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IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION II

IN RE THE MARRIAGE OF:)

RYAN KNIGHT,

Petitioner/Appellee,

vs.

LINDSEY KNIGHT,

Respondent/Appellant.)

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STATE OF OKLAHOMA

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SELDEN JONES
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Case No. 122,446

APPEAL FROM THE DISTRICT COURT OF
GARFIELD COUNTY, OKLAHOMA

HONORABLE PAUL K. WOODWARD, DISTRICT JUDGE

REVERSED IN PART, VACATED IN PART, AND REMANDED

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For Petitioner/Appellee

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For Respondent/Appellant

OPINION BY GREGORY C. BLACKWELL, JUDGE:

Lindsey Knight appeals the court's denial of her motion to modify support alimony and the court's denial of her application for attorney fees. Ryan Knight counter-appeals the court's denial of his attorney fees. Upon review, we find that the court erred in determining that Lindsey's motion to modify support alimony was procedurally barred and reverse and remand for further proceedings. As the

proceedings are not complete below, we vacate the denial of attorney fees and costs as to both parties and remand for reconsideration of the issue, upon proper applications, at the conclusion of the proceedings below.

BACKGROUND

Ryan and Lindsey Knight divorced in April 2021. In the decree, Lindsey was awarded \$12,000 in support alimony that was set off against a property division award and other judgments that Lindsey owed Ryan. In a prior appeal, No. 120,069, Lindsey sought to undo various aspects of the decree, including the court's decision to set off the alimony against her judgment. The case was assigned to Division IV of this Court in October 2022.

While the case was pending on appeal, Lindsey filed an amended motion to modify on January 20, 2023, in which she argued that Ryan's income had increased and requested that both child support and support alimony be modified. At a hearing in October 2023, the trial court held that the "motion to modify alimony is denied based on that it was paid by the setoff at the time of the decree." Tr. (Oct. 12, 2023), 139. The court did however modify Ryan's child support obligation in an order filed on November 15, 2023. The modified child support dated back to December 2, 2022, and increased his monthly support obligation from \$533.60 a month to \$1,008.26 a month.¹

This Court issued its opinion in the prior appeal on January 31, 2024, affirming the trial court in all respects, except for a determination that Ryan

¹ At the time of the decree, the court found Ryan's monthly income to be \$4,000. The November 15 order reflects that Ryan's income increased to \$10,000 a month.

owed back alimony in the amount of \$1,450. The Court also held that Lindsey was free to file a request to modify support alimony pursuant to 43 O.S. §134(D). Lindsey petitioned for certiorari, and the petition was denied. Mandate issued on June 10, 2024.

On remand, it appears Lindsey filed another motion to modify support alimony, although it was styled as a petition and an amended petition to “Correct Decree/Order and for Stay.” ROA 582. Specifically, Lindsey’s motion requested that the court correct its decision as it related to the denial of her motion to modify support alimony. Additionally, she pointed out that this Court found Ryan owed back alimony in the amount of \$1,450 and requested that the court correct the parties’ decree as it related to the amount owed to Ryan under the decree after the setoff. At the hearing held on July 8, 2024, the court again denied the motion to modify alimony; however, it appears that the court did not modify the decree to reflect the back alimony that Ryan owed to Lindsey. The record is somewhat confusing on this point, as there was discussion at the hearing concerning a tax refund and Ryan’s “credit” with DHS intermixed with the discussion about the \$1,450 that Ryan owed Lindsey. Tr. (July 8, 2024), 30-32. The court found that it could not rule on the back alimony issue at the time of the hearing and that it did not know if the money was already accounted for. *Id.* at 32. The court indicated that the parties needed to look at the accounting and further address the issue; however, the record reflects that no such further accounting or action was taken on this issue by either party.

Both parties filed requests for attorney fees and costs concerning post-decree litigation. On July 8, 2024, after a hearing, the court denied the requests for fees and the request to modify support alimony. Both parties appeal the court's denial of fees, and Lindsey appeals the court's denial of her motion to modify.

STANDARD OF REVIEW

The trial court is vested with wide discretion in awarding alimony in a divorce action. *McLaughlin v. McLaughlin*, 1999 OK 34, ¶12, 979 P.2d 257, 260. We will not disturb the trial court's judgment absent an abuse of discretion or a finding that the decision is clearly contrary to the weight of the evidence. *Id.* However, questions concerning the scope of a remand are properly reviewed *de novo*. See, e.g., *United States v. Hunter*, 646 F.3d 372, 374 (6th Cir. 2011).

