

NOTICE OF JUDGMENT**STATE OF LOUISIANA****40TH JUDICIAL DISTRICT COURT****VERSUS****PARISH OF ST. JOHN THE BAPTIST****TIMOTHY MAZIQUE****STATE OF LOUISIANA**

DOCKET NUMBER: 2020-CV-47820

CHARGES:

TO: **TIMOTHY MAZIQUE**
2124 PEBBLE BEACH DRIVE
LAPLAICE, LA 70068

You are hereby notified that a Judgment was rendered on the SEPTEMBER 24, 2020, and signed on the SEPTEMBER 24, 2020 in the above numbered and entitled cause, a certified copy of said Judgment being attached hereto and made a part hereof.

This service was issued by the Clerk of Court of September 30, 2020.

Deputy Clerk of Court for

Eliana Defranceschi, Clerk of Court

Appendix A

STATE OF LOUISIANA
O/B/O
AVONTE SCHNYDER

MINOR CHILD(REN) OF
HELENA SCHNYDER
VS
TIMOTHY JOHN MAZIQUE
CHILD SUPPORT

PARISH OF ST. JOHN THE BAPTIST

40TH JUDICIAL DISTRICT COURT

DOCKET NO. CV-47820-C

FILED: 9/24/20
LASES NO. 647930-02

3F
ST. JOHN THE BAPTIST PARISH
ELIANA DEFRENCECH,
Clerk of Court
Recorded: 09/30/2020 @10:22AM
3 Pages
374939-MO

JUDGMENT

IT IS ORDERED, ADJUDGED AND DECREED that the following is/are hereby declared to be the Judgment of this Court on this 24 day of September, 2020.

TYPE OF HEARING:

RULE TO SHOW CAUSE FOR CHILD SUPPORT AND/OR MEDICAL SUPPORT
 RULE FOR CONTEMPT UIFSA
 CONFIRMATION OF DEFAULT MODIFICATION RULE
 OTHER: REVIEW

Custodial Parent: HELENA SCHNYDER PRESENT ABSENT

SERVICE: PERSONAL DOMICILIARY

Defendant: TIMOTHY JOHN MAZIQUE PRESENT ABSENT

SERVICE: PERSONAL DOMICILIARY

Assistant District Attorney: KIM ANCONA LABORDE

Attorney/Other: _____

FINDINGS:

Preliminary Default entered on _____ is now confirmed and made final.

Defendant determined to be the biological father of _____ by evidence and testimony heard on _____.

Defendant acknowledges that he is the biological father of _____
(xxx-xx-XXXX, born on _____ to _____)

Reimbursement of genetic tests costs of \$ _____.

Defendant ordered to pay child support in the amount of \$ 181.74 per month, effective, 8/1/2020 for the support of AVONTE SCHNYDER.

The Order of paternity, support and/or income withholding order(s) from the state of _____ is hereby registered in the state of Louisiana. The Child Support award of \$ _____ per month, and medical support, is hereby confirmed and shall continue through the LA Department of Children and Family Services.

Arrears accrued from 1/1/2009 through 7/31/2020 are fixed at \$ 70,815.00 and made executory as of 9/24/2020.

Defendant ordered to pay an extra \$ _____ per month toward arrears. This payment toward arrears does not preclude the Department of Children and Family Services from utilizing any other means authorized by the statute to collect any outstanding arrears.

Interim support ordered at \$ _____ per month effective _____.

The child support order of \$ _____ per month rendered pursuant to a Protective Order dated _____ is hereby converted into a permanent child support order effective _____ and made payable to the Department of Social Services.

[] Defendant and petitioner ordered to return for a review hearing on _____.

Petitioner / Defendant ordered to produce the following documentation:

[X] Defendant to pay the support by money order made payable to the Department of Children and Family Services, P.O. Box 260222, Baton Rouge, LA 70826, until notice of garnishment.

[X] Defendant ordered to notify the State of Louisiana, Department of Children and Family Services (DCFS) Support Enforcement Services (SES), P.O. Box 1427, Thibodaux, LA 70302 (1-800-256-4650) of any change of circumstances, including but not limited to changes of address, residence, employment, salary, or medical coverage, immediately upon such change.

Medical support ordered through employer whenever available at a reasonable cost; for the above named child(ren); defendant has thirty (30) days to supply payee with all documentation verifying said insurance coverage for the minor children, AVONTE SCHNYDER.

[X] Defendant ordered to pay cash medical support in the amount \$ 20 per month, effective, 10-1-20 for healthcare coverage for the minor child(ren), in the event that healthcare coverage is not available through an employer or union and/or if defendant loses healthcare coverage. Cash medical support shall be paid until such time the minor child(ren) become enrolled in a healthcare policy. The defendant shall notify DCFS and the payee within a reasonable time anytime coverage is lost and/or re-issued or obtained.

