Affirm and Opinion Filed July 20, 2020

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-19-00591-CV

IN THE INTEREST OF K.M.B. AND P.J.B., MINOR CHILDREN

On Appeal from the 303rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DF-11-02146

OPINION

Before Justices Bridges, Molberg, and Carlyle
Opinion by Justice Molberg

E.W.B. (Father) appeals the trial court's order increasing his child support obligation to his two minor children, K.M.B. and P.J.B., paid monthly to J.L.E., the children's mother (Mother). In three issues, Father argues the trial court improperly included his military allowances in its calculation of net resources for purposes of assessing his child support obligation; abused its discretion by finding a material and substantial change in circumstances justifying a modification in his child support obligation; and abused its discretion by awarding Mother attorney's fees in the amount of $4,000. We affirm the trial court's judgment.

BACKGROUND

Father is an active duty serviceman in the United States Army Reserve. The trial court signed a final decree of divorce between Mother and Father on December 19, 2011. Mother was awarded custody of K.M.B. and P.J.B. The divorce decree ordered Father to pay child support in the amount of $673 per month and retroactive child support—that should have been previously paid to Mother but was not—in the amount of $3,000, to be paid in specified installments. The trial court further ordered that Father's monthly child support obligation be automatically deducted from his pay and forwarded to Mother.

In April 2018, a negotiated conference was held and Father agreed to increase his monthly child support obligation to $906. The trial court entered a child support review order reflecting the support modification agreement on May 7, 2018. The May 2018 child support review order acknowledged the order was made pursuant to the parties' agreement and found "there has been a material and substantial change in the circumstances of the children or parties, or it has been three years since the order was rendered or last modified and the monthly amount of the child support award under the order differs by either 20 percent or $100 from the amount that would be awarded in accordance with the child support guidelines. . . ."

Within thirty days of entry of the May 2018 child support review order, Mother moved for a new trial. On July 2, 2018, the trial court granted Mother's

motion for new trial and vacated the May 2018 child support review order. The record on appeal reflects Father did not appeal, but rather agreed to, the trial court's July 2018 order.[1]

According to Mother, the calculation of Father's net resources that served as the basis of the April 2018 agreement and the May 2018 order was incorrect. Specifically, Mother contended Father's military allowances for housing and subsistence, paid to him monthly, were not—but should have been—included as resources for purposes of Father's child support assessment under the statutory guidelines. Father, however, protested that military allowances are not a resource under the child support guidelines.

Several proceedings ensued. Ultimately, after conducting a hearing on March 5, 2019, the trial court entered the child support review order that is the subject of this appeal on May 9, 2019 (May 2019 order). The May 2019 order found Father's monthly net resources, including his monthly paid military allowances for housing and subsistence, are $6,599.20; raised Father's monthly child support obligation from $673 to $1,659.80; and ordered Father to pay Mother attorney's fees in the amount of $4,000.

[1] The July 2, 2018 order reflects the trial court was "presented with this agreed Order for New Trial."

On March 8, 2019, Father filed a request for the trial court to enter findings pursuant to section 154.130 of the family code. *See* TEX. FAM. CODE § 154.130. In its May 2019 order, the trial court made the following findings:

> The Court finds, since the date of the rendition of the order entitled, *Final Decree of Divorce,* signed on December 19, 2011, the circumstances of the parties and/or children have materially and substantially changed, or have become inappropriate or unworkable under existing circumstances, regarding child support and medical support for the children. The Court further finds that modification of the prior order regarding child support and medical support is appropriate and is in the best interest of the children. The Court finds that modification of the prior order is appropriate, and is in the best interest of the children.

The trial court made the following child support guideline findings:

> A. The Court finds, pursuant to §154.130, Tex. Fam. Code Ann.:
>
> a. the monthly net resources of the **Obligor** per month are $6,599.20;
>
> b. **Obligor** is obligated to provide support for the following:
>
> (1). The number of children before the Court is 2.
>
> (2). The number of minor children not before the Court residing in the same household with the **Obligor** is 0.
>
> (3). The number of children not before the Court for who **Obligor** is obligated by a court order to provide child support, and who are not counted under paragraph (1) or (2) is 0.
>
> c. The percentage applied to the **Obligor's** net resources for child support is 25%.

