

DOCKET NO: HHD-FA23-5076390S : SUPERIOR COURT
FELICIANO, STEPHANIE : JUDICIAL DISTRICT OF HARTFORD
V. : AT HARTFORD
FELICIANO, STEVEN : May 30, 2024

FILED
MAY 30 2024
HARTFORD J.D.

MEMORANDUM OF DECISION

This action, commenced by a complaint filed on January 19, 2023, and returnable to the court on February 21, 2023, seeks the dissolution of the parties' nine-year marriage. Plaintiff filed an Amended Complaint on March 24, 2023. The plaintiff and the defendant appeared at trial on December 11, 2023; March 15, 2024; and May 3, 2024. The plaintiff was represented by counsel, and the defendant appeared as a self-represented individual.

On March 15, 2024, the parties reached a partial settlement agreement. The outstanding issues for which the parties could not agree are alimony, child support, issues related to defendant's visitation with the minor children, and who will claim the children for federal and state tax purposes.

The court has fully considered the rules of practice; full exhibits; testimony from the parties; testimony from other witnesses; the demeanor and credibility of the witnesses; applicable case law; and all of the criteria and statutory factors set forth in Connecticut General Statutes §§ 46b-56, 46b-56c, 46b-81, 46b-82, 46b-84, and 46b-215a in reaching the decisions reflected herein. The court also reviewed the parties' financial affidavits, child support guidelines and proposed orders.

As financial matters were in dispute, the court unseals the financial affidavits pursuant to Practice Book § 25-59a (h).

CC: Stephanie Feliciano
Atty Vivian Moreno-Zelinka
Steven Feliciano
RJD tmp 5-30-24

FINDINGS OF FACT

The court makes the following findings of fact by a preponderance of evidence and by clear and convincing evidence on all contempt matters. The court has jurisdiction over this matter. The parties were married on April 10, 2014 in Hartford, Connecticut. The plaintiff has resided in Connecticut for twelve months prior to the entry of this final decree. The marriage of the parties has broken down irretrievably with no possibility of reconciliation. The allegations in the complaint have been proven and are found to be true.

The plaintiff is twenty-nine years old and in good health. Plaintiff completed her high school education. She works part-time as a driver for Doordash. She earns a gross income of \$187.50 per week from Doordash. Plaintiff receives \$240 per week in public financial assistance. Plaintiff receives \$200 per week in child support payments from defendant. Plaintiff states her net weekly income is \$387.50. (Doc. #158). During the marriage, plaintiff primarily stayed at home to provide care to the parties' four children. Plaintiff only worked for a couple of months in 2019 at UPS and sometime in 2013 at Home Goods.

The defendant is thirty-one years old and in good health. Defendant is currently in a dating relationship with Maria Perez. He began dating Ms. Perez in 2022. Defendant resides with Ms. Perez and another roommate. Defendant currently works at Home Goods Distribution and earns a gross income of \$720 per week. Defendant states his weekly net income is \$658.94. (Doc. #172.00). Defendant worked for Uber and Lyft from 2019 until approximately 2023. In addition, from approximately 2021 through 2023, defendant operated a clothing business selling t-shirts. (Plaintiff's Exhibit 10).

Defendant sold the t-shirts through a facebook posting and out of his car on a street in Hartford. (Plaintiff's Exhibit 10). There was no testimony as to the value of the defendant's t-shirt business. The defendant did not maintain a bank account for his business. Instead, the defendant's business income and expenses were run through his personal bank account. (Plaintiff's Exhibit 13). The court reviewed all of the evidence and does not find the t-shirt business has any significant value. (Plaintiff's Exhibits 10, 13, and 14). During the marriage, defendant spent thousands of dollars traveling to Colombia for his clothing business. Defendant traveled to Colombia because that is where the t-shirts were manufactured. Defendant would not provide any money to the plaintiff to meet the families' needs when he traveled to Colombia. Defendant controlled all the finances during the marriage.

There are four children of the marriage: Jahaziel (DOB: 01/17/2015); Mariles (DOB: 11/23/2016); Jetniel (DOB: 09/09/2018); and Jeriel (DOB: 07/08/2020). Each of the children present with specific individual needs which require therapeutic intervention. Plaintiff has ensured that the children attend therapy on consistent basis.

