In the Missouri Court of Appeals
Eastern District

DIVISION FIVE

SHERRY L. THOMPSON,	)	No. ED113248
	)	
Appellant,	)	
	)	
v.	)	
	)	
ANTHONY THOMPSON,	)	
	)	
Respondent.	)	Filed: November 25, 2025

Appeal from the Circuit Court of the City of St. Louis
The Honorable Lynne R. Perkins, Judge

Sherry L. Thompson appeals the circuit court's judgment denying her motion to set aside the judgment because the judgment ruled upon issues not properly before the court. The circuit court noticed two motions for hearing and took evidence on those motions. In its judgment, however, the circuit court ruled not only on those two motions, but also on the motions to modify that formed the basis of the claim. In so doing, the circuit court violated Thompson's due process rights by not providing notice that it would rule on the motions to terminate or increase her maintenance. The judgment is vacated, in part, and remanded.

Factual and Procedural Background

Thompson and Husband were married in 2003. Their marriage was dissolved on May 28, 2014. Husband was ordered to pay Thompson $600 per month in modifiable maintenance.

In May 2023, Husband filed a motion to terminate maintenance alleging there was a substantial and continuous change in circumstances. In July 2023, Thompson filed a cross-motion to increase her monthly maintenance. Thompson also filed a motion for civil contempt and a motion to dismiss Husband's motion to terminate maintenance because he was behind in his maintenance payments.

The circuit court entered an order for a motion hearing. The order included a hand-written notation that the motion hearing would take up Thompson's motion for contempt and motion to dismiss.

At the hearing, both parties affirmed they were appearing on the motion for contempt and the motion to dismiss. Both parties presented evidence regarding Husband's payment history, current financial status, medical conditions, and employment history. Thompson presented evidence of her increased financial needs and requested attorney's fees and travel costs to travel to the hearing from her home in Florida.

The circuit court entered its judgment, overruling Thompson's motion to dismiss and motion for civil contempt. The circuit court then ruled on the two other motions that were not called up for hearing. The court overruled Thompson's motion to increase maintenance as well as her request for attorney's fees and travel costs. The judgment also

sustained Husband's request to terminate maintenance, but required Husband to pay all maintenance arrears with interest.

Thompson filed a motion to amend and/or set aside the judgment because the circuit court's judgment ruled upon issues for which notice of a hearing was not provided. Thompson requested that the circuit court vacate its decision on the motions to modify maintenance and allow her to present additional evidence because those motions were not listed on the hearing notice.

The circuit court conducted a hearing on the motion to vacate. Thompson argued that had there been a separate hearing on the motions for maintenance she would have called a doctor to testify about Husband's medical records and conducted discovery about his attempts to gain employment.

The circuit court acknowledged on the record that the motion to terminate maintenance and the motion to increase maintenance had not been noticed for hearing. But, the circuit court stated, it believed all the issues before the court were intertwined and based on the same evidence presented in the initial hearing. The circuit court determined that based on all of the evidence presented, any additional evidence would not cause it to change its judgment. The circuit court denied Thompson's request to amend or set aside the judgment. Thompson appeals.

Analysis

Thompson claims the circuit court erred by entering judgment on Husband's motion to terminate maintenance and her motion to increase maintenance because the circuit court did not provide notice of a hearing on these motions. Thompson explains the

lack of notice prevented her from presenting "her full argument that could have persuaded the [circuit court] to rule in her favor."

The United States and Missouri constitutions guarantee that the state cannot deprive a person of a legally protectable interest without due process. U.S. Const. amend. XIV, section 1; Mo. Const. art I, section 10. "For more than a century the central meaning of procedural due process has been clear: Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified." *Fuentes v. Shevin,* 407 U.S. 67, 80, 92 S.C t. 1983, 32 L.Ed.2d 556 (1972) (internal quotations omitted).

There was no notice of a hearing on the maintenance motions in the record. In the hearing on Thompson's post-trial motion, the circuit court stated that the hearing was only for the motion for contempt and the motion to dismiss. However, it believed that the issues presented in the motions to terminate and to increase her maintenance were intertwined and all of the evidence that would be presented in a hearing on the maintenance motions was already presented. The circuit court implicitly acknowledged the parties were not provided any notice or a hearing before the court ruled on the maintenance motions.

While the circuit court believed it had all of the evidence, a circuit court's judgment should be based on evidence presented by the parties rather than the circuit court's speculation regarding the evidence parties might present. The circuit court is not in a position to know what evidence exists and cannot know that it has heard all of the evidence until so informed by the parties. Thompson stated she had additional evidence

she wanted to present to support her motion had she known the court was going to rule on the issue of maintenance.

"The United States Supreme Court has consistently held 'that some form of hearing is required before an individual is finally deprived of a [protectable] interest' because 'the right to be heard before being condemned to suffer grievous loss of any kind ... is a principle basic to our society.'" *Jamison v. State, Dep't of Soc. Servs., Div. of Fam. Servs.*, 218 S.W.3d 399, 405 (Mo. banc 2007) (quoting *Mathews v. Eldridge,* 424 U.S. 319, 333, 96 S. Ct. 893, 47 L.Ed.2d 18 (1976)). Because there was no notice of a hearing on the maintenance motions, the circuit court erred in entering judgment terminating Thompson's maintenance.

The circuit court stated on the record that, because the subject matter was intertwined, it believed it would serve judicial economy to rule on all of the motions at once. Though that concern is understandable, a litigant's right to due process can never be sacrificed in the interests of judicial economy. Litigants should be permitted to rely on the notices as given such that they can properly prepare for the motions they understand will be heard by the court.

Conclusion

The judgment is vacated, in part, and remanded for further proceedings.

JOHN P. TORBITZKY, CHIEF JUDGE

Zel M. Fischer, Special Judge, and
Cory L. Atkins, Special Judge, concur.