



In Re the Finding of Contempt In Re the Marriage of v. Lance S. Poltrock

2011 | Cited 0 times | Court of Appeals of Wisconsin | April 7, 2011

Affirmed.

¶1 Lance Poltrock appeals an order of the circuit court finding him in contempt and imposing sanctions. The contempt finding relates to an order that required Poltrock to pay a lump sum of past-due child support payments to his former wife. Poltrock concedes that he violated the order. His argument on appeal is that a portion of the contempt sanction was improper because it incorporated into the sanction child support amounts that had been suspended. I disagree and affirm.

Background

¶2 In December 2009, Lance Poltrock and his former wife, JoAnne Broder, entered into a stipulation related to Poltrock's past-due child support payments. The stipulation provided that the child support arrearage and interest, totaling approximately \$10,460, would be reduced to \$10,000, and that Poltrock would pay the \$10,000 in a lump sum within fifteen business days. As part of the stipulation, the parties also agreed that Poltrock's ongoing child support obligation between December 2009 and May 2010 would be suspended. The stipulation was approved by the state's child support agency and was issued as a "stipulation and order" by the circuit court in December 2009.

¶3 In May 2010, Broder petitioned the court to find Poltrock in contempt of the December 2009 order. At the contempt hearing, which was held nearly six months after the December 2009 order was entered, it was undisputed that Poltrock still owed a substantial portion of the lump sum under the December 2009 order. After taking testimony from both parties, the circuit court found Poltrock in contempt. As a sanction, the court ordered Poltrock to pay the remaining lump-sum balance of \$4,816 plus \$2,400 in monthly support that he would have owed between December 2009 and May 2010 absent the stipulation and order suspending child support. The court's order allowed Poltrock forty-five days to pay these amounts; if he failed to pay, he would be jailed for sixty days. Poltrock appeals the contempt order.

Discussion

¶4 On appeal, Poltrock does not challenge the contempt finding or the portion of the contempt sanction for the unpaid lump-sum amount. Rather, Poltrock's argument is directed at the additional \$2,400 included in the sanction that related to monthly child support between December 2009 and May 2010. Poltrock argues that this portion of the sanction was improper.



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¶5 I review a circuit court's use of its contempt power to determine whether the court properly exercised its discretion. *Benn v. Benn*, 230 Wis. 2d 301, 308, 602 N.W.2d 65 (Ct. App. 1999). The type of remedial sanction to impose for contempt is discretionary. *Id.* On review of a discretionary decision, I examine the record to determine if the circuit court logically interpreted the facts, applied the proper legal standard, and used a demonstrated rational process to reach a conclusion that a reasonable judge could reach. *Id.*

¶6 Pertinent to Poltrock's appeal, Broder testified at the contempt hearing that, absent the December 2009 stipulation and order, Poltrock would have been obligated to pay \$480 per month between December 2009 and May 2010 pursuant to the current child support order. Consistent with this, the circuit court indicated at the hearing that the case file contained an order for this monthly amount. Thus, the court calculated that, between December 2009 and May 2010, Poltrock would have owed \$2,400 in additional child support. The court concluded that, because Poltrock did not comply with the stipulation and order that had suspended child support payments, it was proper to include this additional amount in the sanction.

¶7 Poltrock asserts that this was improper. As I explain, however, he fails to develop arguments that demonstrate that this is the case.

¶8 One of Poltrock's arguments appears to be that the \$480 monthly figure used by the circuit court was incorrect because it did not reflect the child support obligation in place prior to the stipulation and order. Poltrock states that the amount of child support in place was instead approximately \$353 per month. If Poltrock is now arguing that the circuit court erred by using the wrong pre-stipulation figure, I deem this argument forfeited because my review of the record shows that Poltrock did not bring this to the attention of the circuit court at the contempt hearing. See *State v. Caban*, 210 Wis. 2d 597, 604, 563 N.W.2d 501 (1997) (issues not presented to the circuit court will generally not be considered for the first time on appeal).

¶9 Poltrock spends the balance of his brief citing and discussing statutory provisions related to child support modification. In this context, Poltrock asserts, without providing support, that the contempt sanction was essentially a modification of his child support obligations. He then provides various reasons why the sanction did not conform to modification-related statutory procedures. See, e.g., Wis. Stat. § 767.59 (revision of child support orders). For example, he asserts that the circuit court was required to, but did not, follow procedures for calculating the amount owed based on a percentage of Poltrock's income.

¶10 Poltrock's argument is not sufficiently developed because he does not explain why the procedures in statutes related to modifying child support are relevant. That is, Poltrock provides no support for his proposition that sanctioning him for failing to comply with the order is the same thing as modifying a child support order. Because Poltrock does not provide the necessary connection, I do not further consider Poltrock's arguments directed at procedures for child support



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modification. And, Poltrock does not otherwise develop an argument that the sanction was improper.

¶11 I further observe that, even if, for the sake of argument, I construe Poltrock's argument as directed at the court's sanctioning discretion, it would not succeed. Available sanctions for contempt of court are described in Wis. Stat. § 785.04. Pertinent here, that statute states: "A court may impose one or more of the following remedial sanctions: (a) Payment of a sum of money sufficient to compensate a party for a loss or injury suffered by the party as the result of a contempt of court." Wis. Stat. § 785.04(1).

¶12 Here, pursuant to the December 2009 stipulation and order, Poltrock agreed to pay a \$10,000 lump sum to Broder within fifteen business days. This arrangement released Poltrock from an even greater arrearage and ongoing child support obligations between December 2009 and May 2010. In other words, Broder gave up something in exchange for the timely payment of the lump sum. It is undisputed that Poltrock did not comply with the order. Given this, the circuit court could have reasonably crafted a sanction compensating Broder both for the outstanding lump-sum amount and for not timely receiving the lump sum. Related to this, Poltrock does not develop an argument that the sanction forced him to pay more than he would have owed had he not entered into the stipulation in the first place.

¶13 In sum, I affirm the circuit court's order finding Poltrock in contempt.

By the Court.--Order affirmed.

This opinion will not be published. Wis. Stat. Rule 809.23(1)(b)4.

1. This appeal is decided by one judge pursuant to Wis. Stat. § 752.31(2)(h) (2009-10). All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

