

IN THE COURT OF APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs December 8, 2003

**PATRICK N. LAWSON v. BRIDGET O'MALLEY**

**An Appeal from the Juvenile Court for Shelby County**  
**No. N-7059 Felicia M. Hogan, Referee; Kenneth A. Turner, Judge**

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**No. W2003-00080-COA-R3-JV - Filed April 22, 2004**

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This case involves the subject matter jurisdiction of Juvenile Court. The mother and the father were divorced by final decree entered in Chancery Court in 1990. The final Chancery Court decree provided that the mother would have custody of the parties' two children, and that the father would pay child support to the mother. Subsequently, the father filed a dependency and neglect action in Juvenile Court, and he was awarded permanent custody of the children. Subsequently, he filed a petition in the Juvenile Court below for child support. The Juvenile Court granted the father's petition, ordering the mother to pay child support to the father. The mother now appeals. We reverse, finding that the Juvenile Court did not have subject matter jurisdiction to decide matters of child support between these parties, because the Chancery Court had previously assumed jurisdiction over such issues.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court is  
Reversed and Remanded**

HOLLY M. KIRBY, J., delivered the opinion of the court, in which W. FRANK CRAWFORD, P.J., W.S., and ALAN E. HIGHERS, J., joined.

Duncan E. Ragsdale, Memphis, Tennessee, for the appellant, Bridget O'Malley.

Nancy H. Schiller, Memphis, Tennessee, for the appellee, Patrick N. Lawson.

**OPINION**

Petitioner/Appellee Patrick N. Lawson ("Father") and Respondent/Appellant Bridget O'Malley ("Mother") were divorced by final decree on August 27, 1990, in Part II of the Shelby County Chancery Court. In the final decree, Mother was granted custody of the parties' two minor daughters, Bridget Kaitlin Lawson (born May 18, 1987) and Johannah Marie Lawson (born August

18, 1988) (collectively “children”). Father was awarded visitation and was ordered to pay \$148.00 per week in child support.<sup>1</sup>

In September 1999, Father filed a dependency and neglect petition in Shelby County Juvenile Court, seeking temporary custody of the children. *See* Tenn. Code Ann. § 37-1-103 (Supp. 2003) (vesting exclusive jurisdiction over dependency and neglect actions in the juvenile court). In May 2001, the Juvenile Court granted permanent custody of both children to Father.<sup>2</sup> Mother appealed that decision to the Circuit Court. On September 6, 2002, the circuit court transferred the Juvenile Court appeal to Part II of Chancery Court, where the divorce decree was entered. The Circuit Court noted that the original divorce proceeding was heard in Chancery Court, and concluded that the custody issue should also be transferred as a “matter[ ] growing out of the parties’ divorce.” Father had maintained primary custody of both children since the Juvenile Court award of custody in September 1999.

Meanwhile, on June 26, 2002, Father filed a petition for child support in Juvenile Court. On August 5, 2002, Mother filed a petition in the Chancery Court for contempt against Father for failing to pay child support to her in accordance with the terms in the final decree of divorce. Consequently, at that time, child support proceedings were ongoing in both the Chancery Court and the Juvenile Court below.

On September 9, 2002, Mother filed a motion in the Juvenile Court below to transfer Father’s child support petition to Part II of Chancery Court, the court to which the dependency and neglect matter was transferred, and which entered the parties’ original divorce decree. On the same day, Mother filed a motion in the Chancery Court to enjoin the Juvenile Court from proceeding on Father’s child support petition. In the motion, Mother asserted that the support petition should be transferred because all other matters arising from the divorce were pending in Chancery Court.<sup>3</sup>

On November 4, 2002, the Juvenile Court held a hearing on Father’s child support petition. At the hearing, Mother argued that the case should be transferred to Chancery Court. Nevertheless, in the event the Juvenile Court would consider Father’s petition, Mother testified about her employment situation and her capacity to pay child support. She claimed that Father had not paid any child support to her between 1991 and 1998, as ordered in the Chancery Court divorce decree, and argued that Father owed her more than \$60,000 in back support. Father also testified. He contended that he had, in fact, paid some support to Mother, but he admitted that he did not pay all of the support ordered by the Chancery Court. At the conclusion of the hearing, the Juvenile Court entered an order denying Mother’s motion to transfer the matter to Chancery Court, and granted

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<sup>1</sup>Though Father claims that the parties subsequently verbally modified his child support obligation, the obligation as set out in the final decree was never modified by the Chancery Court.

<sup>2</sup>The record contains no indication that a finding of dependency or neglect was made.

<sup>3</sup>The Chancery Court’s disposition of this motion is not in the appellate record. Apparently, however, no order enjoining the Juvenile Court from hearing the child support matter was entered.

Father's petition for support. The Juvenile Court ordered Mother to pay Father \$300 per month in child support. From that order, Mother now appeals.

On appeal, Mother argues that the Juvenile Court lacked subject matter jurisdiction to make an award of child support, because the Chancery Court assumed jurisdiction over the matter at the time of the parties' divorce decree when it ordered Father to pay child support to Mother. Issues involving subject matter jurisdiction are questions of law, which we review *de novo*, with no presumption of correctness. *Southwest Williamson County Cmty. Ass'n v. Saltsman*, 66 S.W.3d 872, 876 (Tenn. Ct. App. 2001).

The Juvenile Court is a court of limited jurisdiction, and its subject matter jurisdiction is defined by statute. *In re Linville*, No. M2000-01097-COA-R3-CV, 2000 WL 1785991, at \*2 (Tenn. Ct. App. Dec. 7, 2000). "Both the chancery court and the juvenile court have subject matter jurisdiction to render child support orders in the proper circumstances." *State ex rel. Whitehead v. Thompson*, No. 01A01-9511-CH-00538, 1997 WL 749465, at \*3 (Tenn. Ct. App. Dec. 5, 1997); *see* Tenn. Code Ann. § 37-1-104(d)(1); § 37-1-151(b)(2) (Supp. 2003). This Court has held, however, that the Juvenile Court does not have jurisdiction to render child support orders if another court of concurrent jurisdiction has already assumed jurisdiction over the matter of child support in a given case. *See Whitehead*, 1997 WL 749465 at \*3 ("[A] juvenile court's authority to require a parent to pay child support is limited to circumstances where another court with concurrent jurisdiction has not previously ordered the parent to pay child support."); *see also In re Linville*, 2000 WL 1785991, at \*2 (indicating that a juvenile court has jurisdiction to modify its own child support order, but only when "no other court has assumed jurisdiction over the matter").

In the instant case, the Chancery Court in which the divorce was litigated entered a child support order requiring Father to pay support of \$148 per week to Mother. That order has remained intact. At this time, Mother's petition for contempt against Father for his failure to pay child support is pending in the Chancery Court. Clearly, the Chancery Court has assumed jurisdiction over child support issues between Mother and Father. In light of these facts, we must conclude that the Juvenile Court did not have subject matter jurisdiction to hear matters involving child support between these parties.

The decision of the Juvenile Court is reversed and the cause is remanded. Costs on appeal are to be taxed to Appellee Patrick N. Lawson, for which execution may issue, if necessary.

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HOLLY M. KIRBY, JUDGE