On these findings, the trial court ordered Father to pay statutory child support for K.M.B. and P.J.B. in the amount of $1,649.80 per month. Father filed a motion for new trial on May 29, 2019, which was denied by operation of law.

STANDARD OF REVIEW

The trial court has broad discretion to set or modify child support. *In re A.M.W.*, 313 S.W.3d 887, 890 (Tex. App.—Dallas 2010, no pet.). We will not disturb a trial court's ruling on a support order absent a clear abuse of discretion. *Worford v. Stamper*, 801 S.W.2d 108, 109 (Tex. 1990). The trial court abuses its discretion if it acts in an arbitrary and unreasonable manner or without reference to any guiding principles. *Id.*; *Downer v. Aquamarine Operators, Inc.*, 701 S.W.2d 238, 242 (Tex. 1985). Under this standard, the legal and factual sufficiency of the evidence are relevant factors but are not considered as independent grounds of error. *In re M.C.M.*, No. 04-15-00565-CV, 2016 WL 3181574, at *2 (Tex. App.—San Antonio June 8, 2016, no pet.) (mem. op.). We review the evidence in the light most favorable to, and indulge every legal presumption in favor of, the trial court's ruling. *Id*. If some evidence of a substantial and probative character supports the trial court's decision, there is no abuse of discretion. *In re S.E.K.*, 294 S.W.3d 926, 930 (Tex. App.—Dallas 2009, pet. denied).

We review a trial court's statutory interpretation of the proper method to calculate child support de novo. *In re P.C.S.*, 320 S.W.3d 525, 532 (Tex. App.—

Dallas 2010, pet. denied). Our primary task in construing a statute is to ascertain and give effect to the legislature's intent by first looking at the express language of the statute according to its plain and ordinary meaning, unless doing so would cause an absurd result or a contrary intention is evident from the context. *Id.*

APPLICABLE LAW

The starting point for assessing child support liability under the Texas Family Code is to calculate the child support obligor's monthly "net resources" and apply statutory guidelines to that amount. TEX. FAM. CODE §§ 154.061(a), 154.062, 154.125. Section 154.062 of the family code provides an all-inclusive definition of "net resources" and then specifies certain sums which are not considered "resources" as well as certain sums the court must deduct from its calculation of net resources. *Id.* § 154.062. The amount of child support assessed under the guidelines is presumed reasonable, in the best interest of the child, and appropriate. *Id.* § 154.122. "Resources" includes:

> (1) 100 percent of all wage and salary income and other compensation for personal services (including commissions, overtime pay, tips, and bonuses);
>
> (2) interest, dividends, and royalty income;
>
> (3) self-employment income;
>
> (4) net rental income . . .; and
>
> (5) all other income actually being received, including severance pay, retirement benefits, pensions, trust income, annuities, capital

> gains, social security benefits other than supplemental security income, unemployment benefits, disability and workers' compensation benefits, interest income from notes regardless of the source, gifts and prizes, spousal maintenance, and alimony.

Id. § 154.062(b). "Resources" does not include:

> (1) return of principal or capital;
>
> (2) accounts receivable;
>
> (3) benefits paid in accordance with the Temporary Assistance for Needy Families program; or
>
> (4) payments for foster care of a child.

Id. § 154.062(c). The language of section 154.062(b)(5) indicates the legislature intended that "all receipts of money that are not specifically excluded by the statute (section 154.062(c)), whether nonrecurring or periodic, whether derived from the obligor's capital or labor or from that of others, must be included in the definition of 'resources.'" *In re P.C.S.*, 320 S.W.3d at 537.