Jahaziel has a mental health diagnosis and attends therapy at the Connecticut Children's CHC with Lauren Pelletier, LMSW. He has a learning disability and receives special education services through his school. Family Relations Counselor Alexa Joseph noted that Jahaziel appears bonded with plaintiff and described occasions where they would go to church, soccer or play together. (Court Exhibit #1).

Mariles has a medical diagnosis resulting in ongoing medical care and special dietary needs. Mariles has a mental health diagnosis and attends therapy at the Village for Families and Children.

Jetniel presents with significant behavioral issues at school and home. Jetniel's behaviors include, but are not limited to, biting/hitting himself and others, breaking chairs, spitting, growling, masturbating in class, and playing with his feces in class. (Court Exhibit #1). Jetniel is engaged in the Child First program at the Village for Families and Children. Jetniel also receives therapy through his school. According to plaintiff, Jetniel began to exhibit aggressive behaviors in January 2023 after he spent time with defendant's family over the winter break. When Jetniel returned to school after break, he drew red marks in the private area of a person in a drawing. (Plaintiff Exhibit 2). There are indications that the child "may have been exposed to sexual abuse, although there isn't sufficient evidence to support that." (Plaintiff's Exhibit 2). The record indicates that there was no substantial evidence of sexual abuse following a medical examination and forensic evaluation. (Plaintiff's Exhibit 2).

Jeriell attends preschool at the same school as his siblings. He was referred to an occupational therapist due to his eating habits and his struggle to gain weight.

The court finds that it is more likely than not that the parties would have provided support to their children for the expenses of higher education or private occupational school if the family was intact.

Unless otherwise stated herein, the court relied on the financial affidavits filed in this matter by the parties.¹ The court finds the values for the parties' expenses, assets, and liabilities as of the date of dissolution to be the values as stated on their financial affidavits, as they were not in dispute except provided herein. Plaintiff argues that the defendant failed to disclose a value for his clothing business and its associated income

¹ Docket Entry ##158.00 and 172.00

on his financial affidavit. Defendant admits that he “dropped the ball” and forgot to include his clothing business information on prior financial affidavits.

Additional findings of fact are stated or incorporated as applicable in the discussion, conclusion and orders set forth in this decision.

RELEVANT CASE LAW

Trial Court’s Role

“It is well established that [i]n a case tried before a court, the trial judge is the sole arbiter of the credibility of the witnesses and the weight to be given specific testimony.... The credibility and the weight of expert testimony is judged by the same standard, and the trial court is privileged to adopt whatever testimony [it] reasonably believes to be credible.” (Internal quotation marks omitted.) *Caciopoli v. Lebowitz*, 131 Conn. App. 306, 327, 26 A.3d 136 (2011), *aff’d*, 309 Conn. 62, 68 A.3d 1150 (2013). “Nothing in our law is more elementary than that the trier is the final judge of the credibility of witnesses and of the weight to be accorded their testimony.” *Morande v. Newman Lincoln-Mercury, Inc.*, 5 Conn. App. 423, 423, 499 A.2d 78 (1985), citing *Morgan v. Hill*, 139 Conn. 159, 161, 90 A.2d 641 (1952). “The factfinding function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties, which is not fully reflected in the cold, printed record which is available to [appellate courts].” *Lupien v. Lupien*, 192 Conn. 443, 445, 472 A.2d 18 (1984).

Alimony

The statutory authorization for the award of alimony in dissolution cases is provided in General Statutes § 46b-82. “[Section] 46b-82 governs awards of alimony.