When an appeal raises an issue of the reasonableness of an attorney's fee awarded by the trial court, then the standard of review is whether there has been an abuse of discretion by the trial judge. *State ex rel. Burk v. Oklahoma City*, 1979 OK 115, ¶ 22, 598 P.2d 659.

ANALYSIS

In the prior appeal, we stated that Lindsey was "free to file a request for modification [of support alimony] pursuant to 43 O.S. § 134(D) if she considers there are 'substantial and continuing changed circumstances.'" *Knight v. Knight*, pg. 19, No. 120,069 (COCA Div. IV Jan. 31, 2024) (unpublished), *cert. denied*

(Okla.Sup.Ct. May 13, 2024).² Lindsey subsequently filed a motion to correct the decree in which she requested that the court modify support alimony due to substantial changes in Ryan's income due to a job change. The court had already acknowledged there had been a substantial change in Ryan's income by finding that he was now making \$10,000 a month as opposed to the \$4,000 a month he was making at the time of the decree. Lindsey also argued that because this Court found that Ryan owed \$1,450 in back alimony, the decree should be modified as it affected the amount Ryan is due according to the setoff in the decree.

The trial court, in ruling on the motion to correct at the July 8 hearing, found that the motion was procedurally barred because the alimony had been paid via the setoff in the decree and that this Court's reference to the allowance of a motion to modify support alimony on remand was dicta. First, we note that whether or not the statement of this Court in the prior appeal was dicta is immaterial. The question presented in this appeal is whether the trial court properly denied the reurged motion to modify on the basis that the setoff could only mean the alimony judgment was paid at the time the decree was entered. Additionally, we note that "mandate from the Supreme Court is an order requiring the lower tribunal to comply with an appellate opinion, and it carries

² In her present appeal, Lindsey argues that this Court knew at the time of the prior appeal that she had filed her motion to modify support alimony. However, while this Court clearly referenced the court's increase in Ryan's child support obligation in footnote 7 of the opinion, the footnote only referenced Lindsey's December 2022 motion to modify child support. *Knight v. Knight*, pg. 10 n.7, No. 120,069 (COCA Div. IV Jan. 31, 2024) (unpublished), *cert. denied* (Okla. Sup. Ct. May 13, 2024). This motion does not request a modification in support alimony, only child support.

with it the authority for the trial court to proceed.” *Daniel v. Daniel*, 2001 OK 117, ¶ 12, 42 P.3d 863. “[T]he parties are entitled to introduce additional evidence, file supplemental pleadings, and expand the issues, unless specifically limited by the order of remand.” *Matter of Michael K.*, 1980 OK 113, ¶ 7, 614 P.2d 1104, 1106 (citing *Cont’l Cas. Co. v. Goodwin*, 1937 OK 406, ¶ 0, 69 P.2d 644). For the following reasons, we find that implicit in our decision that a motion to modify could be filed is a finding that the motion was to be heard on its merits.

The parties’ divorce decree provided that Ryan owed Lindsey \$12,000 in spousal support. The decree also notes that Ryan owed Lindsey for unpaid child support, his share of marital debt, and to balance the award of retirement accounts to him. The court then granted Ryan a judgment against Lindsey in the amount of \$82,500 for his share of the marital home at 5.25% interest until paid. The court also found that the debts Ryan owed to Lindsey were credits to the judgment and as a result, the remaining judgment, that Lindsey owed Ryan, was \$49,750.

Other than our prior opinion, it appears Oklahoma law is silent on the permissibility of a setoff in this situation.³ Thus, it follows that Oklahoma law is

³ As we noted in our prior opinion:

Support alimony is transitional in nature and designed to “cushion the economic impact of post-marriage transition and a spouse’s readjustment to gainful employment.” *Ray v. Ray*, 2006 OK 30, ¶ 10, 136 P.3d 634. Lindsey argues that, if it is offset against other non-immediate debts, it cannot perform this function. We find some validity in this argument. Lindsey’s need for

also silent on whether an alimony award that is setoff against another judgment in a divorce matter is considered immediately paid or paid only when the resulting judgment is fully paid. The trial court cited *Thielenhaus v. Thielenhaus*, 1999 OK CIV APP 7, ¶ 5, 978 P.2d 369, 371, as a procedural bar to Lindsey's motion to modify support alimony. *Thielenhaus* stands for the proposition that only unpaid alimony installments are subject to modification. *Id.* ¶ 5. Ryan contends, without citation to any authority on the matter, that the alimony was considered paid the day the divorce decree was entered and therefore, Lindsey cannot retroactively modify the support alimony awarded to her in the decree. The court agreed.