ANALYSIS

The Trial Court Made The Necessary Findings Under Section 154.130

Although not presented as an independent issue, we begin by addressing Father's complaint the trial court failed to make findings under section 154.130.[2] *See* TEX. FAM. CODE § 154.130. If either a party makes a timely written request or

[2] Father complains the trial court failed to make "findings of fact and conclusions of law," but section 154.130 refers to specified "findings" the trial court must make under enumerated circumstances. TEX. FAM. CODE § 154.130.

an oral request in open court at the hearing, or if the trial court's child support award varies from statutory guidelines, the court is required to make the findings specified in subsection (b).[3] *Id.* If applicable, subsection (b) requires the trial court to:

> [S]tate whether the application of the guidelines would be unjust or inappropriate and shall state the following in the child support order:
>
> "(1) the net resources of the obligor per month are $_____;
>
> "(2) the net resources of the obligee per month are $_____;
>
> "(3) the percentage applied to the obligor's net resources for child support is _____%; and
>
> "(4) if applicable, the specific reasons that the amount of child support per month ordered by the court varies from the amount computed by applying the percentage guidelines under Section 154.125 or 154.129, as applicable."[4]

TEX. FAM. CODE § 154.130(b). A trial court's failure to make section 154.130 findings upon proper request is presumed reversible error unless the record affirmatively shows the requesting party suffered no harm. *In re S.V.*, No. 05-18-00037-CV, 2019 WL 516730, at *3 (Tex. App.—Dallas Feb. 11, 2019, no pet.) (mem. op.); *R.H. v. Smith*, 339 S.W.3d 756, 766 (Tex. App.—Dallas 2011, no pet.)

[3] Section 154.130(a) of the Texas Family Code states, "Without regard to [Texas Rules of Civil Procedure] 296 through 299[,] in rendering an order of child support, the court shall make the findings required by Subsection (b) if: (1) a party files a written request with the court before the final order is signed, but not later than 20 days after the date of rendition of the order; (2) a party makes an oral request in open court during the hearing; or (3) the amount of child support ordered by the court varies from the amount computed by applying the percentage guidelines under [the family code]." TEX. FAM. CODE § 154.130(a).

[4] Findings under Subsection (b)(2) are required only if evidence of the monthly net resources of the obligee has been offered. TEX. FAM. CODE § 154.130(c).

(citing *Willms v. Americas Tire Co., Inc.*, 190 S.W.3d 796, 801 (Tex. App.—Dallas 2006, pet. denied)). Generally, a complainant has been harmed if the trial court's failure to make findings causes him to have to guess at the reason the trial court ruled against him or prevents him from properly presenting his case to the appellate court. *In re S.V.*, 2019 WL 516730, at *3.

Here, as discussed below, the trial court did not vary from the child support guidelines; and it made the necessary findings required by section 154.130 in the May 2019 child support review order. The court's May 2019 order found modification of the December 2011 support order was appropriate and further found "pursuant to § 154.130" that Father's monthly net resources are $6,599.20[5]; Father is obligated to provide support for his two minor children; and the "percentage applied to [Father's] net resources for child support is 25%." No other findings were necessary, because no evidence of Mother's monthly net resources was offered, *id.* § 154.130(c), and as discussed below, the trial court did not deviate from the statutory percentage guidelines. *Id.* § 154.130(b)(4); *see also Champenoy v. Champenoy*, No. 01-12-00668-CV, 2013 WL 3327328, at *5 (Tex. App.—Houston [1st Dist.] June 27, 2013, no pet.) (mem. op.).

[5] Father's base monthly pay with the Army is $4,493.10. He receives an additional $2,511 per month from the Army as a housing allowance and $369.39 per month as a basic subsistence allowance. The housing and subsistence allowances are not subject to federal income tax.

The Trial Court Properly Included Military Allowances As A Resource In Assessing Child Support

We next address the issue of whether the trial court correctly included Father's military allowances for housing and subsistence in his monthly net resources for the purpose of calculating his child support obligation to his two minor children.

In addition to a soldier's base pay, Congress has provided certain allowances, including an allowance to supplement off-base housing expenses (BAH) and a basic allowance for subsistence (BAS). The payments are intended to assist with a service member's housing and food expenses, but there are no legal requirements governing—and no accounting for—how the allowances are spent.

