

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JACKIE D. MCKOWN

Appellant

v.

REBECCA A. MCKOWN

Respondent

DOCKET NUMBER **WD69681**

DATE: April 7, 2009

Appeal From:

Circuit Court of Clay County, MO
The Honorable Kathryn Elizabeth Davis, Judge

Appellate Judges:

Division One

Alok Ahuja, P.J., Harold L. Lowenstein, J., and Thomas H. Newton, C.J.

Attorneys:

Donald J. Lock, Gladstone, MO

Counsel for Appellant

Attorneys:

Thomas C. Capps, Liberty, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

JACKIE D. MCKOWN, Appellant, v.
REBECCA A. MCKOWN, Respondent

WD69681

Clay County

Before Division One Judges: Ahuja, P.J., Lowenstein, J., and Newton, C.J.

The marriage of Mr. Jackie D. McKown and Ms. Rebecca A. McKown was dissolved in 2001; and the trial court ordered child support and maintenance payments. In 2006, Mr. McKown sought to modify his child support and maintenance obligations. The trial court found that one child was emancipated, reduced child support, and ordered spousal maintenance to continue. Mr. McKown appeals the denial of maintenance modification.

REVERSED AND REMANDED

Division One Holds:

To justify modification of the maintenance award, Mr. McKown was required to show a changed in circumstances so substantial and continuing as to make the terms of the original decree unreasonable. A change in the income of either spouse, by itself, does not justify modifying maintenance. However, if a substantial change in income causes the recipient spouse to become self-sufficient, modification may be justified. In order to determine if a spouse has become self-sufficient, a trial court compares that spouse's income to his or her reasonable needs.

Here, the trial court appears to have included costs for the children in the calculation of Ms. McKown's reasonable needs and included child support in her income. However, statutory maintenance is solely for the needs of the recipient spouse. It is error to include child support in income or dependent care costs in an assessment of the spouse's reasonable needs. Although we seek to dispose finally of a case, on this record, we cannot determine Ms. McKown's reasonable needs. Consequently, we remand this case to the trial court to perform the maintenance calculation using the proper methodology and to recalculate child support.

Opinion by Newton, C. J.

Date: April 7, 2009

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