

IN THE COURT OF APPEALS OF IOWA

No. 6-804 / 04-0103
Filed November 16, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

NAPOLEON HARTSFIELD,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, David E. Schoenthaler, Judge.

Defendant appeals the district court's denial of his request to modify his restitution obligation. **AFFIRMED.**

Jack E. Dusthimer, Davenport, for appellant.

Thomas J. Miller, Attorney General, Martha E. Boesen, Assistant Attorney General, William E. Davis, County Attorney, and Kelly Cunningham, Assistant County Attorney, for appellee.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

Napoleon Hartsfield is an inmate at the Iowa State penitentiary. According to Hartsfield, he owed a total of \$22,103.26 in restitution as of February 27, 2004. Hartsfield sought to have his obligation eliminated or, at a minimum, reduced. The district court stated that the request “center[ed] on his alleged inability to pay his restitution costs for court-appointed attorney fees due to his incarceration.” Following a hearing, the court denied the request for modification. Hartsfield appeals.¹

Hartsfield raises several challenges to the district court’s ruling. We find it necessary to address only one: whether the district court abused its discretion in denying his request to modify the restitution obligation. See *State v. Van Hoff*, 415 N.W.2d 647, 648 (Iowa 1987).

The district court first considered Hartsfield’s request to eliminate the restitution obligation for attorney fees. The court essentially stated it had no discretion to do so under the pertinent statute. See Iowa Code § 815.9(3) (2003). We agree with this conclusion. See *id.* (stating a person granted an appointed attorney “shall be required to reimburse the State for the total cost of legal assistance provided to the person”) (emphasis added).

The district court next addressed Hartsfield’s request to reduce the obligation. Iowa Code section 910.2 imposes a restitution obligation only to the extent an offender is reasonably able to pay. *Van Hoff*, 415 N.W.2d at 648. “A

¹ On the day Hartsfield filed his notice of appeal, he also filed a motion with the district court seeking reconsideration of its prior ruling. The notice of appeal divested the district court of jurisdiction to consider this motion. See *State v. Mallett*, 677 N.W.2d 775, 776 (Iowa 2004). Therefore, we decline to consider the motion or the court’s subsequent ruling on the motion.

determination of reasonableness, especially in a case of long-term incarceration, is more appropriately based on the inmate's ability to pay the current installments than his ability to ultimately pay the total amount due." *Id.* The district court pointed out that Hartsfield failed to furnish a current restitution payment plan, preventing the court from making "a finding with regard to whether [Hartsfield] can reasonably pay current restitution payment installments." Nevertheless, based on Hartsfield's testimony as well as evidence proffered by the State, the court found that Hartsfield was receiving \$7.70 per month but had the ability to earn between \$60 and \$100 per month if he worked in prison. The court declined to reward Hartsfield "for choosing not to work while incarcerated" and denied his request to reduce the obligation as well as his related request to repay his obligation through community service. The court ordered "a minimum withholding of [one] dollar and a maximum withholding of twenty percent so that [Hartsfield] is able to afford basic human necessities."

We discern no abuse of discretion in this ruling. The court's findings are fully supported by the record. According to the State's evidence, Hartsfield was "job-eligible" and had "been given numerous opportunities to have a job," but seemed to "sabotage those efforts by becoming disruptive with staff or other offenders." As in *Van Hoff*, the district court did not require Hartsfield to relinquish all his prison pay, but only a small fraction. 415 N.W.2d at 649 (stating inmate did not claim he was unable to pay twenty percent of his prison wages). And, the pertinent statute afforded the court discretion to reject the option of community service. See Iowa Code § 910.2.

We affirm the district court's ruling denying Hartsfield's request to modify restitution.

AFFIRMED.