

COURT OF APPEALS OF VIRGINIA

Present: Judges Elder, Felton and Senior Judge Willis

RICHARD C. GARRETSON, JR.

v. Record No. 2132-04-4

ELIZABETH M. MILLER

MEMORANDUM OPINION*
PER CURIAM
SEPTEMBER 13, 2005

FROM THE CIRCUIT COURT OF FAUQUIER COUNTY
Paul F. Sheridan, Judge Designate

(Douglas W. Harold, Jr., on brief), for appellant. Appellant
submitting on brief.

No brief for appellee.

On appeal from a judgment finding him in contempt of court and ordering him to pay child support arrearages, Richard C. Garretson, Jr. contends the trial court lacked jurisdiction to grant to Elizabeth M. Miller relief that she did not request in her Motion for a Rule to Show Cause. Finding that this issue was not preserved for appeal, we affirm the judgment of the trial court.

“The Court of Appeals will not consider an argument on appeal which was not presented to the trial court.” Ohree v. Commonwealth, 26 Va. App. 299, 308, 494 S.E.2d 484, 488 (1998).
See Rule 5A:18.

Garretson’s endorsement of the August 18, 2004 final order raises no question as to the trial court’s jurisdiction or as to the sufficiency of the show cause motion to support the holding of the trial court. We have no transcript of the hearing on the Rule to Show Cause, and the written statement of facts does not show that Garretson presented this argument to the trial court.

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

(We note that Garretson failed to include the written statement of facts in the appendix as required by Rule 5A:25(c)). Garretson's motion for reconsideration does not *per se* suffice to raise this issue. The record reflects no action by the trial court on the motion.

Thus, Garretson has failed to show that the issue that he presents on appeal was presented to the trial court. See Rule 5A:18. The record provides no reason to invoke the exception to the operation of the rule. It reflects no actual miscarriage of justice. See Edwards v. Commonwealth, 41 Va. App. 752, 761, 589 S.E.2d 444, 448 (2003) (*en banc*).

The judgment of the trial court is affirmed.

Affirmed.