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STATE OF MICHIGAN

COURT OF APPEALS

JILL P. MITCHELL,

Plaintiff-Appellant,

v

BRYAN J. MITCHELL,

Defendant-Appellee.

UNPUBLISHED
March 09, 2026
2:36 PM

No. 371069; 371147
Marquette Circuit Court
Family Division
LC No. 2011-048682-DM

Before: LETICA, P.J., and BORRELLO and RICK, JJ.

PER CURIAM.

In Docket No. 371069, plaintiff appeals as of right an order denying her request to obtain postjudgment attorney fees from defendant. In Docket No. 371147, plaintiff appeals by leave granted[1] a portion of the same order where the court denied her request for additional spousal support beyond that contained in the parties' 2012 judgment of divorce. We affirm.

I. FACTUAL BACKGROUND

The parties were married for approximately 23 years and divorced in 2012. The judgment of divorce incorporated a voluntary separation agreement requiring defendant to pay spousal support in the amount of $3,000 per month for a period of ten years. The award was expressly modifiable in amount and duration and terminated upon plaintiff's remarriage or death. Over the ten-year term, defendant accumulated substantial arrearages and was subject to contempt findings and enforcement proceedings. Ultimately, defendant made lump-sum payments that extinguished the arrearage, including a significant payment in January 2023.

In October 2023, following the expiration of the ten-year support period, plaintiff filed two postjudgment petitions: one seeking interim spousal support and attorney fees, and another seeking

[1] *Mitchell v Mitchell*, unpublished order of the Court of Appeals, entered October 7, 2024 (Docket No. 371147).

modification of spousal support, additional attorney fees, and other equitable relief. Plaintiff alleged that defendant had historically failed to comply with support obligations and that she lacked the ability to pay attorney fees necessary to pursue further litigation. Defendant did not file written responses but contested plaintiff's allegations at two hearings held in December 2023 and February 2024. During the February 2024 hearing, plaintiff made an oral motion for partial summary disposition under MCR 2.116(C)(8) (failure to state a claim), (C)(9) (failure to state a valid defense), and (C)(10) (no genuine issue of material fact). Plaintiff asserted that defendant had not filed a written response and had failed to categorically deny her allegations. She argued that she was therefore entitled to interim support and attorney fees as a matter of law.

The trial court rejected the request, explaining that postjudgment domestic relations proceedings are not typical civil actions and that defendant's appearance and participation sufficed to contest the petitions. The court subsequently entered an order denying plaintiff's requests for modification of spousal support, attorney fees, and other equitable relief. Plaintiff moved for reconsideration. The court denied the motion. These appeals followed.[2]

II. ANALYSIS

A. DOCKET NO. 371069

1. SUMMARY DISPOSITION ON ATTORNEY FEES

Plaintiff argues that the trial court erred in denying her oral motion for summary disposition regarding attorney fees because defendant did not file written responses to her petitions. We disagree.

We review de novo a trial court's decision on a motion for summary disposition. *Lockwood v Twp of Ellington*, 323 Mich App 392, 400; 917 NW2d 413 (2018).

The trial court concluded that defendant acted appropriately by showing up for the hearing on the petitions and defending himself against them. It stated that a "lawsuit" was not at issue and that the divorce proceedings were one continuous matter. It thus declined to grant plaintiff's oral motion for summary disposition. We find no error in the trial court's decision. MCR 2.116 governs motions for summary disposition and contemplates the disposition of "a claim." MCR 2.116(B)(1). Even assuming that plaintiff's postjudgment petitions may be treated as claims for purposes of the rule, her reliance on MCR 2.116(C)(8), (9), and (10) was misplaced. Subrule (C)(8) applies when "the opposing party has failed to state a claim on which relief can be granted." Defendant did not file a petition and was not stating any claim in this matter. Likewise, subrule (C)(9) applies when "[t]he opposing party has failed to state a valid defense to the claim asserted against him or her," and subrule (C)(10) applies when "except as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law." Defendant appeared at the hearing and expressly disputed plaintiff's

[2] This Court, on its own motion, consolidated the two appeals. See *Mitchell v Mitchell*, unpublished order of the Court of Appeals, entered October 7, 2024 (Docket Nos. 371069; 371147).

factual allegations. He addressed the claimed arrearages, explained the financial circumstances surrounding any prior nonpayment, and asserted that he had been financially burdened by the protracted litigation. Summary disposition is inappropriate where factual issues remain unresolved. Because defendant contested the factual basis for plaintiff's petitions, the trial court properly declined to grant summary disposition.