[X] Immediate Income Assignment ordered under the provisions of LA R.S. 46:236.3, for a sum certain, to be calculated by the Payor of Income, pursuant to the formula contained in the notice, not to exceed 50% of the disposable earnings as defined in R.S. 13:3881.

Conditional Income Assignment ordered. If defendant becomes 30 days delinquent, Immediate Income Assignment to be effectuated.

[] Defendant's obligation has increased / decreased to \$ _____ per month effective _____.

[] The foreign judgment is recognized and defendant is ordered to pay \$ _____ per month plus \$ _____ per month toward arrearages of \$ _____, which said arrearages are made executory.

Petition / Rule dismissed without prejudice by request of _____.

Stipulation / Other:

Custodial Parent- In Proper Person

Attorney

Assistant District Attorney

Defendant - In Proper Person Assistant District Attorney
JUDGMENT READ AND SIGNED in Edge, Louisiana, on the
24 day of Sept 2020

STATEMENT THAT THE FOLLOWING
FACTS ARE TRUE AND CORRECT
EXCLUDING CRIMINAL OR UNLAWFUL
ACTS OF THE COMPANY OR
ANY OF ITS AGENTS.

Donald W. Morris

BY: CLERK OF COURT
PARISH OF ST. JAMES, LOUISIANA, LA
DATE: 9/29/1960

STATE OF LOUISIANA

NO. 21-CA-243

VERSUS

FIFTH CIRCUIT

TIMOTHY J. MAZIQUE

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE FORTIETH JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST, STATE OF LOUISIANA
NO. 47,820, DIVISION "C"
HONORABLE J. STERLING SNOWDY, JUDGE PRESIDING

January 26, 2022

STEPHEN J. WINDHORST
JUDGE

Panel composed of Judges Susan M. Chehardy,
Stephen J. Windhorst, and John J. Molaison, Jr.

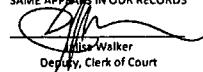
AFFIRMED

SJW

SMC

JJM

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Lisa Walker
Deputy, Clerk of Court

Appendix B

COUNSEL FOR PLAINTIFF/APPELLEE,
STATE OF LOUISIANA, DEPARTMENT OF CHILDREN AND FAMILY
SERVICES

Honorable Bridget A. Dinvaut
Kim Ancona Laborde

DEFENDANT/APPELLANT,
TIMOTHY J. MAZIQUE

In Proper Person

WINDHORST, J.

Appellant, Timothy J. Mazique, seeks review of the trial court's September 24, 2020 judgment making child support arrearages in the amount of \$70,875.00 executory. For the reasons that follow, we affirm.

FACTS and PROCEDURAL HISTORY

Appellant and Helena Schnyder have one child together. On May 12, 2004, appellant and Ms. Schnyder, the custodial parent, entered into a consent judgment wherein appellant was ordered to pay child support in the amount of \$525.00 per month.¹ On December 9, 2004, the parties entered into another consent judgment, wherein appellant was again ordered to pay child support in the amount of \$525.00 per month, retroactive to December 1, 2004.²

In 2009, after a jury trial, appellant was sentenced to a term of ten years imprisonment. Appellant was released from incarceration on January 1, 2019.

In June of 2020, Ms. Schnyder requested appellee, the State of Louisiana, on behalf of the Department of Children and Family Services ("DCFS"), to collect and enforce the child support judgment. On June 26, 2020, Ms. Schnyder submitted an affidavit of arrearages attesting to appellant's failure to comply with the child support judgment and the amount of arrears as of the date of the affidavit. On August 3, 2020, DCFS filed an order, as the new payee of the child support order. DCFS also filed a rule to show cause seeking to make arrears in the amount of \$70,350.00 executory, obtain medical support, a modification of appellant's current child support obligation, and an income assignment. On September 24, 2020, after an evidentiary hearing, the trial court made executory arrears in the amount of \$70,875.00³ and ordered an income assignment. The trial court stated it was making

¹ The written consent judgment was signed over a year later on August 12, 2005.

² The written consent judgment was signed on January 19, 2005.

³ The trial court considered evidence of arrears subsequent to the filing of the rule, as prayed for in the rule, and those arrears were included in the judgment.

the arrears executory “[e]ven though it’s attributable to a time when [appellant] was incarcerated.” The trial court further reduced appellant’s child support obligation, ordering appellant to pay \$181.79 per month in child support and \$20.00 per month for medical support.

Appellant filed the instant appeal.

LAW and ANALYSIS

In his sole assignment of error, appellant contends the trial court erred in making arrears in the amount of \$70,875.00 executory. He contends that under La. R.S. 9:311.1, he is entitled to “forgiveness” of his child support obligation during the period of his incarceration.

