect, for an unreasonable and unexplained length of time . . . to do what in law should have been done." Lavin v. Hackensack Bd. of Educ., 90 N.J. 145, 151 (1982) (quoting Atl. City v. Civil Serv. Comm'n, 3 N.J. Super. 57, 60 (App. Div. 1949)). The doctrine bars relief when the delaying party had ample opportunity to bring a claim, and the party invoking the doctrine was acting in good faith in believing that the delaying party had given up on its claim. Knorr v. Smeal, 178 N.J. 169, 181 (2003); Lavin, 90 N.J. at 152.

Laches can only apply where a party unreasonably delays in asserting its rights, and the opposing party relies in good faith in believing that the right has been abandoned. See Dorchester Manor v. Borough of New Milford, 287 N.J. Super. 163, 171-72 (Law Div. 1994), aff'd, 287 N.J. Super. 114 (App. Div. 1996). "The core equitable concern in applying laches is whether [the opposing]

party has been [unfairly] harmed by the delay." Knorr, 178 N.J. at 181 (citing Lavin, 90 N.J. at 152-53).

The record reveals the court clearly considered defendant's due process argument. We see no error in the court's determination to invoke the doctrine of laches as a basis for denying defendant's motion to vacate child support arrearages. We further conclude the court's finding that laches applied to the facts was not an abuse of discretion. Even assuming defendant was not provided with notice or the opportunity to present his arguments at the time of plaintiff's 1990 motion, we determine he clearly had an opportunity to present his due process arguments and any substantive evidence supporting his position that the child support arrearages judgment should be vacated.

We determine based on the record that defendant was aware of his court ordered child support obligation on multiple occasions starting when the FJD was entered in 1983. Initially, the FJD itself specifically contained a provision obligating defendant to pay $140 per week to plaintiff for the support of the two children. Defendant does not dispute he was aware of his child support obligation at the time the FJD was entered. We also determine, as did the trial court, defendant was aware of his support obligation when the 1986 order was entered. At that time plaintiff consented to remove defendant's child support

obligation from probationary monitoring, after his arrest for non-payment of child support, and had forgiven all arrearages which had accrued against him since the FJD was entered.

Defendant's primary argument on appeal is based on the court event which occurred in 1990. At that time the court granted plaintiff's motion to enforce defendant's direct pay child support obligation in the 1986 order, entered a judgment for the existing support arrearages and reinstated the enforcement mechanisms through the Middlesex County Probation Department.

We also note the probation audit which the court relied upon reflects payments were made by defendant against his child support obligation after entry of the March 1990 order. The audit reflects credits were entered for payments made by defendant in July, August and September, 1990. Further credits were posted on the probation account for payments made by defendant in May 1995, and February, March, and April, 2002. We determine these credits confirm defendant was clearly aware of his continuing support obligation as early as July 1990, a mere three months after the order under appeal was entered, and at the time the first attachment in the amount of $140 was executed against him. Defendant has not claimed he was unaware of the seven attachments against him from 1990 to 2002. He failed to address this issue in his motion or

on appeal which we determine supports his awareness that the basis of the attachments was his underlying court ordered child support obligation.

Even assuming defendant did not receive notice for the motion which resulted in the March 1990 order, his motion to vacate his support obligation and arrears was not made until thirty-three years after the first attachment in July 1990 and twenty-one years after the last attachment in April 2002. We conclude based on this evidence that defendant was clearly on notice of his support obligation. Importantly, he offers no explanation for the unreasonable and unexplained length of time he took to file his motion to vacate the support arrearages judgment.

We further determine plaintiff would be severely prejudiced by defendant's delay in filing the motion to vacate the arrears. She claims since 1986 defendant has failed to pay the court ordered support either through probation or directly, she solely supported the two children during this period, including payment of one hundred percent of their college expenses and that she is owed significant back child support arrearages from defendant. We also note defendant failed to produce any evidence in the form of receipts, records or otherwise as part of his motion to support he paid the support directly to plaintiff.

We now turn to defendant's appeal of the court's reconsideration order. An appellate court reviews an order denying reconsideration for abuse of discretion. Branch v. Cream-O-Land Dairy, 244 N.J. 567, 582 (2021). A court abuses its discretion "when a decision is made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis." Mims v. City of Gloucester, 479 N.J. Super. 1, 5 (App. Div. 2024) (quoting Kornbleuth v. Westover, 241 N.J. 289, 302 (2020)).

In this instance, the court granted defendant reconsideration solely to review his notice and due process arguments more thoroughly. After the court's further review, it again denied defendant's request to vacate the $88,072.79 judgment in its November 17, 2023 order. For the reasons we have already set forth, the trial court's findings were clearly supported by substantial evidence before it — the probation audit — and rested on a permissible basis in law based on the 1983 FJD and two subsequent orders which required defendant to pay child support to plaintiff. The court's denial of defendant's reconsideration motion was, therefore, not an abuse of discretion.

Affirmed.