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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-591**

In re the Marriage of:
Maxine Meredith Martin, petitioner,
Respondent,

vs.

Kalib Joyson Martin,
Appellant,

and

Dakota County,
Respondent.

**Filed March 25, 2008
Affirmed
Willis, Judge**

Dakota County District Court
File No. F2-03-14543

Lisa Hollingsworth, Southern Minnesota Regional Legal Services, Inc., 166 East Fourth Street, Suite 200, Saint Paul, MN 55101 (for respondent Maxine Meredith Martin)

Kalib Joyson Martin, 13821 Echo Park Terrace, Burnsville, MN 55337 (pro se appellant)

James C. Backstrom, Dakota County Attorney, James W. Donehower, Assistant County Attorney, One Mendota Road West, Suite 220, West St. Paul, MN 55118-4769 (for respondent Dakota County)

Considered and decided by Willis, Presiding Judge; Shumaker, Judge; and Crippen, Judge. *

UNPUBLISHED OPINION

WILLIS, Judge

In this support-modification proceeding, appellant challenges a district-court order modifying his child-support obligation. We affirm.

FACTS

In August 2006, appellant Kalib Martin (“father”) moved to modify his child-support obligation, which required him to pay \$208 monthly to respondent Maxine Martin (“mother”), on the ground that his income had decreased substantially since entry of the support order. Because the parties have joint physical custody of the minor children, their individual child-support obligations are determined under the child-support guidelines and then offset under the *Hortis/Valento* formula to determine the net amount owed by the parent with the greater obligation. See *Valento v. Valento*, 385 N.W.2d 860, 862-63 (Minn. App. 1986), *review denied* (Minn. June 30, 1986); *Hortis v. Hortis*, 367 N.W.2d 633, 636 (Minn. App. 1985). A child-support magistrate found that mother was working 20 hours per week but that “[t]here [wa]s no physical or medical reason why she cannot work 40 hours per week” and thus that she was “voluntarily underemployed.” Therefore, the magistrate calculated mother’s income for support purposes to include income imputed to her based on a 40-hour workweek and modified the support order accordingly, which resulted in mother owing father \$182.50 per month.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

On review, the district court found that mother “receives Medical Assistance for the benefit of the minor children” and concluded that “imputing income to [mother] is not appropriate” because “the law presumes” that “a recipient of such benefits . . . is not voluntarily underemployed.” But based on father’s diminished income, the district court modified the support order to require father to pay \$77 per month. Father appeals from the district court’s decision.

DECISION

Whether to modify child support is discretionary with the district court. *Putz v. Putz*, 645 N.W.2d 343, 347 (Minn. 2002). A district court abuses its discretion if it misapplies the law. *Ver Kuilen v. Ver Kuilen*, 578 N.W.2d 790, 792 (Minn. App. 1998).

During its 2005 and 2006 sessions, the legislature revised Minnesota’s child-support laws. *See generally* 2006 Minn. Laws ch. 280; 2005 Minn. Laws ch. 164. Father argues that the district court should have applied one of these revisions, now codified as Minn. Stat. § 518A.32 (2006), to his motion. The legislation establishing the effective date of the relevant revisions provides that “the provisions used to calculate parties’ support obligations apply to actions or motions filed after January 1, 2007.” 2006 Minn. Laws ch. 280, § 44, at 1145. Thus, because father’s motion was filed before January 1, 2007, section 518A.32 does not apply to his motion if that section is a “provision used to calculate . . . support obligations.” *Id.*

Section 518A.32 provides in part that “[i]f a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, . . . child support must be calculated based on a determination of potential income.” Minn. Stat. § 518A.32,

subd. 1. Clearly, this provision is used to calculate support obligations. Thus, it applies only to motions “filed after January 1, 2007.” 2006 Minn. Laws ch. 280, § 44, at 1145. Accordingly, the district court was correct in not applying that provision to father’s August 2006 motion.

Affirmed.