

IN THE COURT OF APPEALS OF IOWA

No. 6-790 / 06-0608
Filed November 30, 2006

**IN RE THE MARRIAGE OF WANDA MARIE STREIF
AND STEVEN JOHN STREIF**

**Upon the Petition of
WANDA MARIE STREIF
n/k/a WANDA MARIE HORN,**
Petitioner-Appellee,

**And Concerning
STEVEN JOHN STREIF,**
Respondent-Appellant.

Appeal from the Iowa District Court for Dubuque County, Alan L. Pearson,
Judge.

Steven Streif appeals the district court order denying his request that he
receive credit for the child support payments he made directly to the children's
mother. **VACATED IN PART AND REMANDED.**

Stuart Hoover of Blair & Fitzsimmons, P.C., Dubuque, for appellant.

Wanda Horn, Bellevue, pro se.

Considered by Huitink, P.J., and Mahan and Zimmer, JJ.

HUITINK, P.J.

Steven Streif appeals from the district court order denying his application for an order for satisfaction of child support payments not made through the clerk of court.

I. Background Facts & Proceedings.

Steven and Wanda Streif (n/k/a Wanda Horn) were married in June 1987. They have three children: Sara, born in June 1998; Jesse, born in May 1990; and Naomi, born in July 1996. Their marriage was dissolved on November 27, 2001. The parties were awarded joint custody. Wanda was awarded physical care. Steven was ordered to pay child support. Steven paid child support directly to Wanda instead of the clerk of court as directed in the decree. In October 2002 Wanda signed a satisfaction of child support acknowledging that Steven had paid his child support accrued as of the date specified in the satisfaction.

On March 1, 2005, Steven filed an application to modify his child support obligation. The Child Support Recovery Unit intervened, claiming Steven was \$23,100 in arrears on his child support obligation. Steven denied any arrearage, claiming he made child support payments directly to Wanda as they had earlier agreed. He accordingly requested the court enter an order for satisfaction of payments not made through the clerk of district court or otherwise enforce Wanda's alleged promise to file a satisfaction for child support payments.

At the conclusion of the February 14, 2006, hearing on the merits of Steven's application, the court granted Steven's attorney "until the close of business on Friday [February 17, 2006] to offer any authority . . . that Chapter

598 . . . does not require your client to pay through either the clerk or the Collection Services Center.” On February 16, 2006, the trial court entered an order modifying Steven’s child support and medical support obligations. The court declined to enter the requested satisfaction order. The court’s order provides:

[Steven] asks the court to order [Wanda] to give him a satisfaction for direct support payments. His direct support payments were made in violation of the dissolution decree and section 598.22 of the Iowa Code. In light of the Iowa legislature’s clear statement of public policy that support shall be paid through the Clerk of Court or the Collection Services Center, no credit for support paid directly to the other party is given. Further, [Wanda] is not ordered to give a satisfaction for such payments. Support payers who choose to make direct payments do so at their own risk.

On February 17, 2006, Steven’s attorney filed a bench memo asserting several equitable theories, including “unjust enrichment, unclean hands, constructive trust, and equitable estoppel” in support of his requested relief. Steven subsequently filed a motion to reconsider, requesting the court reconsider its earlier ruling because it was entered before the time allowed for counsel to file additional authorities. On March 17, 2006, the court entered an order summarily denying Steven’s motion to reconsider.

On appeal, Steven argues:

- I. The court erred in making a conclusion of law that equitable estoppel did not apply and appellant’s child support obligation should not be satisfied.
- II. The court erred in making a conclusion of law that unjust enrichment did not apply and appellant’s child support obligation should not be satisfied.
- III. The district court judge violated Steven Streif’s due process rights by not allowing him to submit a bench memo prior to entering judgment.

II. Standard of Review.

Our review is de novo. Iowa R. App. P. 6.4. We examine the entire record and adjudicate anew rights on the issues properly presented. *In re Marriage of White*, 537 N.W.2d 744, 746 (Iowa 1995). We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses, but are not bound by them. *In re Marriage of Gaer*, 476 N.W.2d 324, 326 (Iowa 1991).

III. Merits.

Iowa Code section 598.22 (2005) states that child support payments to persons other than the clerk of court and the Collection Services Center do not satisfy the support obligations created by orders. “A statutory exception to the proviso for payments to be made to the clerk of the district court or the collection services center is provided by section 598.22A(1).” *In re Marriage of Caswell*, 480 N.W.2d 38, 40 (Iowa 1992). “That section provides for a credit on the official support payment record if confirmed by the court upon submission of an affidavit by the person entitled to receive the payment.” *Id.* We have additionally recognized that a party may be estopped from collecting a child support obligation after promising to enter a satisfaction of judgment for out-of-court child support payments. *In re Marriage of Harvey*, 523 N.W.2d 755, 756-57 (Iowa 1994); *In re Marriage of Yanda*, 528 N.W.2d 642, 644 (Iowa Ct. App. 1994).

Although Steven’s posttrial brief addressing his equitable arguments was timely submitted, the trial court entered a dispositive ruling before Steven’s brief was submitted. As noted earlier, Steven’s motion to reconsider was summarily overruled without reference to the issues raised in his posttrial brief. We are

therefore unable to determine whether the trial court considered the merits of Steven's equitable arguments prior to ruling on the parties' posttrial motions. Under these circumstances, we conclude the issues raised in Steven's posttrial brief should be addressed by the trial court. We accordingly vacate that portion of the trial court's February 16, 2006 order denying Steven's request for a satisfaction of child support judgment and remand for further proceedings. On remand, the court shall consider the issues raised in Steven's posttrial brief and enter appropriate findings of fact and conclusions of law in support of any resulting ruling. We do not intimate what the ruling should be.

The trial court's order entered on February 16, 2006, is vacated in part and this case is remanded for further proceedings in conformity with our opinion. We do not retain jurisdiction.

VACATED IN PART AND REMANDED.