

DOCKET NO: FBTF225049446S

DAVIS, LATON  
V.  
THIERSAINT, EMMANUEL

ORDER 439605

OFFICE OF THE CLERK  
SUPERIOR COURT  
JUDICIAL DISTRICT OF BRIDGEPORT  
AT BRIDGEPORT 56  
4/14/2024  
JUDICIAL DISTRICT  
OF BRIDGEPORT

ORDER

ORDER REGARDING:  
03/08/2024 125.00 MOTION TO OPEN JUDGMENT

Defendant present, with counsel. Assistant Attorneys General Ramos and Wong present, for the State.

The foregoing, having been heard by the Court, is hereby:

ORDER: GRANTED

The present motion was the subject of an evidentiary hearing on 3/25/2024, at which the defendant appeared, with counsel (Rebecca Mielnicki, Marisa Rivera and Faith Simmons, Legal Interns, with Atty. Hayre), and the interests of the State of Connecticut were represented by Assistant Attorneys General Ramos and Wong.

The plaintiff did not appear at the hearing, but was properly served with the motion, and the hearing proceeded in her absence. The defendant testified at the hearing, and documents were admitted into evidence.

By way of the present motion, the defendant seeks to open the judgment of dissolution of marriage rendered on 12/15/2022, based on mutual mistake. Pursuant to General Statutes § 52-212a, unless otherwise provided by law, a motion to open or set aside a judgment must be filed within four months of the issuance of notice of the judgment. However, § 52-212a "does not abrogate the court's common-law authority to open a judgment beyond the four month limitation upon a showing that the judgment was obtained by fraud, duress, or mutual mistake." Bruno v. Bruno, 146 Conn. App. 214, 230, 76 A.3d 725 (2013). Although the motion now before the court was filed on 3/8/2024, more than four months after the issuance of notice of the judgment, it is timely, because it alleges mutual mistake.

The judgment, in part, incorporated the State's amended proposed orders (#104.00), concerning child support which had previously been issued in a support petition action between the parties in the judicial district of Stamford/Norwalk, bearing Docket No. FST-FA-16-4029966-S, of which the court takes judicial notice. Those orders required the defendant to make child support payments to the plaintiff. The defendant failed to appear in the support petition action and the plaintiff obtained judgment by default. The defendant claims that he was not properly served in the underlying support petition action, but based on the credible evidence in the record, the court finds good service in that action and the defendant's claim regarding insufficiency of service is rejected.

The motion before the court seeks to open the 12/15/2022 judgment for the limited purpose of eliminating the defendant's child support obligation, and, in turn, the child support arrearage. The defendant has established, by a preponderance of the evidence, that since prior to judgment in the support petition action, the defendant's only source of income has been Supplemental Security Income (SSI). He has further established that the time of the judgment in the present action, the parties were either unaware of that fact, or, in the defendant's case, he was unaware of the import of that fact. Had the court been made aware of the defendant's only source of income at the time of judgment, his child support obligation would have been \$0.

Mailed to: Laton Dav's  
Emmanuel Thiersaint  
4/15/2024 Sncila M Hayre, Esq.  
AAG  
Judicial Reporter

125.10

The court concludes that these facts constitute a mutual mistake sufficient to open the 12/15/2022 judgment. The court also notes that the State of Connecticut consents to the granting of the present motion and does not intend to pursue any claim against the defendant for outstanding child support.

Accordingly, it is ORDERED:

1. The 12/15/2022 judgment is OPENED with respect to the child support orders only.
2. The child support orders are VACATED.
3. The defendant's child support obligation is reduced to \$0.
4. The current child support arrearage owed by the defendant is \$0.

439605

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Judge: RONALD E KOWALSKI II

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section 1.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (<https://jud.ct.gov/external/super/E-Services/e-standards.pdf>), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.