

COURT OF APPEALS OF VIRGINIA

Present: Judges Willis, Annunziata and Bumgardner
Argued at Alexandria, Virginia

BRONSON FORD BYRD

v. Record No. 0268-97-4

RENATE MESSER BYRD

MEMORANDUM OPINION* BY
JUDGE RUDOLPH BUMGARDNER, III
MARCH 24, 1998

FROM THE CIRCUIT COURT OF FAIRFAX COUNTY
J. Howe Brown, Jr., Judge

Wyatt B. Durette, Jr. (Richard P. Kruegler;
Durette, Irvin & Bradshaw, P.C., on briefs),
for appellant.

Carole Ann Roop (Robert E. Shoun; Shoun &
Bach, P.C., on brief), for appellee.

Bronson F. Byrd filed a motion to decrease spousal support and child support shortly after perfecting his appeal to this Court of the decree which fixed that support.¹ The motion was dismissed by the trial court which ruled that while the case was on appeal it had no jurisdiction except to dismiss the motion. The motion alleged no change of circumstances, and in argument counsel conceded there was none. The trial court properly dismissed the motion, and we affirm that decision.

The trial court did not have jurisdiction to hear the matter having been divested of that authority when the Court of Appeals acquired jurisdiction. Greene v. Greene, 223 Va. 210, 288 S.E.2d

*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

¹Bronson Ford Byrd v. Renate Messer Byrd, Record No. 2435-96-4, was argued with the instant case.

447 (1982). The trial court may enforce support orders but may not modify the support previously decreed without leave of the appellate court. Decker v. Decker, 17 Va. App. 562, 440 S.E.2d 411 (1994).

The matter will be remanded to the trial court with direction that it fix a reasonable attorney's fee for the appellee for services in defending this appeal. O'Loughlin v. O'Loughlin, 23 Va. App. 690, 479 S.E.2d 98 (1996).

Affirmed and remanded.