

COURT OF APPEALS OF VIRGINIA

Present: Judges Frank, Alston and Senior Judge Coleman

PHILIP A. HOYLE

v. Record No. 1021-10-4

JENNIFER M. HOYLE

MEMORANDUM OPINION\*  
PER CURIAM  
DECEMBER 21, 2010

FROM THE CIRCUIT COURT OF FAIRFAX COUNTY  
Leslie M. Alden, Judge

(Philip A. Hoyle, *pro se*, on briefs).

(Darlene S. Lesser; Odin, Feldman & Pittleman, P.C., on brief), for  
appellee.

Philip A. Hoyle (father) appeals from the circuit court's April 19, 2010 child support order denying his motion to modify his child support obligation and awarding Jennifer M. Hoyle (mother) attorney's fees. On appeal, father contends the trial court erred by (1) failing to find there was a material change in circumstances warranting a change in child support, (2) failing to consider the factors listed in Code § 20-108.1, and (3) awarding attorney's fees to mother.

The record on appeal does not contain a transcript or timely filed written statement of facts. See Rule 5A:8(a) and (c).

We have reviewed the record and the briefs of the parties. We conclude that a transcript or written statement of facts is indispensable to a determination of issues presented on appeal. See Anderson v. Commonwealth, 13 Va. App. 506, 508-09, 413 S.E.2d 75, 76-77 (1992); Turner v. Commonwealth, 2 Va. App. 96, 99-100, 341 S.E.2d 400, 402 (1986). Therefore, we summarily affirm the judgment of the trial court. See Rule 5A:27.

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\* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

Mother asks this Court to award her attorney's fees and costs incurred on appeal.

The rationale for the appellate court being the proper forum to determine the propriety of an award of attorney's fees for efforts expended on appeal is clear. The appellate court has the opportunity to view the record in its entirety and determine whether the appeal is frivolous or whether other reasons exist for requiring additional payment.

O'Loughlin v. O'Loughlin, 23 Va. App. 690, 695, 479 S.E.2d 98, 100 (1996) (footnote omitted).

Because we hold that father's appeal lacks merit and is not supported with an adequate record, we grant mother's request. Accordingly, we remand to the trial court to determine an appropriate award of attorney's fees and costs incurred in this appeal, including any attorney's fees and costs incurred at the remand hearing, and any reasonable attorney's fees and costs of collection, if necessary.

For the foregoing reasons, we summarily affirm the judgment of the trial court and remand for further proceedings consistent with this opinion.

Affirmed and remanded.