[Cite as *Harris v. Omosule*, 2010-Ohio-1124.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

TERESA HARRIS :

Plaintiff-Appellee : C.A. CASE NO. 2009 CA 78

v. : T.C. NO. 97 DR 564

OLUWADAYISI OMOSULE : (Civil appeal from Common Pleas Court, Domestic Relations)

Defendant-Appellant :

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O P I N I O N

Rendered on the 19th day of March, 2010.

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Attorney for Plaintiff-Appellee

OLUWADAYISI OMOSULE, 607 Wicklow Place, Dayton, Ohio 45406
Defendant-Appellant

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FROELICH, J.

Oluwadayisi James Omosule appeals, pro se, from a judgment of the Greene County Court of Common Pleas, Domestic Relations Division, which found him in contempt of court for failure to pay child support.

Omosule and Teresa Omosule Harris were divorced in 1998; they have one minor

child, who resides with Harris, and Omosule was ordered to pay child support. Since the divorce, Omosule has filed several motions to terminate child support, and Harris, through the Child Support Enforcement Agency ("CSEA"), has filed several motions to hold Omosule in contempt for failure to pay child support. Omosule has repeatedly claimed that problems with his immigration status and/or the confiscation of his green card made it impossible for him to work, but he did hold various jobs during this period. The prior CSEA contempt motions resulted in one finding of contempt in 2005; in other instances, the motions were taken under advisement while Omosule was given an opportunity to show a regular pattern of support and were subsequently dismissed.

The most recent motion for contempt was filed in January 2009. In May 2009, the magistrate found that Omosule's child support arrearage was over $13,000, that he had made his monthly support payment only five times in 2008, and that he had not made any payments in 2009. The magistrate ordered that Omosule be found in contempt for the second time and sentenced to serve sixty days in jail. Omosule filed objections, but they were dismissed by the trial court because Omosule failed to file a transcript. In September 2009, the trial court adopted the magistrate's recommendation and sentenced Omosule to sixty days in jail. Omosule appeals from the judgment finding him in contempt.

Through administrative proceedings, Omosule's driver's license was suspended by the Ohio Bureau of Motor Vehicles due to his failure to pay support.

Omosule's brief does not set forth assignments of error. He seeks "justice," to "hold our public officials accountable," and "relief from all what [he has] been through." In his reply brief, he also claims that the court, the prosecutor, and the CSEA were "just

out of their jurisdiction to give me an ex[c]essive punishement [sic]" and violated his constitutional rights. Omosule does not explain these accusations. He also specifically asks that his sentence be vacated and that CSEA be ordered to reinstate his driver's license. Omosule has already served his sentence and he did not seek a stay from the trial court or this court.

Omosule admits that he has served his sentence. "Where a defendant, convicted of a criminal offense, has voluntarily paid the fine or completed the sentence for that offense, an appeal is moot when no evidence is offered from which an inference can be drawn that the defendant will suffer some collateral disability or loss of civil rights from such judgment or conviction." *Springfield v. Myers* (1988), 43 Ohio App.3d 21, 25, citing *State v. Wilson* (1975), 41 Ohio St.2d 236, syllabus. See, also, *Siemon v. Bailey*, Clark App. No. 2002-CA-10, 2002-Ohio-3488. The burden of proof is on the defendant to establish at least an inference that he will suffer some collateral disability or loss of civil rights. *State v. Berndt* (1987), 29 Ohio St.3d 3; *Wilson*, supra. Although Omosule asserts that he lost his green card as a result of non-support charges in Butler County related to another child, there is nothing in the record to suggest that he will suffer any collateral disability or loss of civil rights based on this finding of contempt in Greene County. Accordingly, Omosule's argument regarding his conviction for contempt is moot.

In his brief and reply brief, Omosule contends that he was unable to pay child support because he was unable to work. In his reply brief, he attempts to supplement the record with a list of jobs for which he applied on September 9 and

10, 2008. At the hearing, however, evidence was also presented – and Omosule did not deny – that he had held various jobs during the period in question. It was the trial court's role to determine the credibility of the evidence and Omosule's ability to pay child support. Even if Omosule's appeal were not moot, we would not disturb the trial court's factual findings absent an abuse of discretion, and Omosule has failed to show that the trial court abused its discretion in finding him in contempt.

Omosule also asks us to order the CSEA to reinstate his driver's license so that he will be able to work.

R.C. 3123.03 requires that the office of child support send a default notice to the obligor within fifteen calendar days after a default under a child support order is determined. R.C. 3123.04 provides that "an obligor who receives a default notice *** may file a written request for an administrative hearing with the child support enforcement agency that identified the default regarding whether a mistake of fact was made in the notice. The request must be filed not later than seven business days after the date on which the default notice is sent." R.C. 3123.032 provides that if an obligor receives a default notice and fails to make a timely request for an administrative hearing under R.C. 3123.04, the default notice becomes a final and enforceable determination by the child support enforcement agency.

Where a court or a child support enforcement agency makes a final and enforceable determination under R.C. 3123.01 to R.C. 3123.07 that an individual is in default under a child support order, R.C. 3123.53 to R.C. 3123.54 authorize the court or child support enforcement agency to determine whether the individual

holds a driver's license and to notify the individual as well as the registrar of motor vehicles of the default. If the registrar of motor vehicles receives the notice and determines that the individual is the individual named in that notice and that the individual holds a driver's license, the registrar will impose a suspension of the individual's driver's license. R.C. 3123.55. See, also, *In re Hartmier*, Montgomery App. No. 20422, 2004-Ohio-5830, at ¶8-9.

Under this statutory scheme, the trial court has no authority to order the CSEA to reinstate a driver's license. It is unclear whether Omosule requested the administrative hearing provided by R.C. 3123.04, but he does not dispute the finding that he is in default on his child support obligation.

Having found Omosule's arguments to be without merit, the judgment of the trial court will be affirmed.

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DONOVAN, P.J. and BROGAN, J., concur.

Copies mailed to:

Matthew D. Brown
Oluwadayisi Omosule
Hon. Steven L. Hurley