That section requires the trial court to consider the length of the marriage, the causes for the . . . dissolution of the marriage . . . the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate and needs of each of the parties In awarding alimony, [t]he court must consider all of these criteria.” (Internal quotation marks omitted.) *Onyilogwu v. Onyilogwu*, 217 Conn. App. 647, 652, 289 A.3d 1214 (2023). The applicable alimony statute does not recognize an absolute right to alimony. General Statutes § 46b-82; *Valante v. Valante*, 180 Conn. 528, 530, 429 A.2d 964 (1980). “While alimony in whatever form, or an assignment of property is not to be considered either as a reward for virtue or as a punishment for wrongdoing, a spouse whose conduct has contributed substantially to the breakdown of the marriage should not expect to receive financial kudos for his or her misconduct.” *Robinson v. Robinson*, 187 Conn. 70, 72, 444 A.2d, 234 (1982). The Supreme Court, in *Tilsen v. Benson*, 347 Conn. 758, 814, 299 A.3d 1096, 1131 (2023), reiterated that it is a long-settled principle that a parties’ ability to pay is a material consideration in formulating financial awards. The Supreme Court further stated that it “is hornbook law that what a spouse can afford to pay for support and alimony is a material consideration in the court’s determination as to what is a proper order.” *Id.* at 814; *citing Greco v. Greco*, 275 Conn. 348, 362, 880 A.2d 872, 881 (2005). The court has considered all of the statutory criteria set forth in Connecticut General Statutes § 46b-82 in reaching the decisions herein.

Best Interest of the Children

In deciding the best interest of the children, the court may consider, but is not limited to, the seventeen factors set forth in § 46b-56 (c). “[I]n matters involving child custody, and, by implication, visitation rights, [although] the rights, wishes and desires of the parents

must be considered it is nevertheless the ultimate welfare of the child [that] must control the decision of the court.” (Internal quotation marks omitted.) *Ridgeway v. Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801 (1980). The court has considered all of the relevant statutory criteria set forth in Connecticut General Statutes § 46b-56 (c)² in reaching the decisions herein.

² General Statutes § 46b-56 (c) provides: “In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors: (1) The physical and emotional safety of the child; (2) the temperament and developmental needs of the child; (3) the capacity and the disposition of the parents to understand and meet the needs of the child; (4) any relevant and material information obtained from the child, including the informed preferences of the child; (5) the wishes of the child’s parents as to custody; (6) the past and current interaction and relationship of the child with each parent, the child’s siblings and any other person who may significantly affect the best interests of the child; (7) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (8) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents’ dispute; (9) the ability of each parent to be actively involved in the life of the child; (10) the child’s adjustment to his or her home, school and community environments; (11) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child’s family home *pendente lite* in order to alleviate stress in the household; (12) the stability of the child’s existing or proposed residences, or both; (13) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (14) the child’s cultural background; (15) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child; (16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (17) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision.”

Contempt

"[A] [civil] judgment of contempt consists of two levels of inquiry. First, [the court] must resolve the threshold question of whether the underlying order constituted a court order that was sufficiently clear and unambiguous so as to support a judgment of contempt... .Second, if [the court] conclude[s] that the underlying court order was sufficiently clear and unambiguous, [the court] must then determine whether the . . . violation was willful or excused by a good faith dispute or misunderstanding." (Internal quotation marks omitted.) *Hall v. Hall*, 182 Conn. App. 736, 746-47, 191 A.3d 182 (2018), *aff'd*, 335 Conn. 377, 238 A.3d 687 (2020). "[F]ailure to comply with an order, alone, will not support a finding of contempt. . . . Rather, to constitute contempt, a party's conduct must be willful... .A good faith dispute or legitimate misunderstanding about the mandates of an order may well preclude a finding of willfulness. . . . Whether a party's violation was willful depends on the circumstances of the particular case and, ultimately, is a factual question committed to the sound discretion of the trial court. . . . Without a finding of willfulness, a trial court cannot find contempt and, it follows, cannot impose contempt penalties." (Citations omitted; internal quotation marks omitted.) *O'Brien v. O'Brien*, 326 Conn. 81, 98-99, 161 A.3d 1236 (2017). "[U]nder Connecticut law, such proceedings should be proven by clear and convincing evidence." *Brody v. Brody*, 315 Conn. 300, 318-19, 105 A.3d 887 (2015). "To constitute contempt, a party's conduct must be willful; noncompliance alone will not support a judgment of contempt. . . . A court may not find a person in contempt without considering the circumstances surrounding the violation to determine whether such violation was willful." *Hibbard v. Hibbard*, 139 Conn. App. 10, 17, 55 A.3d 301 (2012).