However, we note that in *Thielenhaus*, both parties agreed that the award had been fully paid some time before the motion to modify was filed and that there were no payments due and outstanding. That is not the case here. At the hearing on October 12, 2023, counsel for Lindsey stated, "if you're ordered to pay a support alimony judgment in monthly installments, if you discharge that and pay it all, then I agree it can't be modified, but he has not paid it." Tr. (Oct. 12, 2023), 5. Counsel for Ryan countered by stating Ryan had paid alimony because "the court took it off the judgment that Ms. Lindsey Knight is *still refusing to pay.*" *Id.* at 54 (emphasis supplied). Thus, it appears the parties do

transitional support does not apparently disappear simply because her property debt is reduced.

Knight v. Knight, pg. 17, No. 120,069 (COCA Div. IV Jan. 31, 2024) (unpublished), *cert. denied* (Okla. Sup. Ct. May 13, 2024) (paragraph breaks omitted). However, while we found that reducing a property division judgment by the amount of support alimony owed to a spouse does not precisely align with the intent of support alimony, we found nothing in Oklahoma law which would prohibit the court from doing so.

not dispute that money has not yet changed hands and nothing had been paid towards the property division judgment, as offset by the alimony award. The Court in *Thielenhaus*, found that alimony payments that were “still due and owing” could be modified. *Id.* ¶ 5. Here, we find the resulting judgment, which contained the alimony setoff, was “still due and owing” and the alimony award therefore remained modifiable. To hold that the alimony was paid at the time the decree was filed would effectively prohibit Lindsey from ever being able to challenge the amount of support awarded to her. This result would be inequitable, especially in these circumstances, where the trial court already found a substantial change in Ryan’s income merited an increase in child support from \$533.60 per month to \$1,008.26 per month.

In the absence of any clear procedure or direction on when a provision for support alimony which is offset against another judgment is considered paid, we find that the equitable result in this case is that Lindsey had the ability to seek to increase the alimony award, which would in turn decrease her property division judgment, during the period in which she is still paying off the property division judgment. Additionally, we note that this Court previously reversed the court’s determination that there was no alimony arrearage and remanded with instructions to enter an arrearage of \$1,450. We found in the prior opinion that there was no record that the court included this arrearage in its post-decree \$12,000 support alimony award.⁴ Despite instructing the court to account for

⁴ *Knight v. Knight*, pg. 20 n.17, No. 120,069 (COCA Div. IV Jan. 31, 2024) (unpublished), *cert. denied* (Okla. Sup. Ct. May 13, 2024).

the arrearage of \$1,450, it appears that this issue remains unresolved. Thus, we decline to hold that Lindsey's property division judgment, offset by the \$12,000 owed to her in alimony, was final, paid, and unmodifiable when, apparently, she is still entitled to a credit of \$1,450 towards that property division judgment. We note that Ryan received the benefit here by not having to pay the alimony judgment and Lindsey thereby received a corresponding benefit of being able to seek modification of that judgment. Therefore, we reverse the court's order determining that Lindsey's request to modify support alimony was barred by *Thielenhaus* and remand with instructions to conduct a hearing on the motion to modify and consider the motion on its merits.

Finally, both Lindsey and Ryan allege that it was an abuse of discretion for the court to deny their motions for post-decree attorney fees and costs. At least a portion of these requests concerns the alimony question, which we have just determined is not concluded. Prevailing party status is one factor to consider when a trial court is deciding whether to award fees in an equitable case. *Finger v. Finger*, 1996 OK CIV APP 91, ¶ 15, 923 P.2d 1195, 1198. As such, we find the proper course is to vacate the order denying fees and costs to allow the trial court to reconsider the issue, upon proper applications, after all issues for which fees and costs are sought have been fully determined and the trial court can fully and fairly assess them as they then exist. See *Reeds v. Walker*, 2006 OK 43, ¶ 33, 157 P.3d 100, 116 ("Ancillary orders that are dependent upon the viability of an underlying judgment are nullified or affirmed on appeal by the disposition of the judgment on which they rest.").

REVERSED IN PART, VACATED IN PART, AND REMANDED.

WISEMAN, P.J., and FISCHER, J., concur.

October 23, 2025