According to Father, since BAH and BAS are not subject to federal income taxes, they should not be considered income. It is true that the United States Internal Revenue Code excludes qualified military benefits, including military allowances, from gross income. However, the definition of "income" for tax purposes is not interchangeable with the definition of "income" for calculating child support. The purposes of those calculations are different. That the federal tax code excludes qualified military benefits from gross income is of little weight in evaluating whether BAH and BAS should be included as a resource in assessing child support. The Internal Revenue Code addresses the calculation of taxable income. Chapter 154 of the family code, on the other hand, is concerned with ascertaining the obligor's income in order to protect the child's best interest and to maintain an adequate

standard of living for the child. *In re A.R.W.*, No. 05-18-00201-CV, 2019 WL 6317870, at *9 (Tex. App.—Dallas Nov. 26, 2019, no pet.) (mem. op.); *see also Ochsner v. Ochsner*, 517 S.W.3d 717, 724 (Tex. 2016) (courts must consider whether court-approved child support agreements "serve the child's best interests—a recognition of the key tenet that child support is a duty owed by a parent to a child, not a debt owed to the other parent"). If the Texas Legislature intended the definition of income for child support purposes to parallel the calculation of income for federal income taxes, the language of the statute could reflect that.

Father also argues that since military allowances are not specifically listed as a source of income in section 154.062 of the family code, they should not be considered income for purposes of calculating child support. Section 154.062(b) provides that "Resources include" certain enumerated sources or categories of income—wages, salaries, interest, dividends, royalties, self-employment income, rental income, and "*all other income actually being received*." TEX. FAM. CODE § 154.062(b)(5) (emphasis added). Under general rules of code construction, the word "include" is a word of enlargement and not of limitation, and use of that word does not create a presumption that items not expressed are excluded. *See* TEX. GOV'T CODE §§ 311.005, 311.005(13); *In re P.C.S.*, 320 S.W.3d at 537. It is not necessary or even plausible for the legislature to list every source of a parent's potential financial resources. Instead, the statute specifies sums which are not

considered resources for purposes of child support assessment and sums which are deducted from the calculation of net resources. The wording of section 154.062(b) is broad and nonrestrictive to encompass any compensation, regardless of what it is called, and nothing in the section indicates the list of resources is exclusive. Use of the word "include" in section 154.062(b) and the phrase "all other income actually being received" in section 154.062(b)(5) suggest a legislative intent to encompass additional, unlisted sources of "resources."

The duty to pay child support, thus, is not limited to an obligor's ability to pay from earnings but also includes the obligor's ability to pay from any and all available sources. *See Johnson v. Johnson*, No. 05-99-01155-CV, 2001 WL 371839, at *2 (Tex. App.—Dallas Apr. 15, 2001, no pet.); *see also In re I.Z.K.*, No. 04-16-00830-CV, 2018 WL 1176646, at *3 (Tex. App.—San Antonio Mar. 7, 2018, no pet.) (mem. op.); *Finley v. Finley*, No. 02-11-00045-CV, 2015 WL 294012, at *5 (Tex. App.—Fort Worth Jan. 22, 2015, no pet.) (mem. op.). Father's BAH and BAS contribute a significant amount of income towards his ability to provide for his own needs as well as the needs of K.M.B. and P.J.B. These military allowances are paid to him in his paychecks and are available to him as discretionary spending. There is no reason they should not be considered resources for purposes of determining his

support obligation to K.M.B. and P.J.B.[6] Because military allowances are not specifically excluded by section 154.062 as a resource to be included in the determination of net resources for purposes of child support assessment, and because BAH and BAS are in-kind benefits which increase Father's income, they must be included in the definition of resources and the calculation of his child support obligation to his minor children.[7] *See In re P.C.S.*, 320 S.W.3d at 537.

