

NOT DESIGNATED FOR PUBLICATION

No. 99,172

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter of the Marriage of

JANEE MARIE PHILLIPS, N/K/A COMLEY,  
*Appellant*

and

BILL RAY PHILLIPS,  
*Appellee*

MEMORANDUM OPINION

Appeal from Sedgwick District Court; REBECCA PILSHAW, judge. Opinion filed February 20, 2009. Reversed and remanded with directions.

*Janee Comley-Phillips*, appellant pro se.

*T. Michael Wilson and Douglas C. Cranmer*, of Stinson, Lasswell & Wilson, L.C., of Wichita, for appellee.

Before BUSEIRI PILL, LEBEN, J., and STEPHEN R. TATUM, District Judge, assigned,

*Per Curiam*: This is an appeal from an order entered by the district court following our remand in the divorce of Janee Marie Phillips, now Comley, and Bill Ray Phillips. In *Phillips v. Phillips*, No. 93,655, unpublished opinion filed August 4, 2006, this court remanded with directions “for further findings of fact and conclusions of law concerning the amount of maintenance as well as the duration of the award.” Slip op. at 12. In an order entered June 25, 2007, the district court went beyond the mandate and also failed to effectuate it.

We need not repeat the facts of the case, which are known to the parties and were outlined in *Phillips*. The district court’s duty to follow the mandate is well established. See K.S.A. 20-108; K.S.A. 60-2106(c); *State v. Collier*, 263 Kan. 629, 635-36, 952 P.2d 1326 (1998). “When an appellate court has remanded a case for further proceedings consistent with its mandate, a district court is obliged to effectuate the mandate and may consider only those matters essential to the implementation of the ruling of the appellate court.” *State v. Dumars*, 37 Kan. App. 2d 600, Syl. ¶ 1, 154 P.3d 1120 (2007). Whether the district court has complied with a mandate is a question of law subject to unlimited review. 37 Kan. App. 2d 600, Syl. ¶ I.

The district court went beyond the mandate by changing the effective date for modification of maintenance to November 1, 199~. The date for modification was at issue in *Phillips*, and this court affirmed the district court’s prior order making modification “effective on September 25, 2002.” *Phillips*, slip op. at 7. There was no remand on this issue, and it is now the law of the base. See *collier*, 263 Kan. 629, Syl. ¶2-3.

The district court also failed to effectuate the mandate by providing an inadequate explanation of its decision to modify the amount of maintenance and retroactively terminate it on April 25, 2002. The

district court made a conclusory assertion of knowledge regarding the parties' property and financial situation, but that provides little assistance to us. The district court made finding~ on Phillips' "monthly salary" and on Comley's monthly "gross income," but it did not explain its reliance on such potentially distinct categories for the two parties. The district court concluded that it had incorrectly treated benefits received by Phillips as income, but it failed to explain the conclusion. It is also unclear how the district court's treatment of the benefits resulted in such a significant modification of maintenance.

The district court's order of June 25, 2007~ is therefore reversed for failure to comply with this court's mandate. The case is remanded to the district court with the same directions set out in *Phillips*—to make findings of fact and conclusions of law concerning the amount of maintenance and the duration of the award. Upon our remand, this matter is ordered transferred to another district judge.

Reversed and remanded with directions,