

IN THE COURT OF APPEALS 03/26/96

OF THE

STATE OF MISSISSIPPI

NO. 95-CA-00053 COA

RODNEY A. WOODRUFF

APPELLAN

v.

SANDRA H. WOODRUFF

APPELLEE

PER CURIAM AFFIRMANCE MEMORANDUM OPINION

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. NATHAN P. ADAMS, JR.

COURT FROM WHICH APPEALED: CHANCERY COURT OF ISSAQUENA COUNTY

ATTORNEY FOR APPELLANT:

TRAVIS T. VANCE, JR.

ATTORNEY FOR APPELLEE:

DAVID M. SESSUMS

NATURE OF THE CASE: MODIFICATION OF ALIMONY AND CHILD SUPPORT;
COUNTERCLAIM FOR CONTEMPT AND ATTORNEY'S FEES

TRIAL COURT DISPOSITION: MODIFICATION DENIED; NO CONTEMPT; ORDERED TO
PAY \$3,200 IN BACK CHILD SUPPORT AND \$8,000 IN ATTORNEY'S FEES

BEFORE FRAISER, C.J., COLEMAN, PAYNE, AND SOUTHWICK, JJ.

PER CURIAM:

Rodney and Sandra Woodruff were granted a divorce on irreconcilable differences on May 22, 1992. In February 1994, Rodney filed suit for a reduction of alimony and relief from child support. Sandra counterclaimed for contempt and attorney's fees. The chancellor found that no material changes in circumstances existed and denied the requested reductions. Regarding Sandra's counterclaim, the chancellor found that Rodney was not in contempt but awarded Sandra a judgment for \$3,200 in back child support and \$8,000 in attorney's fees. Feeling aggrieved, Rodney appeals arguing that the chancellor erred in failing to consider the value of maintenance services (yard, pool, home repairs, etc.) provided to Sandra by a friend whose services, according to Rodney, reduced her expenses and should have resulted in a reduction in the amount of support he should have to pay Sandra. Rodney also argues that the chancellor erred in awarding Sandra her attorney's fees. Sandra argues that the record supports the chancellor's findings and that the chancellor did not abuse his discretion. Sandra also requests attorney's fees on appeal. We agree with Sandra and affirm the chancellor.

The Mississippi Supreme Court has held that, on appellate review, a chancellor's findings of fact will not be disturbed if substantial evidence supports those factual findings. *Brooks v. Brooks*, 652 So. 2d 1113, 1124 (Miss. 1995) (citations omitted). The appellate scope of review is limited since this Court will not disturb the findings of a chancellor unless the chancellor was manifestly wrong or clearly erroneous, or if an erroneous legal standard was applied. *Steen v. Steen*, 641 So. 2d 1167, 1169 (Miss. 1994) (citation omitted).

For modification of alimony or child support the standard is the same: the moving party must show that a material change in circumstances has occurred subsequent to the original decree. *See Hubbard v. Hubbard*, 656 So. 2d 124, 129 (Miss. 1995) (citations omitted); *McEachern v. McEachern*, 605 So. 2d 809, 813 (Miss. 1992) (citations omitted). Put very simply, Larry was unable to meet this burden, and the chancellor was correct in his determination that no material change in circumstances had occurred.

Attorney's fees are also a matter entrusted to the sound discretion of the chancellor. *Armstrong v. Armstrong*, 618 So. 2d 1278, 1282 (Miss. 1993). The chancellor correctly applied the factors as set out in *McKee v. McKee*, 418 So. 2d 764, 767 (Miss. 1982). Sandra's attorney's fees totaled \$8,142.14, and the chancellor awarded her \$8,000. Sandra introduced into evidence a detailed accounting of her attorney's fees including time, services, and expenses. Additionally, the chancellor determined that Sandra had meager assets and earned an annual salary of \$10,000. We do not find that the chancellor abused his discretion in awarding Sandra her attorney's fees. *See Adams v. Adams*, 591 So. 2d 431, 435 (Miss. 1991).

CONCLUSION

After careful review of the briefs and the record before us, we find the record provides ample support for the chancellor's findings of facts and conclusions of law and that the chancellor acted well within his discretion. Accordingly, we affirm. We also award Sandra her request for attorney's fees on appeal in the amount of one-half the amount of attorney's fees awarded in the lower court. *See Stauffer v. Stauffer*, 379 So. 2d 922, 924 (Miss. 1980); *Hartley v. Hartley*, 317 So. 2d 394, 396 (Miss. 1975).

THE JUDGMENT OF THE CHANCERY COURT OF ISSAQUENA COUNTY, IS AFFIRMED. STATUTORY DAMAGES AND INTEREST ARE AWARDED. APPELLEE IS AWARDED \$4,000 FOR ATTORNEY'S FEES ON APPEAL. ALL COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANT.

FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, KING, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.