

NOT DESIGNATED FOR PUBLICATION

No. 99,301

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

CYNTHIA CRAWFORD,
Appellee,

v.

WILLIAM MICHAEL CRAWFORD,
NOW SHARMA-CRAWFORD,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; ANTHONY J. POWELL, judge. Opinion filed December 24, 2008. Affirmed.

William Sharma-Crawford, of Sharma-Crawford Attorneys at Law, of Overland Park, for appellant.

No appearance by appellee.

Before BUSER, P.J., LEBEN, J., and STEPHEN R. TATUM, District Judge, assigned.

LEBEN, J.: William Sharma-Crawford appeals the district court's ruling on his motion to modify child support. William essentially presents two claims on this appeal. First, he argues that the district court understated the income of his ex-wife, Cynthia Crawford. Second, he argues that the district court wrongly failed to give him a reduction in his child-support obligation based on his payment of college expenses for the parties' eldest child.

On appeal, we review legal questions of interpretation of the Kansas Child Support Guidelines without any required deference to the district court. See *In re Marriage of Brand*, 273 Kan. 346, 350, 44 P.3d 321 (2002). In the three pages of argument in William's brief, we do not see a claim that the district court misinterpreted the guidelines.

There seems to be some confusion about the standard of review for matters other than the legal interpretation of the guidelines. In *Brand*, the Kansas Supreme Court said that "review of an order setting child support is limited to determining whether there is substantial competent evidence to support the trial court's findings." 273 Kan. at 346, Syl. ¶ 1. On the other hand, several of our recent cases have cited an abuse-of-discretion standard. *E.g.*, *In re Marriage of Matthews*, 40 Kan. App. 2d ___, Syl. ¶ 1, 193 P.3d 466 (2008); *In re Marriage of Atchison*, 38 Kan. App. 2d 1081, Syl. ¶ 2, 176 P.3d 965 (2008).

Cases generally reference only one of these standards, although the *Atchison* decision properly noted that both standards may come into play in reviewing a child-support ruling. 38 Kan. App. 2d at 1085.

There are several areas in which the Guidelines explicitly give discretion to the district court. For example, the Guidelines say that the district court "has the discretion to determine whether the proposed insurance cost is reasonable" before including it in the child-support worksheet. Guidelines § IV.D.4.a. (2007 Kan. Ct. R. Annot. 118). And the Guidelines provide that the district court "may" impute income in certain circumstances but does not explicitly require imputation. Guidelines § II.F.1 (2007 Kan. Ct. R. Annot. 110). In cases like these in which some decision is entrusted to the discretion of the district court, we should review for abuse of discretion. In cases in which the district court has determined the income of the parties and those factual findings are in dispute, we should review to determine whether substantial evidence supports the district court's factual findings. Each of these standards come into play in this appeal.

I. The District Court's Factual Finding Regarding Cynthia's Income Was Supported by Substantial Evidence.

William's first challenge is to the district court's determination of Cynthia's income. We review that decision to determine whether substantial evidence supports the

district court's factual findings. William's complaint is that the district court relied upon Cynthia's income figure from a previous hearing and worksheet.

William filed his motion to modify child support in August 2006; the district court ordered that the modification be retroactive from September 1, 2006. William based his motion on two points: (1) that the parties' eldest daughter had turned 18 and graduated from high school and (2) Cynthia had moved to Johnson County, where William lived, so that costs of transportation for visitation should no longer be considered. In his motion, William did not claim any change in Cynthia's income. Nor did William file a domestic relations affidavit, which the Guidelines require parties to file when seeking a modification of child support. See Guidelines § III.A. (2007 Kan. Ct. R. Annot. 111).

At the district court hearing, William said his salary had not changed. Based on that, the district court relied on the income figure for William that had been used to calculate a 2004 child-support order. Cynthia did not present any evidence of her income for 2005, and the district court relied on the income figure it had used in 2004 for her too.

The district court's 2004 child-support order was appealed; our court affirmed its decision. *In re Marriage of Crawford*, 2007 WL 1747868 (Kan. App. 2007). There are no domestic-relations affidavits in our record from the 2007 hearing now on appeal, but

the domestic-relations affidavits are in the record for the earlier hearing. And our court already affirmed the district court's determination of the parties' incomes from that 2004 hearing.

We conclude that substantial evidence in the record supports the district court's use of the past income figure for Cynthia. William's motion had not suggested a change in her income. William did not present any substantial evidence of a change in her income. The Guidelines provided a means for him to obtain financial information from her in advance of the hearing. Guidelines § V.A. (2007 Kan. Ct. R. Annot. 127). If William requested financial information from Cynthia and she did not provide it, William should have insisted on enforcement of his discovery requests. But without any evidence of a change in Cynthia's income, the district court's decision to use her income figure from the previously adopted worksheet is supported by substantial evidence. Domestic-relations affidavits and other evidence previously presented to the district court supported that figure, and our court had affirmed the district court's adoption of it for child-support purposes.

The district court relied upon the same income figure for Cynthia, but it went on to address William's claim that the eldest child was no longer subject to child support and that Cynthia was no longer entitled to an adjustment of child support based on travel

expenses. By doing so, the district court properly addressed the modification motion William filed. And its use of the prior income figure for Cynthia was arguably the only way it could adopt a number based on substantial evidence given the lack of any new evidence about her income.

II. The District Court's Refusal to Make a Child-Support Adjustment for College Expenses Paid by William Was Not an Abuse of Discretion.

William's second challenge is to the district court's decision not to lower William's child-support obligation based on his payment of college expenses for the parties' eldest child. Our review on this issue is for abuse of discretion because this is one of the matters on which the Guidelines give discretion to the district court. The Guidelines provide that expenses paid to support a child over 18 "may be considered" in setting child support, but the Guidelines do not require that an adjustment be made. Guidelines § IV.E.5. (2007 Kan. Ct. R. Annot. 124). A district court abuses its discretion only when no reasonable person would agree with its decision.

William asserts in his appellate brief that he pays all the costs of the eldest child's college education. But he provided no documentation to the district court. In the absence of documentation, the district court decided not to make any adjustment to the child-support worksheet based on these expenses. In these circumstances, we find no abuse of discretion by the district court.

The judgment of the district court is affirmed.