2. DECLARATORY RELIEF

Plaintiff next contends that the trial court erred by failing to grant declaratory relief regarding language in an August 2017 order. We disagree.

Plaintiff's briefing is not entirely clear,[3] but she appears to take issue with the statement in the 2017 order that the court had "previously determined that the Judgment of Divorce did not require replacement of the equivalent" value of a Michigan property known as "the Saux Head property". She further maintains that the court instead required indemnity in the event that plaintiff or her trust "became liable for [defendant's] business debts ordered secured by the property."

"Questions of law relative to declaratory judgment actions are reviewed de novo, but the trial court's decision to grant or deny declaratory relief is reviewed for an abuse of discretion." *Barrow v Detroit Election Comm'n*, 305 Mich App 649, 662; 854 NW2d 489 (2014) (quotation marks and citation omitted).

However, this issue is not properly before us in Docket No. 371069. Plaintiff's appeal as of right in this matter is limited to the portion of the postjudgment order denying attorney fees. MCR 7.202(6)(a)(iv); MCR 7.203(A)(1). Issues unrelated to the attorney-fee ruling fall outside this Court's jurisdiction in this appeal. See *Pioneer State Mut Ins Co v Michalek*, 330 Mich App 138, 143; 946 NW2d 812 (2019). Moreover, the Saux Head property issues were previously litigated before this Court in *Mitchell v Mitchell (Mitchell I)*, unpublished per curiam opinion of the Court of Appeals, issued October 15, 2020 (Docket Nos. 346774 and 349209).[4] Plaintiff cannot relitigate matters that were or could have been raised in a prior appeal.

3. ATTORNEY FEES

[3] Plaintiff is representing herself on appeal. Although self-represented litigants must abide by the court rules, *Bachor v Detroit*, 49 Mich App 507, 512; 212 NW2d 302 (1973), we generally allow these litigants a measure of leniency not typically afforded to parties proceeding with the assistance of counsel. *Hein v Hein*, 337 Mich App 109, 115; 972 NW2d 337 (2021).

[4] This Court dismissed the prior appeal because of plaintiff's failure to provide pertinent transcripts. *Mitchell I*, unpub op at 6. This Court also directly addressed the issue plaintiff currently raises, i.e., that there was a misstatement in the lower court's August 2017 order. *Id.*, unpub op at 12.

Plaintiff also contends that the trial court erred by failing to grant attorney fees. We disagree.

We review for an abuse of discretion a trial court's decision regarding attorney fees in a domestic relations matter. *Richards v Richards*, 310 Mich App 683, 699; 874 NW2d 704 (2015). "An abuse of discretion occurs when the result falls outside the range of principled outcomes." *Id*.

Under MCR 3.206(D), attorney fees may be awarded if the requesting party demonstrates either (1) inability to bear the expense of the action and the other party's ability to pay, or (2) that fees were incurred because the opposing party refused to comply with a prior order despite the ability to do so. See MCR 3.206(D)(2)(a) and (b).

Here, plaintiff asserted that defendant's conduct forced her to incur attorney fees. However, she did not provide billing statements, affidavits, itemizations, or documentation identifying the amount of fees incurred or explaining the services rendered in relation to any prior litigation.[5] Nor did she identify with specificity how particular fees were directly attributable to defendant's alleged noncompliance. In *Stackhouse v Stackhouse*, 193 Mich App 437, 445; 484 NW2d 723 (1992), this Court stated:

> This Court has . . . held that an award of legal fees is authorized where the party requesting payment of the fees has been forced to incur them as a result of the other party's unreasonable conduct in the course of the litigation. A trial court has the discretion to award such fees as are necessary and reasonable, and a court's determination in this regard will not be reversed on appeal absent an abuse of that discretion. [Citation omitted.]

