

SUMMARY STATEMENT

Voss v. Voss
Docket No. 48313

After Raymond Henry Voss, III, filed for divorce from his wife, his annual gross income decreased by approximately one-half, although he continues to work for the same employer, which has employed Raymond for twenty years. After trial, the magistrate court awarded the wife child support and spousal maintenance. Raymond appealed these awards to the district court, which remanded the case for further proceedings and findings on the wife's needs for spousal maintenance and whether Raymond is voluntarily underemployed for purposes of determining child support.

On remand, the magistrate court held an evidentiary hearing at which Raymond and the wife testified. The magistrate court also considered the deposition testimony of a representative of Raymond's employer. The magistrate court found Raymond is voluntarily underemployed and is capable of earning his higher historic annual gross income, and it awarded child support and spousal maintenance based on that income. Raymond again appealed to the district court, which affirmed the magistrate court.

On appeal to this Court, Raymond argues the magistrate court violated the law of the case doctrine by concluding he is voluntarily underemployed. This Court rejects that argument, concluding the district court's opinion remanding the case to the magistrate court did not establish a principle of law but, rather, required further factual findings, which did not trigger the application of the law of the case doctrine.

Raymond also argues that substantial and competent evidence does not support the magistrate court's findings that he is voluntarily underemployed. This Court also rejects that argument. The evidence shows Raymond's gross annual income has been reduced by approximately one-half since he filed for divorce. Further, the magistrate court rejected the testimony of Raymond and his employer that Raymond was not voluntarily underemployed because he had no input or control over his employer's decision to significantly decrease Raymond's pay. Substantial and competent evidence supports these credibility findings. Accordingly, this Court affirms the district court's affirmance of the magistrate court's awards of spousal maintenance and child support and awards attorney fees and costs to the wife on appeal.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.