DISCUSSION

This marriage was plagued by defendant's controlling behavior and failure to understand the needs of his children. During the marriage, the parties and their four minor children resided in an apartment in Hartford. Defendant's mother and her boyfriend also resided in the apartment. The amount of people residing in the apartment fluctuated and up to 12 people resided in the apartment for a period. Defendant solely decided who resided in the apartment without any input from plaintiff. Plaintiff credibly testified that the defendant moved out of their apartment in November 2022. Defendant moved out of the marital residence due to his romantic relationship with Ms. Perez. Defendant did not provide any notice to the plaintiff that he was moving out of the apartment. Plaintiff testified that she woke one morning, and defendant was no longer there. When defendant moved out of the apartment, he also stopped paying the rent. Defendant's decision to stop paying the rent led to the plaintiff and the four young children being evicted from the apartment. The court is troubled by the defendant's selfish actions. Even more troubling is the fact that defendant claimed the children as tax exemptions and received tax refunds of \$1,808 from the State of Connecticut and \$5,659 from the IRS³ during the time plaintiff and the children were being evicted from the apartment. The court finds the plaintiff's testimony to be credible and reliable. This marriage collapsed due to the issues of defendant's controlling behavior and relationship with Ms. Perez.

³ Defendant claimed the children as dependents in his 2021 and 2022 federal and state tax returns. In March 2022, defendant received an IRS refund in the amount of \$12,485.00. In February 2023, defendant received a tax refund of \$1,808 from the State of Connecticut. In March 2023, defendant received a tax refund of \$5,659 from the IRS.

Regarding the children, defendant does not have an appropriate understanding and awareness of the children's significant needs. Defendant's lack of understanding as to the children is concerning. Defendant has not engaged with the children's treatment providers and has not attended any of the children's medical appointments. Defendant's statement to Family Relations Counselor Joseph that when the children are with him, he does not have any issues highlights the defendant's lack of awareness. Family Relations Counselor Joseph noted defendant's lack of information regarding the children's complex individual needs is a significant concern. Defendant must gain insight into the needs. The court finds Family Relations Counselor Joseph's testimony credible and persuasive. Defendant must illicit information regarding the needs and functioning of each child by communicating with children's schools, therapists, and medical providers. As per the recommendations of the comprehensive evaluation, the defendant shall engage in individual therapy to address and develop communication and co-parenting skills and techniques. Defendant's development of communication and co-parenting skills is essential due to the complex needs of each of the children.

Plaintiff alleges defendant is in contempt of the court's order regarding child support. On April 4, 2023, the court ordered the defendant to pay child support, pursuant to the child support guidelines, in the amount of \$300 per week. The court ordered the defendant to pay 36% of any uninsured and unreimbursed medical, dental and any work-related childcare expenses for the parties' minor children. Beginning in November 2023, defendant chose to reduce his payments and began paying only \$200 per week in child support. On November 8, 2023, defendant filed a Motion for Modification of the court's child support order. Defendant alleges that his current salary is not enough to

pay his debts and bills. (Doc. #133.00). The court is not convinced. Defendant has failed to demonstrate an inability to pay child support. Defendant's testimony regarding his financial situation is not credible. Defendant testified that the prior financial affidavits he filed with the court were not accurate. Moreover, the child support order issued on April 4, 2023 is substantially similar to the current presumptive amount of child support. On May 3, 2024, the Office of Family Relations filed with the court a Worksheet for the Connecticut Child Support and Arrearage Guidelines with the court. (173.00). Pursuant to the child support guidelines, the presumptive amount of child support is \$291 per week paid by the defendant to the plaintiff. The court does not find the existence of any circumstance necessary to support deviation from the presumptive amount of child support. The court finds by clear and convincing evidence that defendant willfully violated the court's order regarding payment of child support.

CONCLUSION

The defendant is found to be at fault for the breakdown of this marriage. The court has considered all of the statutory criteria set forth in Connecticut General Statutes § 46b-82 in rendering its decision regarding alimony. The court has entered orders that are in the best interest of the minor child.

ORDERS

1. Dissolution of Marriage

The marriage of the parties is hereby dissolved on the grounds of irretrievable breakdown. The parties are declared to be single and unmarried. The parties Dissolution Agreement (Doc. #167) is hereby incorporated into the judgment of the case.