In its order, the trial court found Father has monthly net resources of $6,599.20. Father disputes that amount only to the extent it includes his BAH and BAS, and Mother does not dispute that amount. Because Father has two children entitled to support, the statute requires that we multiply his monthly net resources of $6,599.20 by twenty-five percent, which yields a monthly child support obligation

[6] *See Rose v. Rose*, 481 U.S. 619 (1987). In *Rose v. Rose*, the United States Supreme Court held the inability to subject certain federal benefits to garnishment does not prohibit a state court from utilizing them in child support proceedings. In *Rose*, the Court addressed the issue of whether a veteran could be held in contempt in a state court for failure to pay child support when his veteran's benefits were his only source of income. The Court stated that "[w]hile [veteran's benefits] are exempt from garnishment or attachment while in the hands of the Administrator, we are not persuaded that once these funds are delivered to the veteran a state court cannot require that the veteran use them to satisfy an order of child support." *Id.* at 635.

[7] Other states have come to the same conclusion with respect to the inclusion of military allowances for the purpose of calculating an obligor's child support obligation. *See Childs v. Childs*, 310 P.3d 955 (Alaska 2013) (father's military allowance for housing constitutes income for purposes of determining his child support obligation); *In re Long*, 921 P.2d 67 (Colo. App. 1996) (service member's basic allowance for quarters is included as income for purposes of calculating child support); *Dep't of Revenue v. Price*, 182 So.3d 782 (Fla. Dist. Ct. App. 2015) (overseas housing allowance, an allowance to offset off-base housing expenses when a military service member is deployed to a location where housing costs are higher than what the basic allowance for housing covers, is gross income for purposes of calculating child support obligation); *Shelhamer v. Hodges*, 366 P.3d 255 (Mont. 2016) (father's annual military housing allowance and annual basic subsistence allowance, provided in addition to his base pay, constitute "actual income" included in calculating his child support obligation); *Alexander v. Armstrong*, 609 A.2d 183 (Pa. Super. Ct. 1992) (service member's allowance for quarters and variable housing allowance are included as income for child support, although they are not taxable).

of $1,649.80, the amount awarded by the trial court. *See* TEX. FAM. CODE § 154.125. Per statutory guidelines, once the oldest child turns eighteen years of age or graduates from high school, Father's monthly support obligation is reduced to $1,319.84, or twenty percent of Father's monthly net resources. *See id.*

We conclude the trial court properly included Father's BAH and BAS as resources under section 154.062 of the family code in calculating his support obligation to K.M.B. and P.J.B. as $1,659.80 per month. We resolve Father's first issue against him.

The Trial Court Did Not Err By Modifying The Support Order

In his second issue, Father contends the trial court erred by modifying the support order because the evidence is insufficient to show a material and substantial change in the circumstances of the parties or the minor children.

The family code permits the trial court to modify a child support order if the movant shows (1) the circumstances of a child or a person affected by the order has materially and substantially changed since the earlier of: (a) the date of the order's rendition, or (b) the date the settlement agreement on which the order is based was signed; or (2) three years have elapsed since the order was rendered or last modified and the child support award differs by either twenty percent or $100 from the amount that would be awarded in accordance with the child support guidelines. TEX. FAM. CODE § 156.401(a). Thus, Mother is not required to show a material and substantial

change of circumstances to warrant modification of the December 2011 child support order if three or more years have lapsed and if the amount ordered at that time—$673 per month—differs by twenty percent or $100 from the current amount of support ordered in accordance with child support guidelines—$1,659.80. *Id.*; *see also Njeako v. Njeako*, No. 14-04-00991-CV, 2005 WL 3072025, at *5 (Tex. App—Houston [14th Dist.] Nov. 17, 2005, no pet.) (mem. op.).

Father testified at the March 5, 2019 hearing. He confirmed "child support has not been modified since [December 2011]," when the trial court ordered him to pay monthly child support to Mother in the amount of $673 per month. Father's counsel affirmed that amount was ordered and not agreed. There is no dispute the amount of child support ordered in the divorce decree differs by twenty percent or $100 from the amount ordered in the May 2019 child support review order. On the record, the trial court correctly stated the family code provides:

> [If] it [has] been three years since the entry of the initial [child support] order and support will differ by 20 percent or $100 . . . .
>
> * * *
>
> If the previous order was ordered, neither party is required to prove material or substantial change for modification of child support under those circumstances.

