

RENDERED: JANUARY 6, 2006, 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-001714-MR

BOBBY JOE CRAWFORD

APPELLANT

v. APPEAL FROM HARLAN CIRCUIT COURT
HONORABLE RON JOHNSON, JUDGE
ACTION NO. 79-CI-00046

EDNA M. CRAWFORD,
NOW SKELTON

APPELLEE

OPINION
REVERSING AND REMANDING

** ** * * *

BEFORE: BARBER, DYCHE, AND MINTON, JUDGES.

DYCHE, JUDGE: Bobby and Edna Crawford were married in 1961, separated in 1978, and Edna moved for dissolution of marriage in 1979. By decree entered in March of that year, custody of the parties' three minor children was placed with Edna, and Bobby was ordered to pay semi-monthly payments totaling \$250 per month in child support. Bobby made one payment of \$125.

In July 1982, Bobby moved the trial court to change custody and revisit the support issue. By that time, the

Crawfords' two older children had been emancipated, Edna had married twice, and the parties' youngest child (then eight years old) was residing with Bobby. The trial court entered an order modifying custody and terminating child support.

In 1990 Edna moved for a show cause hearing versus Bobby, claiming that she had regained custody of the minor daughter in 1988. She sought health care coverage for the child as well as renewed child support. The court ordered Bobby to obtain health insurance or pay \$135 per month in child support. The matter was continued until August 20, 1990. On August 29, 1990, the record reflects that Bobby had insured the child for health care costs. The issue of child support was not addressed in that order, but a later "Notice of Child Support Enforcement" was entered in December 1990 by the then Cabinet for Human Resources. The daughter became emancipated on February 1, 1991, when she got married at the age of seventeen.

In January 2002, Edna moved for a show cause hearing, claiming that Bobby owed arrearages and interest on child support since 1979. Rather than argue the amount owed, Bobby answered by stating that the statute of limitations had run on Edna's claim. Sums owed, he defended, were ascertainable as early as 1982. Edna was thus barred, he continued, from seeking recovery on anything owed prior to 1987. KRS 413.090 and 413.120(2). The trial court disagreed, citing Harvey v.

McGuire, 635 S.W.2d 8, 9 (Ky.App. 1982), as its basis for holding that "the statute of limitations does not begin to run in a child support case until the child is emancipated." The trial court entered a judgment in Edna's favor of arrearages plus interest at 12% totaling \$42,018.03. Bobby appeals from that July 14, 2004, judgment. We reverse and remand.

The holding in Harvey v. McGuire was impliedly overruled in Stewart v. Raikes, 627 S.W.2d 586 (Ky. 1982), and Mauk v. Mauk, 873 S.W.2d 213 (Ky.App. 1994), as recognized in Bollengier v. Charlet, 141 S.W.3d 14, 15-16 (Ky.App. 2004).

"For any given child-support installment, . . . as *Stewart v. Raikes* holds, the date it becomes executable is the date the installment accrues and goes unpaid." Bollengier, supra at 16.

Accordingly, the judgment of the Harlan Circuit Court is reversed, and this matter is remanded for reconsideration of the arrearages and interest to be calculated in a proceeding not inconsistent with this opinion.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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