

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

CARLTON DIXON,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D16-3099
	)	
SANDRA DIXON n/k/a SANDRA	)	
PFUNDHELLER,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed January 5, 2018.

Appeal from the Circuit Court for Sarasota  
County; Frederick P. Mercurio, Judge.

Chrystal R. Koch of Koch Law Firm,  
Sarasota, for Appellant.

No appearance for Appellee.

MORRIS, Judge.

Carlton Dixon, the former husband, appeals a supplemental judgment for child support. We reverse the judgment in part because the trial court adopted an erroneous finding by the hearing officer that the former husband was required to continue paying medical support payments for his oldest child<sup>1</sup> who had already

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<sup>1</sup>The parties have two children, one of whom is still a minor.

reached the age of majority. We affirm the other portions of the supplemental judgment without further comment.

Because the facts are undisputed and the trial court's decision rests on an issue of law, we review the judgment de novo. Jarrard v. Jarrard, 157 So. 3d 332, 337 n.5 (Fla. 2d DCA 2015).

Ordinarily, a child support order terminates automatically on a child's eighteenth birthday. See Loza v. Marin, 198 So. 3d 1017, 1020 (Fla. 2d DCA 2016) (citing § 61.13(1)(a)(1)(a), Fla. Stat. (2010)). This is because a parent has no legal duty to continue to provide support to a child who has reached the age of majority unless the trial court has made a finding of dependence pursuant to section 743.07(2), Florida Statutes (2010),<sup>2</sup> or the parties otherwise agree. Id. (citing § 61.13(1)(a)(1)(a)); see also Grapin v. Grapin, 450 So. 2d 853, 854 (Fla. 1984); Stultz v. Stultz, 504 So. 2d 5, 6 (Fla. 2d DCA 1986). The termination of a legal duty to support includes support for medical services. See Ison v. Fla. Sanitarium & Benevolent Ass'n, 302 So. 2d 200, 201-02 (Fla. 4th DCA 1974) (holding that "the parent of an emancipated child is not

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<sup>2</sup>Section 743.07(1) provides that once a child reaches the age of 18, they are no longer considered a minor and that they enjoy all the same "rights, privileges, and obligations" of persons who are 21 or older "except as otherwise excluded by the State Constitution . . . and except as otherwise provided in the Beverage Law." But subsection (2) provides that a trial court may order support for a dependent person beyond the age of 18

when such dependency is because of a mental or physical incapacity which began prior to such person reaching majority or if the person is dependent in fact, is between the ages of 18 and 19, and is still in high school, performing in good faith with a reasonable expectation of graduation before the age of 19.

liable for his child's hospital and medical services"). Thus "a 'final judgment's silence on the continuing obligation of support after the child's eighteenth birthday results in the . . . [support] obligation . . . also terminating upon the child's eighteenth birthday.'" Loza, 198 So. 3d at 1021 (alteration in original) (quoting Phillips v. Phillips, 83 So. 3d 903, 905 (Fla. 2d DCA 2012)).

Here, at the time of the divorce between the former husband and the former wife, Sandra Dixon a/k/a Sandra Pfundheller, the parties' oldest child was still a minor. The final judgment of dissolution of marriage required the former husband to pay \$176.67 per month towards the costs of "ongoing" diabetes treatment for the parties' oldest child. When the child support amount was amended in April 2010, at a time when the oldest child was still a minor, the \$176.67 medical support payments were continued "as previously ordered." Thus both the final judgment of dissolution and the April 2010 order amending child support were silent on the issue of whether the former husband's obligation to pay the medical support payments was to continue after the oldest child reached the age of majority. And it is undisputed that the trial court never made a finding that the oldest child was physically incapacitated. Likewise, it is undisputed that the parties never entered into an agreement that the former husband would continue to pay the medical support payments beyond the oldest child's eighteenth birthday.

The hearing officer erred in treating the medical support payments as a separate obligation that could not be modified in the child support modification proceedings. In his pro se motion to re-determine back child support, the former husband sought to have his obligation to pay the medical support payments cease due

to the oldest child's emancipation based on the child reaching the age of majority. And section 61.13(1)(a)(2)(b), addresses medical support payments within the context of child support payments generally. Thus the medical support payments were subject to modification in the child support modification proceedings.

The hearing officer then compounded the error by concluding that the former husband was obligated to continue paying the medical support payments because the final judgment of dissolution "doesn't have a stopping date" and because the former wife was still paying for the oldest child's diabetes treatment. As we have already explained, both the final judgment and the April 2010 order amending child support were silent on the continuing nature of the medical support payments once the oldest child reached the age of majority. Consequently, the former husband's obligation to pay the medical support payments ended once the oldest child turned eighteen. See Loza, 198 So. 3d at 1021.

Because the trial court erred in adopting the erroneous findings of the hearing officer, we reverse the portion of the supplemental judgment for child support which continues the former husband's obligation to pay the \$176.67 medical support payments. On remand, the trial court should recalculate the former husband's arrearages consistent with this opinion. See Gilbert v. Cole, 107 So. 3d 426, 427-28 (Fla. 1st DCA 2012) (explaining that where a child support award is allocated<sup>3</sup> between children and the obligor's support obligation as to one child ends upon the occurrence of

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<sup>3</sup>Although the original final judgment of dissolution awarded a single monthly sum for traditional child support for both children, the final judgment made clear that the \$176.67 monthly sum was for the purpose of paying for medical costs related to the oldest child's diabetes treatments. Thus it is undisputed that the medical support payment amount was an allocated award.

the child's emancipation, "the obligor is entitled to a retroactive reduction pre-dating a modification petition, consistent with the statutory child support guidelines"); Karten v. Karten, 983 So. 2d 17, 19 (Fla. 3d DCA 2008) (explaining that obligation of support terminates automatically upon a child attaining the age of majority and that "[i]f there must be resort to the court for recalculation of the child support amount for the remaining children, then the recalculation is retroactive to the date the child attained eighteen (or had another qualifying event)"). In all other respects, the supplemental judgment for child support is affirmed.

Affirmed in part, reversed in part, and remanded for proceedings in conformance with this opinion.

KHOUZAM and CRENSHAW, JJ., Concur.