

**IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT NASHVILLE**

LOJUNE WILLIAMS SNEED FORD,	)	From the Chancery Court
	)	for Maury County, Tennessee
Plaintiff/Appellee,	)	The Honorable William B. Cain, Chancellor
)	
vs.)	
	)	Maury Chancery No. 91-709
LARRY WAYNE SNEED,	)	Appeal No. 01A01-9612-CH-00542
)	
Defendant/Appellant.	)	AFFIRMED
)	
	)	Larry Sneed, Pro Se
	)	Columbia, Tennessee
)	
	)	James T. DuBois
	)	Columbia, Tennessee
	)	Attorney for Plaintiff/Appellee

FILED
October 3, 1997
Cecil W. Crowson
Appellate Court Clerk

RULE 10 ORDER

This matter appears appropriate for consideration pursuant to Rule 10(a) of the Rules of the Court of Appeals of Tennessee.¹

In this case, the appellee, Lojune Sneed Ford (“Ford”), petitioned for divorce against the appellant, Larry Wayne Sneed (“Sneed”), in 1991. On February 4, 1992, Ford was awarded a default judgment and a divorce. This judgment and divorce, however, were later set aside in April, 1992 for Sneed’s excusable neglect to hire an attorney. On June 25, 1992, both parties, represented by counsel, signed an Agreed Order of Settlement, which was approved by the trial court.

Subsequently, Ford filed a petition for contempt, alleging Sneed had failed to pay required child support and alimony. On July 23, 1993, after holding hearings, the trial court granted Ford’s petition and sentenced Sneed to six months in the county jail.

On July 30, 1993, Sneed filed a petition for reduction in child support. Subsequently, Ford filed an answer and counter-petition to hold Sneed in contempt of court for attempting to pay his child support obligation with a stolen check. Both motions were heard on January 7, 1994. The

¹Rule 10 (Rules of the Court of Appeals of Tennessee). Affirmance Without Opinion. -- (a) The Court, with the concurrence of all judges participating in the case, may affirm the action of the trial court by order without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

- (1) the Court concurs in the facts as found or as found by necessary implication by the trial court.
- (2) there is material evidence to support the verdict of the jury.
- (3) no reversible error of law appears.

trial court dismissed Sneed's petition, held Sneed in contempt for attempting to pay child support by means of a stolen check, and reduced Sneed's arrearages to judgment. Sneed was represented by counsel at this hearing.

On July 24, 1995, Sneed filed another motion, seeking a hearing and a temporary suspension of his support obligations. Ford then filed a counter-petition for contempt for Sneed's alleged continued failure to pay child support and alimony. On October 6, 1995, the trial court terminated alimony payments due to Ford's remarriage and reduced Sneed's child support obligations. Sneed, however, was found to be in arrears in the amount of \$28,000.00 in child support and \$6,450.00 in alimony. The trial court continued the hearing until January of 1996, to enable Sneed to consult counsel concerning whether Sneed was entitled to a credit in his arrearage for the period of time during which he was incarcerated.

On January 5, 1996, the hearing was held. Sneed was not represented by counsel. The trial court found that no evidence existed that would entitle Sneed to a credit for his arrearage. However, the trial court gave Sneed "one final opportunity" to consult with counsel on this issue. The trial court also modified Sneed's child support obligations. The order of modification required Sneed to periodically file a report of his income with the trial court. This order was filed on February 9, 1996.

On March 8, 1996, Sneed filed a Notice of Appeal. This notice was withdrawn on June 14, 1996. On June 11, 1996, Sneed filed a pro se motion to vacate the judgments entered on February 4, 1992; June 25, 1992; January 21, 1994; and February 9, 1996, pursuant to Rule 60.02(3) of the Tennessee Rules of Civil Procedure. On July 26, 1996, the trial court dismissed this motion and awarded attorney's fees to Ford. On August 19, 1996, Ford filed this appeal.

On appeal, Sneed contends that the trial court denied him due process of law by dismissing his Rule 60 motion. Sneed also asserts that the judgments of the trial court dated February 4, 1992, June 25, 1992, January 21, 1994 and February 9, 1996, are "void as contrary to the law, against public policy, and a denial of due process of law." Sneed further contends that the trial court abused its discretion by awarding attorney's fees to Ford.

Ford seeks affirmance of the trial court's ruling and an award of attorney's fees on appeal.

The trial court retains "sound discretion" in addressing a Rule 60.02 motion, and the standard of review for the appellate court is to determine whether the trial court abused that discretion. *Underwood v. Zurich Ins. Co.*, 854 S.W.2d 94, 97 (Tenn. 1993); *Day v. Day*, 931 S.W.2d 936, 939 (Tenn. App. 1996).

Our examination of the record indicates no abuse of discretion by the trial court. Indeed, the record indicates that the trial court afforded Sneed great leeway as a pro se litigant. Sneed was represented by counsel with regard to two of the judgments at issue, and was granted ample opportunity to consult with counsel since his release from incarceration. We find no error in the trial court's denial of Sneed's Rule 60.02 motion.

The decision of the trial court is affirmed. Attorney's fees are assessed against the Appellant. The case is remanded to the trial court to determine the appropriate amount of attorney's fees for Appellee's defense of this appeal. Costs on appeal are assessed against the Appellant, for which execution may issue if necessary.

HOLLY KIRBY LILLARD, J.

CONCUR:

W. FRANK CRAWFORD, P.J., W.S.

ALAN E. HIGHERS, J.