The court did not abuse its discretion by failing to award attorney fees because plaintiff failed to make a showing of necessity and reasonableness.

Plaintiff also sought prospective attorney fees to "carry on" the litigation. She argued that such fees were warranted under MCR 3.206(D)(2)(a) because she was allegedly impoverished while defendant was employed. While such awards are permissible in appropriate circumstances, see *Stallworth v Stallworth*, 275 Mich App 282, 288; 738 NW2d 264 (2007), plaintiff has not demonstrated that additional litigation was necessary or that she was unable to retain counsel without such an award.

Although plaintiff claimed financial hardship, the record reflects that defendant satisfied his remaining spousal support obligation through a lump-sum payment. Additionally, plaintiff's assertion that she was unable to work because she was administering a "modest" estate following her aunt's death did not establish a continuing inability to earn income. This is particularly true given the timing of the petitions, which were filed after her last surviving aunt passed away. Thus,

[5] Notably, plaintiff represented herself for the purposes of the petitions at issue.

for all the foregoing reasons, the trial court's denial of both lump-sum and ongoing attorney fees was within the range of principled outcomes.[6]

B. DOCKET NO. 371147

1. SUMMARY DISPOSITION–SPOUSAL SUPPORT

Plaintiff contends that the trial court erred with regard to her oral motion for summary disposition concerning interim spousal support. For the same reasons discussed in Section II(A)(1) above, the trial court did not err in denying plaintiff's oral motion for summary disposition concerning interim spousal support. Defendant's appearance and opposition to plaintiff's motion precluded summary disposition.

2. SPOUSAL SUPPORT

Plaintiff claims she was entitled to spousal support, both interim and ongoing, beyond that ordered in the judgment of divorce. She contends that the trial court erred by failing to grant her additional spousal support. We disagree.

This Court reviews for clear error a trial court's finding regarding whether spousal support should be revisited. *Ackerman v Ackerman*, 197 Mich App 300, 301-302; 495 NW2d 173 (1992). "A finding is clearly erroneous if this Court, on all the evidence present on the record, is left with a definite and firm conviction that a mistake has been made." *Id*. at 302. A spousal support award is reviewed for an abuse of discretion. *Loutts v Loutts*, 298 Mich App 21, 25; 826 NW2d 152 (2012).

Although the judgment expressly permitted modification, plaintiff bore the burden of demonstrating new facts or changed circumstances arising after entry of the prior order to warrant modification. *Luckow v Luckow*, 291 Mich App 417, 424; 805 NW2d 453 (2011). Plaintiff relied primarily on three asserted changes: defendant's new employment, prior missed support payments, and financial consequences related to the Saux Head property. As to defendant's employment, plaintiff presented no evidence regarding his expenses, debts, or overall financial condition. A change in employment alone does not mandate modification; the court must evaluate the totality of circumstances, including the parties' respective needs and abilities to pay. See *id*. at 424; *Ackerman*, 197 Mich App at 301. Further, plaintiff did not present evidence to demonstrate that equity required revisiting the support award. Defendant's prior missed payments have also been fully satisfied, and issues concerning the Saux Head property were previously addressed by this Court. Plaintiff already obtained a substantial judgment related to the Saux Head matter.

[6] Plaintiff also briefly contends that the trial court's order was too brief and failed to include necessary findings. However, we conclude that the order and the record, read together, are sufficient for meaningful appellate review.

Ultimately, the trial court's determination that plaintiff failed to establish a material change in circumstances was not clearly erroneous. Its decision to deny modification was therefore not an abuse of discretion.

Affirmed.

/s/ Anica Letica
/s/ Stephen L. Borrello
/s/ Michelle M. Rick