Father did not dispute the trial court's statements.

Although the trial court's May 2019 child support review order finds "the circumstances of the parties and/or children have materially and substantially

changed" since rendition of the child support order in the December 2011 divorce decree, the trial court also "further [found] modification of the prior order regarding child support and medical support is appropriate and is in the best interests of the children." We already concluded Father's BAH and BAS constitute resources under section 154.062 of the family code and the trial court followed statutory guidelines in assessing child support in the monthly amount of $1,659.80, or twenty-five percent of his net resources, for his two minor children. Reading the language of the trial court's May 2019 order together with the court's statements at the March 2019 hearing, we conclude the trial court followed the statutory requirements for modification under family code section 156.401(a)(2), and Mother was not required to show a material and substantial change in circumstances. TEX. FAM. CODE § 156.401(a)(2); *see also Njeako*, 2005 WL 3072025, at *5. Therefore, the trial court's order increasing Father's support obligation to $1,659.80 per month did not constitute an abuse of discretion.[8]

We resolve Father's second issue against him.

[8] Due to our resolution of this issue, we need not address whether the record demonstrates a showing of a material and substantial change in circumstances, including any such change arising out of Father's pay increases since the December 2011 order on child support. Moreover, Father has not made any argument in his brief on appeal that family code section 156.401(a)(2) does not apply to this case. Nor did Father include anything in the record on appeal showing section 156.401(a)(2) does not apply to this case. *See In re Marriage of Pyrtle*, 433 S.W.3d 152, 166 (Tex. App.—Dallas 2014, pet. denied) (burden is on appellant to see that sufficient record is presented on appeal to show error requiring reversal) (quoting *Christiansen v. Prezelski*, 782 S.W.2d 842, 843 (Tex. 1990)); *see also Holley v. Holley*, 864 S.W.2d 703, 707 (Tex. App.—Houston [1st Dist.] 1993, writ denied) (same) ("In the absence of a complete record, we must presume the evidence before the trial court supported its judgment.").

The Trial Court Did Not Err By Awarding Mother Attorney's Fees

In his third issue, Father contends the trial court erred by awarding Mother her attorney's fees "without reference to the evidence or actions of the parties." We note the trial court awarded Mother a portion, and not all, of her attorney's fees.

The Texas Family Code invests a trial court with broad discretion to award reasonable fees to a party in a modification proceeding to be paid directly to the party's attorney. TEX. FAM. CODE § 106.002(a) (in a suit affecting the parent-child relationship (SAPCR), "the [trial] court may render judgment for reasonable attorney's fees and expenses. . . to be paid directly to an attorney."); *In re B.J.W.*, No. 05-17-00253-CV, 2018 WL 3322882, at *1 (Tex. App.—Dallas July 6, 2018, no pet.) (mem. op.) ("Section 106.002 of the family code invests a trial court with general discretion to award reasonable attorney's fees in all suits affecting the parent-child relationship, including modification suits."); *In re R.C.S.*, 167 S.W.3d 145, 152 (Tex. App.—Dallas 2005, pet. denied) ("It is within the trial court's sound discretion to award reasonable attorney's fees in a suit affecting the parent-child relationship."). The statute does not designate to whom fees may be awarded, nor does it limit the trial court's designation. TEX. FAM. CODE § 106.002(a). While section 106.002 does not impose a prevailing-party requirement, it is one factor a trial court may consider in making a determination on an attorney's fees award. *See In re M.A.N.M.*, 231 S.W.3d 562, 566 (Tex. App.—Dallas 2007, no pet.); *see also*

In re A.T.T., 583 S.W.3d 914, 924 (Tex. App.—El Paso 2019, no pet.) (recognizing family code allows trial court to award attorney's fees to prevailing party in SAPCR proceeding); *Coburn v. Moreland*, 433 S.W.3d 809, 840 (Tex. App.—Austin 2014, no pet.) ("The absence of a bright-line rule (or even an articulable rule) [is] consistent with the broad discretion trial courts are afforded in awarding attorney's fees in SAPCR proceedings."). We review a trial court's award of attorney's fees in a SAPCR for an abuse of discretion. *In re S.C.*, No. 05-18-00629-CV, 2020 WL 3046203, at *2 (Tex. App.—Dallas June 8, 2020, no pet.) (mem. op.); *In re R.C.S.*, 167 S.W.3d at 152.

