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DISTRICT II

May 15, 2013

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

2012AP1611 Mona M. Eaton v. Robert Schnell (L.C. #1986PA167)

Before Brown, C.J., Neubauer, P.J., and Reilly, J.

Mona Eaton appeals from the portion of an order that denied her statutory interest on a 1999 money judgment for the interest Robert Schnell still owed on a satisfied child-support obligation. The circuit court ruled that WIS. STAT. § 767.511(6) (2011-12)[1] does not authorize the accrual of interest on interest. We agree and affirm. Based on our review of the briefs and the record, we conclude that summary disposition is appropriate. *See* WIS. STAT. RULE 809.21.

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[1] All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

Eaton and Schnell had a child together in 1986. Winnebago county ordered Schnell to pay child support. When Schnell voluntarily terminated his parental rights in 1989, there existed a child-support arrearage consisting of both principal and interest. The county collected only the principal arrears. Schnell became a California resident in 1990 and the Winnebago county child support order was transferred to Shasta county in California. Schnell made payments there until the Shasta county child support office sent Schnell an affidavit of completion in November 1998. After Schnell paid for previous blood test fees, Winnebago county also advised him that his account was satisfied.

In 1999, Eaton filed a contempt action claiming that Schnell owed interest arrearages. A family court commissioner (FCC) determined that Schnell indeed owed $9,694.00 in interest. The FCC reduced it to a money judgment under WIS. STAT. § 767.30(3)(c) (1997-98), the analog to current § 767.77(3)(c). By 2002, Schnell had paid $1,462.58 through a wage garnishment.

In 2010, Eaton again asked an FCC to determine the amount owed and to order and enforce a collection mechanism. In July 2111, the FCC determined that, under WIS. STAT. § 815.05(8) (2009-10), Eaton was entitled to interest on the $9,694.00 interest, compounded at twelve percent since 1999, for a total of $22,270.22. It granted Eaton's request for a Qualified Domestic Relations Order. On de novo review, the circuit court overturned the FCC's decision, holding that the statute governing interest on child-support arrearages, WIS. STAT. § 767.511(6), does not authorize interest on interest. Eaton appeals.

Resolving the appellate issue requires that we construe WIS. STAT. § 767.511(6). We begin by giving the language of the statute its common, ordinary, and accepted meaning. ***State ex rel. Kalal v. Circuit Court***, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110. We interpret the language in the context in which it is used, as part of a whole, and in relation to the language of surrounding or closely related statutes, interpreting it to avoid absurd or unreasonable results. ***Id.***, ¶46.

WISCONSIN STAT. § 767.511(6) provides that once a child support obligation ceases, "interest shall accrue *on the total amount of child support in arrears*, if any." (emphasis added). Here, no child support remained in arrears. We agree with the circuit court that the statute does not authorize allowing interest to accrue solely on unpaid interest.

Still, Eaton argues that, since a money judgment is an allowable remedy for recouping past due payments, *see* WIS. STAT. § 767.77(3)(c), interest collection under the money judgment statute, WIS. STAT. § 815.05(8) (2009-10), flows from there. We disagree.

The interest at issue here is premised on a judgment entered under WIS. STAT. § 767.511. WIS. STAT. § 815.05(8) establishes the postjudgment interest rate for a judgment for which the legislature has not explicitly provided a different interest rate. ***Burlington N. R.R. Co. v. City of Superior***, 159 Wis. 2d 434, 441, 464 N.W.2d 643 (1991). In § 767.511(6), however, the legislature has set a simple interest rate of one percent monthly, presumably as a balance between encouraging payors to make timely payments and not overwhelming those may who fall behind. Significantly, subsec. (6) also provides that "[i]nterest under this subsection is in lieu of interest computed under s. 807.01 (4), 814.04 (4), or 815.05 (8)."

Furthermore, WIS. STAT. ch. 767 defines and treats "payment obligations" and "financial obligations" separately. *See* WIS. STAT. §§ 767.77(1) and 767.78(1). The legislature is presumed to choose its terms carefully and precisely to express its meaning. ***Ball v. District No. 4, Area Bd. of Vocational, Technical and Adult Educ.***, 117 Wis. 2d 529, 539, 345 N.W.2d 389 (1984). As it is undisputed that Schnell no longer owes child support, the interest he does owe more aptly is termed a financial obligation. If the prior wage assignment has proved "inapplicable, impractical, or unfeasible," Eaton's remedy is a contempt proceeding. *See* § 767.78(2).

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals