

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
September 12, 2007 Session

**STATE OF TENNESSEE, EX REL., HARVEY FARRIS, ET AL., v. JAMES D.
DELANEY**

**Direct Appeal from the Chancery Court for Putnam County
No. 83-350 Nolan Goolsby, Judge, Sitting by Interchange**

No. M2006-02025-COA-R3-CV - Filed November 7, 2007

The trial court denied Defendant's motion to dismiss Plaintiff's September 2003 petition to enforce a 1999 settlement agreement for child support arrearages, and ordered enforcement of the agreement. We affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed; and
Remanded**

DAVID R. FARMER, J., delivered the opinion of the court, in which W. FRANK CRAWFORD, P.J., W.S., and ALAN E. HIGHERS, J., joined.

James D. Delaney, *Pro Se*.

Robert E. Cooper, Jr., Attorney General and Reporter and Warren Jasper, Assistant Attorney General, for the appellee, State of Tennessee, ex rel., Harvey Farris.

MEMORANDUM OPINION¹

Defendant/Appellant James Delaney (Mr. Delaney) appeals the Putnam County Chancery Court's judgment granting the petition of the State of Tennessee ex rel Harvey Farris to set child support payments due under a child support arrearages settlement agreement entered by the court in 1999 for support of a child emancipated by marriage in 1990. Mr. Delaney and his former wife, Pamela Farris Delaney, now deceased, were divorced in 1977. One child, Tiffany, was born of the

¹**RULE 10. MEMORANDUM OPINION**

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION", shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

marriage in 1974. In 1978, custody of Tiffany was awarded to her maternal grandparents, Harvey and Peggy Farris (“the Farris”). According to the 1978 custody order, Mr. Delaney’s whereabouts were then unknown.

The child support battle began in August 1983, when Mr. Delaney apparently was located and the Farris petitioned for child support. In November 1983, the trial court awarded the Farris retroactive child support in the amount of \$3,300 and prospective child support in the amount of \$125 per month. In December 1989, the trial court found Mr. Delaney in contempt for failure to pay the child support as ordered. The trial court ordered Mr. Delaney to pay child support arrearages in the amount of \$10,600 and sentenced him to be incarcerated for a period of five months, twenty-nine days. In February 1990, the trial court dismissed the order of contempt and granted Mr. Delaney a new trial. In 1998, a settlement agreement was finally reached and judgment in the amount of \$8,711.31 was entered in March 1999 for child support arrearages through June 14, 1990, when Tiffany was emancipated by marriage at sixteen years of age.

Mr. Delaney did not pay the arrearages as agreed, and in September 2003 the State filed its petition to enforce and set payments. In January 2006, Mr. Delaney filed a motion to dismiss; in April 2006, he filed an amended answer alleging violations of his constitutional rights; and in May 2006, he filed a “motion to dismiss and set aside the judgment to award custody and to dismiss and set aside all orders of child support.” In the January motion to dismiss, Mr. Delaney alleged deceit, coercion and fraud on the part of the District Attorney, who he alleges promised to “never again be involved” in the matter if Mr. Delaney agreed to the 1999 settlement. Mr. Delaney further asserted the matter was *res judicata*. In his April answer, Mr. Delaney asserted the transfer of custody to the Farris was unconstitutional. In his May motion, Mr. Delaney moved to have all previous orders set aside as unconstitutional.

The trial court heard the matter in June 2006 and denied the motions. In August 2006, Mr. Delaney filed a Rule 60.02(1) motion for relief from the judgment and a Rule 59.04 motion to alter or amend to conform to the evidence. The trial court denied the Rule 60.02 motion and granted the Rule 59.04 motion. The trial court denied an oral motion for new trial under Rule 59.06. The trial court found the \$8,711.31 settlement agreement to be a valid judgment subject to collection and enforcement. This *pro se* appeal ensued. We affirm.

Issues Presented

Mr. Delaney presents the following issues, as we perceive and reword them, for our review:

- (1) Whether the trial court erred by refusing to adjudicate all of Mr. Delaney’s claims.
- (2) Whether the trial court erred by not finding the Attorney General was estopped from being involved in this case based upon a District Attorney’s

assurances in 1999 that if Mr. Delaney signed a child support arrearage agreement it would never again be involved in this action.

- (3) Whether the trial court erred by not applying laches to bar the State's action.
- (4) Whether the trial court erred by not setting aside the 1978 award of custody to the child's maternal grandparents for failure to notify Mr. Delaney.
- (5) Whether the trial court erred by not dismissing a 1998 petition for willful contempt where the child was emancipated in 1990.
- (6) Whether the trial court erred by not dismissing the State's petition where the child was emancipated in 1990 and the statute removing the statute of limitations on child support arrearages went into effect in 1997.
- (7) Whether the trial court erred by refusing to find the Assistant District Attorney had committed fraud by promising he would not become involved in the case again when he knew the State could not be bound by his agreement.
- (8) Whether the trial court erred by not allowing Mr. Delaney to raise the issue of the Mother's failure to pay support and her illegal receipt of social security benefits.
- (9) Whether the trial court erred by setting private hearings designed to "keep the public from knowing the broken promise and fraudulent dealings of the Assistant District Attorney."
- (10) Whether the trial court erred by not dismissing the petition because the child never received State aid and Mr. Farris did not sign the oath on the petition.
- (11) Whether the trial court erred by refusing to hear supporting affidavits to motions filed in August 2006.

Analysis

We begin our analysis by noting that most of the issues raised by Mr. Delaney pertain to orders entered by the trial court which were not appealed within the thirty-day period permitted under Rule 4 of the Tennessee Rules of Appellate Procedure. Thus, we have jurisdiction over only those matters pertaining to the State's petition to enforce the 1999 agreed settlement. All matters pertaining to custody and the award of child support arrearages to the Farris became final thirty days after the orders adjudicating those matters were entered by the trial court. Further, in light of the entire record and the rather protracted history of this case, we agree with the trial court that Mr.

Delaney's motion to set aside those orders and/or the 1999 agreement under Rule 60 is without merit.

The parties do not dispute that, in 1999, Mr. Delaney agreed to pay child support arrearages in the amount of \$8,711.31. Mr. Delaney does not contend that he complied with the terms of this agreement. Rather, Mr. Delaney asserts that the State is estopped from enforcing the agreement because the Assistant District Attorney promised "he would never be involved again" if Mr. Delaney signed the agreement. Mr. Delaney asserts that he was somehow fraudulently induced into signing the agreement where the Assistant District Attorney did not intend to never again be involved in the matter. His argument, as we perceive it, is that the 1999 agreement required only his signature, not his compliance, and the State was accordingly estopped from petitioning for enforcement of the agreement. A novel argument. However, in its July 2006 order, the trial court found that there was no evidence to support Mr. Delaney's allegations of fraud for the purposes of Tennessee Rules of Civil Procedure 60.02(2). We note that no transcript of the June 2006 hearing in the trial court or statement of the evidence have been filed on appeal. Thus, we presume the trial court's findings of fact to be correct. *In re M.L.D.*, 182 S.W.3d 890, 895 (Tenn. Ct. App. 2005).

Upon review of the record in this case, we can find no grounds upon which the 1999 agreed settlement should not be enforced. The trial court found that the agreement had not been fraudulently induced, and there is nothing in the record that would overcome the presumption of correctness afforded to the trial court. Issues pertaining to the 1978 custody award are moot; the trial court's 1983 order awarding child support became final thirty days after entry, and Mr. Delaney filed no petition to modify child support. Further, in light of the trial court's findings, there is no basis upon which the 1999 agreement should be set aside. It is apparent to this Court that, since 1983, Mr. Delaney simply has refused to pay his child support obligation and, since 1999, has evaded the arrearages settlement to which he agreed.

Holding

We affirm the judgment of the trial court. Costs of this appeal are taxed to the Appellant, James Delaney.

DAVID R. FARMER, JUDGE