In this case, Mother requested a new trial on the grounds Father did not include his BAH and BAS in his calculation of net resources. As discussed, supra, the trial court correctly included these military allowances in its assessment of Father's child support obligation to his two minor children as reflected in the May 2019 order. Under the circumstances of this case, we cannot say the trial court abused its discretion in awarding Mother reasonable attorney's fees.

An attorney's fee award must be supported by the evidence. *Thomas v. Thomas*, 895 S.W.2d 895, 898 (Tex. App.—Waco 1995, no writ.). To support a request for reasonable attorney's fees, testimony should be given regarding the hours spent on the case, the nature of preparation, the experience of the attorney, and the prevailing hourly rates. *See Goudeau v. Marquez*, 830 S.W.2d 681, 683 (Tex.

App.—Houston [1st Dist.] 1992, no writ). Sworn testimony from an attorney concerning an award of attorney's fees is considered expert testimony. *Nguyen Ngoc Giao v. Smith & Lamm, P.C.*, 714 S.W.2d 144, 148 (Tex. App.—Houston [1st Dist.] 1986, no writ).

At the March 2019 hearing, Susan Vrana, Mother's attorney, testified Mother hired her to represent her in this matter and entered into an agreement to pay Vrana attorney's fees of $450 per hour plus court costs. Vrana further testified:

> [P]rior to 8:30 today, I had spent 14 hours on my time at . . . $450 an hour, that's $6,300. She had $103 in filing fees.
>
> I anticipate that we'll be here about an hour[-]and-a-half this morning and post[-]trial there would be about another hour in drafting or reviewing and obtaining entry of an order, so that would be another hour[-]and-a-half of time for a total of $7,075.
>
> In this matter I filed a Motion for New Trial, a Motion to Reform the Judgement [sic]. I've reviewed the pay of [Father] and done research regarding his income. I've made at least three trips to the courthouse for hearings or to set matters or to appear for pretrials. I've prepared my client for at least two hearings.
>
> On February 1st, within the discovery period in this matter I was served discovery by Mr. Durrance and I filed objections, but also answered that discovery, spent our time answering discovery that was due yesterday, the day before trial.
>
> My fees in this matter are reasonable for my experience and length of practice and my services were necessary for [Mother]. And we are asking the Court, because of the resistance in this matter by [Father] to pay support based on his income, we're asking that [Mother] be awarded judgment against him in the amount of $7,075 for attorney's fees.

> I've practiced family law for 41 years in this county and have been board certified since 1985.

Father's attorney told the court he did not have any questions for Vrana. This evidence is sufficient to support the award of attorney's fees. *See In re W.M.R.*, No. 02-11-00283-CV, 2012 WL 5356275, at *14 (Tex. App.—Fort Worth Nov. 1, 2012, no pet.) (mem. op.). We conclude the trial court did not abuse its discretion in awarding $4,000 in attorney's fees to Mother.

We resolve Father's third issue against him. We affirm the trial court's judgment. We deny as moot any pending motions.

/Ken Molberg//

KEN MOLBERG
JUSTICE

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

IN THE INTEREST OF K.M.B. AND P.J.B., MINOR CHILDREN, Appellant	On Appeal from the 303rd Judicial District Court, Dallas County, Texas Trial Court Cause No. DF-11-02146.
No. 05-19-00591-CV V.	Opinion delivered by Justice Molberg. Justices Bridges and Carlyle participating.
Appellee	

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered this 20th day of July, 2020.