

No. 1-18-1298

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> MARRIAGE OF ANGELA SISK,)	Appeal from the Circuit Court of Cook County
)	
Petitioner-Appellee,)	
)	No. 09 D3 1222
and)	
)	
TIMOTHY A. SISK,)	
)	Honorable Alfred Levinson,
Respondent-Appellant.)	Judge Presiding.

PRESIDING JUSTICE DELORT delivered the judgment of the court.
Justices Cunningham and Harris concurred in the judgment.

ORDER

- ¶ 1 **Held:** The circuit court did not abuse its discretion when it determined that there was no substantial change in circumstances warranting a change in child support.
- ¶ 2 Timothy and Angela Sisk were married in 2003 and had twin sons born in 2008. In 2009, Angela filed the underlying lawsuit for dissolution of marriage. In 2011, the parties entered into a martial settlement agreement which established Timothy’s child support obligation at \$1,914 per month based on applying the then-existing 28% statutory support guideline to his income of

\$6,829 per month. See 750 ILCS 5/505 (West 2010). In 2015, the circuit court increased Timothy's child support obligation to \$2,578 per month, based on his income of \$9,212 per month. In 2017, he filed the motion to reduce child support which is now before us, alleging solely that a reduction in his income due to a new job warranted a corresponding reduction in child support obligations.

¶ 3 The circuit court conducted an evidentiary hearing on Timothy's motion on October 17, 2017. Timothy testified that he had been employed since about 2015 at the RR Donnelley Company making \$169,680 a year, but that he lost that job in September, 2016 due to corporate restructuring. However, he was already looking for a new job before he was terminated. A different employer offered him a job at a lesser salary, but he turned it down. A month later, he was hired by Slalom LLC at a salary of \$150,000 per year with the possibility of a discretionary bonus. He receives an array of insurance benefits and is reimbursed for business-related expenses, including \$125 per month for a Metra pass and \$65 per month for cellular telephone service. He had similar fringe benefits when he worked for RR Donnelley. He explained that he did not file the motion to reduce child support until about eight months after he began working for Slalom because he was busy with moving into a new house and other tasks. In 2016, he bought a \$422,000 home in his own name and made a down payment of \$60,000 toward that purchase. He lives in the home with a "domestic partner" who pays household gas, electric, water, and cable bills, totalling about \$556 per month, or \$6,672 per year. He also contributes \$750 per month to his retirement account. Timothy's twin sons are with him about 40% of the year.

¶ 4 Angela testified that she earns about \$62,000 per year as a sales manager, which is higher than her \$50,000 income in 2016 and \$42,000 income in 2015. The twins live with her about

60% of the year and they attend private school. She does not have a domestic partner in the home.

¶ 5 Timothy argued that his \$19,000 reduction in salary was a substantial change in circumstances warranting a reduction in his child support obligations under the section 510(a)(1) of the Illinois Marriage and Dissolution of Marriage Act (Marriage Act) (750 ILCS 5/510(a)(1) (West 2016)). The circuit court found that Timothy's 12% change in income was not a "substantial" change under section 510(a)(1). Accordingly, the court denied the motion to reduce child support. In making its ruling, the court specifically noted that, under the statute, employer reimbursements were considered as income (750 ILCS 5/505(b)(3.1)(b) (West 2016)). The court denied Timothy's motion to reconsider, and this appeal followed.

¶ 6 Section 510(a)(1) of the Marriage Act provides that a court may modify a child support order "upon a showing of a substantial change in circumstances." 750 ILCS 5/510(a)(1) (West 2016). On appeal, Timothy argues that the circuit court erred by finding there was not a substantial change in circumstances sufficient to warrant a reduction in child support. In particular, he claims the court did not give sufficient weight to recent increases in Angela's income and that it improperly applied a 20% income-reduction standard in determining that his income reduction did not result in a "substantial change" in circumstances as required by the Marriage Act.

¶ 7 Section 510(a)(2) of the Marriage Act contains an exception to the general rule in section 510(a)(1), and that exception forms the basis for Timothy's contentions regarding the 20% income-reduction standard on appeal. Generally speaking, section 510(a)(2) allows a court to modify child support *without* a showing of a substantial change in circumstances, if there is a showing of an "inconsistency of at least 20%, but no less than \$10 per month, between the

amount of the existing order and the amount” computed under child support guidelines set forth in section 505 of the Marriage Act. 750 ILCS 5/510(a)(2) (West 2016). However, because this exception only applies to cases in which a party is receiving enforcement services from the Illinois Department of Healthcare and Family Services, it is not strictly relevant here. Even so, Timothy relies on it to support his contention that the court mistakenly used a 20% threshold to reject his request for modification of child support based on a mere 12% change in salary. Indeed, when making its ruling, the circuit court stated: “This is a 12 percent change. It’s not 20. Your motion is denied. I find there is no substantial circumstance [sic] in this case.” But earlier, the court also inquired of the parties’ attorneys whether either had “read the new statute to determine whether there’s still the 20% rule” and each attorney responded that the statute contained no such rule. And during the argument on Timothy’s motion for reconsideration, the court clarified its reasoning: “There’s no statute that I followed that was 20 percent *** I didn’t apply a 20 percent—even if I did, even if I think what I said was that this wasn’t 20 percent.” Timothy contends that the court did, in fact, use an improper 20% guideline and asks us to reverse on that basis.

¶ 8 We review a court’s determination of child support obligations for abuse of discretion. *In re Marriage of Rogers*, 213 Ill. 2d 129, 135 (2004). An abuse of discretion exists where the trial court’s decision is arbitrary, fanciful, or unreasonable, such that no reasonable person would take the view adopted by the trial court. *Seymour v. Collins*, 2015 IL 118432, ¶ 41. This is a highly deferential standard of review. The court has broad discretion to determine whether a substantial change in circumstances has occurred and is given wide latitude in determining whether a substantial change of circumstances has occurred. *In re Marriage of Saracco*, 2014 IL App (3d)

130741, ¶ 13. In doing so, it must weigh and balance the facts presented regarding the parties' financial circumstances. *Id.* ¶ 16.

¶ 9 When it sets child support in the first instance, a court is guided by an extraordinarily detailed statutory scheme which takes numerous financial factors relating to each parent into account. 750 ILCS 5/505(1), (1.5), (2) (West 2016). In the normal course of life, every parent will experience periodic changes in income due to economic circumstances, changes in employment, and other causes within and without their control. We cannot find that the legislature intended that parents should be able to constantly seek judicial modification of their child support obligations whenever they experience *some* change in income. The legislature expressed that intent through its use of the word “substantial” in section 510(a)(1). Put quite simply, we agree that under the facts and circumstances of this case, the reduction in Timothy’s salary is relatively small—and therefore not “substantial”—for someone in his income bracket, especially since the reduction was offset by new income that he receives from his domestic partner. The circuit court heard extensive evidence regarding the parties’ employment history, insurance and other employer benefits, employer reimbursements, retirement account contributions, real estate ownership, and living expenses. Based on all of this evidence, we cannot say that the court abused its discretion in determining there was no “substantial” change in circumstances warranting a reduction in Timothy’s child support obligation.

¶ 10 Affirmed.