

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2006 CA 1172

CARRIE ALISON STRODER

VERSUS

KENNETH DON HONAKER, JR.

Judgment Rendered: March 23, 2007

Appealed from the
Family Court in and for the
Parish of East Baton Rouge, Louisiana
Docket Number 128,990, Division D

Honorable Annette M. Lassalle, Judge Presiding

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BEFORE: CARTER, C.J., WHIPPLE AND McDONALD, JJ.

WHIPPLE, J.

This appeal challenges numerous aspects of a family court's child support award. We affirm.

BACKGROUND

J.S. was born on June 6, 1998, in East Baton Rouge Parish. On July 1, 1998, J.S.'s mother, Carrie Stroder, filed a petition against Kenneth Honaker, Jr. to establish paternity and set a child support obligation. On June 29, 1999, the trial court rendered judgment decreeing Mr. Honaker to be the child's father. Mr. Honaker was ordered to pay \$100.00 per month in child support in accordance with the parties' stipulation.¹ In addition, Mr. Honaker was awarded reasonable visitation.

On March 10, 2005, Ms. Stroder filed a "Rule to Increase Child Support" against Mr. Honaker, in which she sought an increase in monthly child support payment, as well as an order requiring Mr. Honaker to pay a percentage of J.S.'s health insurance premium, medical expenses, and daycare and private school expenses. In response, Mr. Honaker filed a reconventional demand, in which he sought joint custody of the child, an order requiring Ms. Stroder to pay her pro rata share of all health and dental insurance costs, and an award of the right to claim J.S. on his income tax return. In the reconventional demand, Mr. Honaker asserted that Ms. Stroder was voluntarily unemployed or underemployed, but capable of obtaining sufficient employment and providing financial support to J.S.

The evidence at trial reflected that J.S. had been conceived while Ms. Stroder and Mr. Honaker were students at Louisiana Tech University. At the time of the trial on the rule to increase support, J.S. was seven years old.

¹The child support stipulation was entered into without prejudice to either party to request an increase or decrease without showing a change in circumstances.

During those seven years, Ms. Stroder had been the child's sole caregiver and Mr. Honaker only saw the child on four to five occasions.

Ms. Stroder graduated from college with a degree in industrial engineering in 2001 and became commissioned in the military that year. Her contract with the military required that she enlist for eight years, and serve four years active duty and four years inactive duty. Ms. Stroder was stationed in South Carolina, where she was an instructor at the naval nuclear power training command, earning \$69,000.00 per year. Two years before the completion of her active military duty, Ms. Stroder began to plan for the future. She decided not to re-enlist in the military because of the risk that she could be deployed, and her concern that being away from J.S. for long periods of time would not be in his best interest since she was his sole caregiver.

After exploring her options, including looking into private employment in industrial engineering, Ms. Stroder decided that she would return to Baton Rouge and live with her parents while she attended law school. Ms. Stroder sent J.S. to live with her parents in March of 2005, enrolled him in St. Luke's Episcopal School, and returned to Baton Rouge in July of 2005. On August 5, 2005, Ms. Stroder went into inactive military status, and no longer received a monthly income. She acknowledged there was a possibility she could receive a monthly military benefit in the amount of \$1,200.00. At the time of the hearing, Ms. Stroder was enrolled in her first year of law school.

Regarding J.S.'s education, Ms. Stroder testified that the child had attended a private, church-based kindergarten in South Carolina costing \$450.00 per month. The school did not go beyond the kindergarten level. In first grade, J.S. attended a public school on the military base because there

were no private schools nearby. Ms. Stroder explained that she decided to enroll J.S. at St. Luke's because it was within walking distance of her parents' home, she wanted her child to attend a religious-based school, and J.S.'s father was Episcopalian. She also testified that J.S. is insured under her father's health insurance policy at a cost of an additional \$60.00 per month.

The record reflects that Mr. Honaker graduated from college in November of 2004 with a degree in professional aviation. After graduation, he became employed as a flight instructor. At the time of the hearing, Mr. Honaker, who lived with his cousin in an apartment in Bossier City, was employed by Express Jet Airlines as a production controller with an average gross income of \$2,620.00 per month. He acknowledged that his aspiration was to become a pilot, and he expected to become a pilot after spending a sufficient amount of time at his current job.

Mr. Honaker attested that he had not contributed monetarily to J.S.'s support beyond the requisite \$100.00 per month child support obligation over the last seven years, but did buy J.S. birthday and Christmas gifts. Mr. Honaker stated that he enrolled J.S. on his health insurance plan at work, but the enrollment had not been processed at the time of the hearing. He also acknowledged that he did not object to J.S.'s enrollment at St. Luke's, but later questioned Ms. Stroder about the decision.²

Following the presentation of the evidence on the child support issues, for the purpose of the child support calculation, the family court judge set Mr. Honaker's monthly income at \$2,620.06, and assessed a voluntary income of \$2,000.00 to Ms. Stroder, resulting in a combined income of

²No evidence was presented to the court on the child custody issue raised in Mr. Honaker's reconventional demand. The parents acknowledged that they would reach a child custody arrangement after the financial issues had been decided.

\$4,620.06. The judge ordered Mr. Honaker to pay Ms. Stroder the sum of \$371.64 per month, representing 57% of the basic child support obligation, retroactive to the date of the filing of the rule to increase child support. In addition, Mr. Honaker was ordered to pay 57% of the costs of: (1) tuition, registration, and fees for J.S.'s attendance at St. Luke's; (2) after-school or daycare costs; (3) the monthly medical and dental insurance premium on the policy maintained by Ms. Stroder's father; and (4) any extraordinary medical expenses in accordance with La. R.S. 9:315.5. Lastly, the judge awarded Ms. Stroder the right to claim J.S. as a dependent for income tax purposes.

This appeal, taken by Mr. Honaker, followed.

DISCUSSION

In numerous assignments of error, Mr. Honaker essentially challenges: (1) the family court's calculation of the basic support obligation; (2) the addition of the costs of private school attendance, before and after school care costs, and health care premiums to the basic child support obligation; (3) the judge's failure to award him the right to claim J.S. as a dependent for income tax purposes; and (4) the retroactivity of the child support award.

It is well settled that an award of child support is entitled to great weight and will not be disturbed on appeal absent an abuse of discretion. D'Aquilla v. D'Aquilla, 2003-2212, p. 6 (La. App. 1 Cir. 4/2/04), 879 So.2d 145, 149, writ denied, 2004-1083 (La. 6/25/04), 876 So.2d 838. Moreover, the trial judge's conclusions of fact regarding financial matters underlying an award of child support will not be disturbed in the absence of manifest error. Romanowski v. Romanowski, 2003-0124, p. 8 (La. App. 1 Cir. 2/23/04), 873 So.2d 656, 662.

After a thorough review of the record, we find that the family court judge's factual determinations in setting the total child support obligation are entirely reasonable and will not be disturbed by this court. Additionally, we find no abuse of the discretion by the judge in calculating the child support obligation, or in making the basic child support award retroactive to the date of the filing of the petition.

For these reasons, the judgment appealed from is affirmed. All costs of this appeal are assessed to appellant, Kenneth Honaker, Jr. The case is remanded to the trial court for proceedings consistent with this opinion.³

AFFIRMED.

³Appearing in the record are a rule for contempt, a rule for accumulated child support and a claim for an income assignment filed by Ms. Stroder after the appeal was taken on April 20, 2006. None of these issues were part of the subject appeal.