La. R.S. 9:311.1 provides for the suspension of a child support order when the obligor is incarcerated for or sentenced to 180 consecutive days or more. This provision of substantive law was enacted by Act 264 of the 2017 regular session of the legislature. Section 7 of the act provided for an effective date of January 1, 2019. However, prior to the act taking effect, on May 11, 2018 the legislature by Act 136 of the 2018 regular session amended and delayed the previous effective date of the new La. R.S. 9:311.1 to August 1, 2019. Yet again, on June 11, 2019 the legislature by Act 277 of the 2019 regular session amended and delayed the previous effective date of La. R.S. 9:311.1 from August 1, 2019 to August 1, 2020.⁴ Thus, when appellant was released from incarceration on January 1, 2019, the earliest enactment of La. R.S. 9:311.1 (on which appellant relies) had not taken effect.

Considering the retroactivity of laws, Louisiana C.C. art. 6 provides:

Art. 6. Retroactivity of laws

In the absence of contrary legislative expression, **substantive laws apply prospectively only**. Procedural and interpretative laws apply both prospectively and retroactively, unless there is a legislative expression to the contrary. [Emphasis added.]

Acts 1987, No. 124, §1, eff. Jan. 1, 1988.

⁴ Both parties in briefs mistakenly state that La. R.S. 9:311.1 was effective January 1, 2019.

Likewise, La. R.S. 1:2 provides:

§2. Revised Statutes not retroactive

No Section of the Revised Statutes is retroactive unless it is expressly so stated. [Emphasis added.]

The original enactment of La. R.S. 9:311.1 (effective August 1, 2020 to July 31, 2021) provided for suspension of a child support order “when the obligor *will be* or *is incarcerated* for any period of one hundred eighty consecutive days or more,” with exceptions. La. R.S. 9:311.1 is clearly substantive law, and accordingly, its application is prospective only. It cannot be applied retroactively to cases in which fewer than 180 consecutive days were served after and including August 1, 2020.⁵

Appellant was released from prison January 1, 2019. Since appellant was not incarcerated on the effective date of La. R.S. 9:311.1, the suspension of the child support orders as provided therein is not applicable in the present case. The trial court did not err in finding that appellant was not entitled to relief under La. R.S. 9:311.1.

Further, upon being released from prison, appellant did not pay any child support payments, nor did he seek a modification of the child support order. Appellant only requested a modification of his child support obligation once he received notice in June of 2020 that DCFS was the new payee. DCFS, in its rule to show cause why arrears should not be made executory, requested on behalf of the appellant that the trial court modify appellant’s child support obligation. At the hearing, the trial court found appellant was entitled to a modification and granted the same, retroactive to the date of judicial demand.⁶ Appellant has not appealed the

⁵ Effective August 1, 2021, La. R.S. 9:311.1 A was amended to provide for suspension of support payments “when the obligor *will be* or *is sentenced to* 180 consecutive days or more. This enactment likewise is not retroactive, and applies prospectively as the previous provisions for the same reasons. Accordingly, the most recent act does not afford appellant the relief he seeks.

⁶ Generally, modification of child support awards are retroactive to the date of judicial demand, except for good cause shown. La. R.S. 9:315.21; *See also, Department of Children & Family Services v. Alexander*, 16-387 (La. App. 5 Cir. 12/28/16), 228 So.3d 1261, 1267; *Barton v. Barton*, 06-2032 (La. App. 1 Cir. 08/08/07), 965 So.2d 939, 943; *Casey v. Casey*, 02-246 (La. App. 4 Cir. 05/22/02), 819 So.2d 1108, 1111. There is no authority for modifying a child support award retroactive to a date prior to judicial demand. La. R.S. 9:315.21; *See also, Casey*, 819 So.2d at 1111.

trial court's modification of the child support order, retroactive to the date of judicial demand.

After a contradictory hearing, based on testimony and evidence the trial court determined that appellant failed to pay child support from June 2009 to the hearing date, September 2020, and made executory child support arrearages in the amount of \$70,875.00. La. C.C.P. art. 3946. Upon review, the judgment is supported by the record and we find the trial court did not err in making arrears executory.

DECREE

For the reasons stated above, the trial court's judgment is affirmed.

AFFIRMED

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2022-C-00357

VS.

TIMOTHY J. MAZIQUE

IN RE: Timothy J. Mazique - Applicant Defendant; Applying For Writ Of Certiorari,
Parish of St. John the Baptist, 40th Judicial District Court Number(s) 47,820, Court
of Appeal, Fifth Circuit, Number(s) 21-CA-243;

April 20, 2022

Writ application denied.

JLW

SJC

JTG

WJC

JBM

PDG

Hughes, J., would grant.

Supreme Court of Louisiana

April 20, 2022

Katie Morganruic
Chief Deputy Clerk of Court
For the Court

Appendix C