2. Custody and Parental Access

- a. The parties Custody Agreement and Parenting Plan (Doc. #168) is hereby incorporated into the judgment of the case.
- b. Parental Access. Defendant father shall have parenting time with the minor children every Sunday from 10:00 a.m. to 6:00 p.m. Defendant shall not leave the children alone and/or unsupervised with any other person during his visitation. Defendant shall transport the minor children in appropriate car seats.
- c. Both parents shall attempt to foster love and a positive bond between the parent and children. Neither parent shall make any derogatory comments about the other to or within the hearing of the children. Neither parent shall say or do anything intended or likely to have the effect of estranging the children from the other parent, injuring the opinion of the children toward the other parent, or impairing the natural development of the children's love and respect for the other parent. Neither parent shall speak about the court proceedings in the presence of the minor children or within the hearing of the children.
- d. Holidays. The parties shall follow the agreed upon holiday schedule (Doc. #168) with defendant having parenting time on the designated holidays from 10:00 a.m. to 1:00 p.m. with pick up and drop off at the McDonalds restaurant located at 172 Washington Street, Hartford, CT 06106.
- e. The defendant shall engage in individual therapy to address and develop communication and co-parenting skills and techniques.

3. Child Support

- a. Weekly Child Support Payments. Pursuant to the child support guidelines, the presumptive amount of child support payable by the defendant to the plaintiff is \$291 per week. Accordingly, defendant shall pay child support in the amount of \$291 per week to the plaintiff. (Doc. #173.00). Defendant shall pay his weekly child support payments to plaintiff through CASH APP or another mutually agreed upon application, every Friday by 8:00 p.m.
 - b. Arrearage. There is an arrearage in the amount of \$2500 for past due child support. Defendant shall pay the arrearage owed from the unpaid child support order in the amount \$15 per week.
- 4. Taxes.** Beginning in the 2024 tax year, each party shall claim two of the minor children as dependents for all tax purposes, with plaintiff claiming Jetniel and Jeriel and defendant claiming Jahaziel and Mariles. On or before February 1 of each year, the parents shall sign and provide to the other parent any declaration required by the IRS, to implement the terms of this order.
- 5. Educational Support.** The court will retain continuing jurisdiction regarding post-majority educational support pursuant to General Statutes § 46b-56c.
- 6. Alimony.** The defendant shall pay alimony to the plaintiff in the amount of \$1 per year until the first of the following to occur: plaintiff remarries, the death of either party, or eight years from date of the dissolution of marriage. The amount of alimony is modifiable based on a substantial change in circumstances. The duration of alimony is non-modifiable. For as long as the defendant has an alimony obligation to the plaintiff, the defendant shall provide plaintiff with copies of his

annual federal and state income tax returns as well as all yearly tax forms that evidence income, including but not limited to, IRS Form W-2 and IRS Form 1099. Defendant shall provide his annual tax forms to plaintiff within fourteen (14) days of filing his annual tax returns. By January 15th of each year that the provision of alimony remains in effect, the defendant shall provide the plaintiff with his last paystub from his employer from the previous year.

7. **Health Insurance.** The parties shall provide medical and dental insurance for the benefit of the minor children if the insurance is available through her/him at a reasonable cost defined as no more than 7.5% of plaintiff's net weekly income and no more than 7.5% of defendant's net weekly income. If medical and/or dental insurance is not available, the parties shall cooperate to place or maintain the minor children on the HUSKY Health Insurance Program or its equivalent. The provisions of General Statutes § 46b-84 (e) are incorporated by reference.

The parties shall be responsible for the cost of their own health insurance after the date of dissolution, and each party shall be responsible for their own outstanding and future medical expenses.

8. **Name Change.** Plaintiff's name shall be changed to: Stephanie M. Nieves Feliciano.

9. **Dissemination**

Neither party shall allow their minor children to review or receive a copy of this decision.

10. Indemnification

Each of the parties shall indemnify and hold the other harmless with respect to any debt, or portion thereof, ordered to be paid herein.

11. Plaintiff's Motion for Contempt (Doc. #146) is granted.

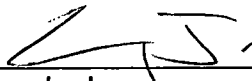
12. Plaintiff's Motion for Contempt (Doc. # 147) is denied.

13. Any party who has not completed the required parenting education program is ordered to do so within 60 days after the date of judgment. No post judgment motions, except emergency motions, may be filed by any party who has not completed the parenting education program.

Unless otherwise specifically set forth herein, these orders are effective immediately.

SO ORDERED.

BY THE COURT,



Larock, J.