

HARVILLE v. HARVILLE, *369 So.2d 377* (Fla.App. 1 Dist. 1979)

AUBREY EDWARD HARVILLE, APPELLANT, v. JEANETTE E. HARVILLE, APPELLEE.

No. KK-360.

District Court of Appeal of Florida, First District.

March 27, 1979.

Petition for review from the Circuit Court, Escambia County,
Grover C. Robinson, Jr., J.
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Robert R. McDaniel, Pensacola, for appellant.

James A. Hightower of Levin, Warfield, Middlebrooks, Mabie,
Rosenbloum & Magie, P.A., Pensacola, for appellee.

PER CURIAM.

Appellant, former husband of appellee, seeks review of an order increasing child support and alimony payments to appellee entered upon appellee's Petition to Modify Alimony and Child Support.

Appellant contends the trial court erred by allowing into evidence and considering, over objection, testimony concerning appellant's successive wife's income. In Paragraph One (1) of the order appealed from, the trial court found that:

1. . . . [T]here has been a material change in the financial position of the respondent, Aubrey Edward Harville, in that he has remarried and undertaken additional obligations, but since April 1, 1976 his income has also increased as shown by the evidence.

From this order, it is unclear whether the trial court relied upon the evidence of appellant's successive wife's income to support his finding that appellant's income had increased. Such reliance would have been clearly erroneous. *Condon v. Condon*, [295 So.2d 681](#) (Fla. 1st DCA 1974). However, without consideration of appellant's successive wife's income, there was evidence to support the trial court's findings. The totality of the circumstances clearly support the trial court's order. Accordingly, the order appealed from is AFFIRMED.

Appellee's motion for appellate attorney's fees is provisionally granted and the cause is remanded to the trial court to determine the appropriate amount in accordance with *Dresser v. Dresser*, [350 So.2d 1152](#) (Fla. 1st DCA 1977).

MILLS, Acting C.J., ERVIN, J., and MASON, ERNEST E., Associate Judge, concur.