



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT II

February 19, 2025

To:

Hon. Jerilyn M. Dietz
Circuit Court Judge
Electronic Notice

Sarah Elyse Belair
Electronic Notice

April Higgins
Clerk of Circuit Court
Manitowoc County Courthouse
Electronic Notice

Andrea R. Everett
Electronic Notice

Markola I. Williams
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2022AP1664

Andrea R. Everett v. Markola I Williams (L.C. #2020PA78PJ)

Before Gundrum, P.J., Neubauer and Lazar, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Markola I. Williams appeals the circuit court's order denying his motion to modify child support and placement regarding his minor child, N.S.H, whom he shares with Andrea Everett. The dispositive issue is whether there has been a substantial change in circumstances sufficient to warrant modification of child support and/or placement. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

In December 2020, Williams was adjudicated to be N.S.H.’s father and awarded joint legal custody. He received periods of physical placement with the child and was ordered to pay child support. In May 2021, after changes to Williams’s employment situation, the circuit court reduced his child support obligation to \$59.84 per week, imputing income of \$11 per hour for thirty-two hours per week. In May 2022, the court modified physical placement but did not revisit child support.

Shortly thereafter, Williams moved to modify child support, legal custody, physical placement, and to hold Everett in contempt. In August 2022, the circuit court denied Williams’s motion for contempt after a hearing. In September 2022, the court denied the motion to modify child support, legal custody, and physical placement on the grounds that there had not been a substantial change in circumstances since the May 2022 order. Williams now appeals the September 2022 order.

The key issue is whether the circuit court properly concluded that Williams failed to demonstrate a substantial change in circumstances, which is required for modifying child support or placement orders. *See* WIS. STAT. § 767.59(1f); WIS. STAT. § 767.451(1)(b). A substantial change in circumstances means a change that materially affects the fairness or appropriateness of the current order, such as a significant alteration in the income, earning capacity, or needs of either parent or child. *Rottscheit v. Dumler*, 2003 WI 62, ¶¶17-18, 262 Wis. 2d 292, 664 N.W.2d 525. Stated differently, “the facts on which the prior order was based [must] differ from the present facts, and the difference [must be] enough to justify the court’s considering whether to modify the order.” *Shulka v. Sikraji*, 2014 WI App 113, ¶24, 358 Wis. 2d 639, 856 N.W.2d 617 (citation omitted). Whether a party seeking to modify an existing child support or placement

order has established a substantial change in circumstances is a matter of law that we review de novo. *Id.*, ¶25.

Williams argues that his current income is zero, and that he therefore should have no child support obligation, asserting that this is a substantial change in circumstances. The circuit court properly determined that this argument failed to meet the required threshold. The May 2021 child support order was based on an imputed income of \$11 per hour for thirty-two hours per week, supported by an extensive review of Williams's employment history. Williams offered no evidence that his ability to work or earning capacity had materially changed since that order.

Williams also claims that the Everett's move to a different city constituted a substantial change in circumstances affecting placement. The circuit court found that these moves had been addressed in prior hearings and orders, including the May 2022 placement order, which remained final and from which Williams did not appeal. Williams did not provide evidence that the relocation materially affected the child's welfare or the feasibility of the placement arrangement beyond previously litigated issues. Nor did he satisfy the heightened standard for modifying placement within two years of a final judgment.²

In conclusion, the circuit court did not err in finding that Williams failed to establish a substantial change in circumstances. His motion relied on conclusory statements rather than

² Pursuant to WIS. STAT. § 767.451(1)(a), physical placement may be modified within two years of a final judgment only upon evidence that current conditions are physically or emotionally harmful to the child's best interests.

specific evidence, and his claims regarding placement and income did not meet the statutory requirements for modification under WIS. STAT. §§ 767.59(1f) and 767.451(1)(b).

Therefore,

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals