MISSOURI COURT OF APPEALS
WESTERN DISTRICT

VICTORIA L. FRAWLEY,

Respondent,

v.

MATTHEW J. FRAWLEY,

Appellant.

DOCKET NUMBER WD82442

Date: February 11, 2020

Appeal from:
Platte County Circuit Court
The Honorable W. Ann Hansbrough, Judge

Appellate Judges:
Division Three: Alok Ahuja, P.J., Anthony Rex Gabbert, and Thomas N. Chapman, JJ.

Attorneys:
Matthew J. Frawley, Jefferson City Appellant Pro Se
Stephanie L. Schutt, Liberty; Trang Thanh Thi Bui, Craig D. Ritchie, St. Joseph for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

VICTORIA L. FRAWLEY, Respondent,
v.
MATTHEW J. FRAWLEY, Appellant.

WD82442 Platte County

Before Division Three Judges: Alok Ahuja, P.J., Anthony Rex Gabbert, and Thomas N. Chapman, JJ.

In 2013, the Circuit Court of Platte County entered a judgment dissolving the marriage of Matthew J. Frawley ("Father") and Victoria L. Frawley ("Mother"). The dissolution decree awarded Mother sole legal and sole physical custody of the couple's two children, and ordered Father to pay $505 per month in child support.

Father filed a motion to modify the child custody and child support provisions of the decree. Mother filed a counter-motion seeking to increase Father's child support obligation, and a motion to hold Father in contempt for failing to satisfy his existing support obligations. After a bench trial the circuit court declined to modify the existing custody arrangement, but altered the visitation provisions of the original decree. The circuit court increased Father's child support obligation to $554 per month. The circuit court held Father in contempt for failing to pay his share of the children's previously incurred extracurricular and unreimbursed medical expenses. It also awarded Mother $10,000 in attorney's fees, and ordered Father to pay two-thirds of the fees of the Guardian *ad Litem*.

Father appeals.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED FOR FURTHER PROCEEDINGS.

Division Three holds:

Father asserts nine Points Relied On, some of which raise multiple claims. This Court rejects all but one of Father's arguments. We hold:

- Father failed to show that he was prejudiced by the circuit court's admission of the report of a court-ordered psychological examination, because – even apart from the challenged report – substantial evidence supported the circuit court's finding that unsupervised visitation with

Father would endanger the children's physical health or emotional development;

- Father failed to lay an adequate foundation for admission of an audio recording of a baseball game at which he interacted with Mother and the children, since he failed to testify that he had listened to the recording, and that the recording was a fair and accurate representation of what occurred at the game;

- Father's challenge to the circuit court's finding that he was in contempt of the original dissolution decree is not ripe for review, because the circuit court neither issued an order of commitment for Father, nor was he actually incarcerated;

- The circuit court erred by denying Father a credit for his support obligation for a new daughter born after entry of the original dissolution decree, in connection with Mother's motion to modify which sought to increase Father's support obligation;

- Father was not entitled to a credit in the child-support calculation for the cost of providing health insurance to the children, when the circuit court had ordered that Mother – not Father – provide such insurance;

- The circuit court did not abuse its discretion in refusing to remove the Guardian *ad Litem* for deficient performance of her duties, and in awarding fees to the Guardian *ad Litem*;

- The circuit court did not abuse its discretion in awarding Mother $10,000 in attorney's fees;

- The circuit court was not required to recuse itself, despite the fact that it made multiple rulings during the litigation which were adverse to Father; and

- The circuit court did not abuse its discretion in finding that its modified visitation schedule was in the children's best interests.

The case is remanded to the circuit court for further proceedings in connection with Mother's motion to modify Father's child support obligation.

Opinion by: Alok Ahuja, Judge February 11, 2020

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