

ANNE E. ANDERSON

NO. 24-CA-559

VERSUS

FIFTH CIRCUIT

WARREN JEFFERY ANDERSON

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT  
PARISH OF JEFFERSON, STATE OF LOUISIANA  
NO. 655-044, DIVISION "P"  
HONORABLE LEE V. FAULKNER, JR., JUDGE PRESIDING

April 23, 2025

**FREDERICKA HOMBERG WICKER  
JUDGE**

Panel composed of Judges Fredericka Homberg Wicker,  
Jude G. Gravois, and Timothy S. Marcel

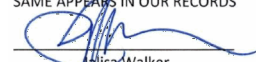
**JUDGMENT AFFIRMED; ANSWER TO APPEAL DISMISSED**

**FHW**

**JGG**

**TSM**

FIFTH CIRCUIT COURT OF APPEAL  
A TRUE COPY OF DOCUMENTS AS  
SAME APPEARS IN OUR RECORDS

  
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Deputy, Clerk of Court

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ANNE E. ANDERSON  
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COUNSEL FOR DEFENDANT/APPELLEE,  
WARREN JEFF ANDERSON  
Rebecca A. Gilson

**WICKER, J.**

Plaintiff/appellant, Anne Anderson, appeals the trial court's June 28, 2024 judgment that granted the motion to reduce final periodic spousal support filed by defendant/appellee, Warren Anderson. Mr. Anderson answered the appeal, requesting attorney's fees and costs. For the following reasons, we affirm the trial court's judgment. We also dismiss Mr. Anderson's answer to the appeal.

**STATEMENT OF THE CASE**

The parties, Anne and Warren Anderson, were married on August 4, 2000. On March 30, 2009, Ms. Anderson filed a petition for divorce, and a judgment of divorce was rendered on September 13, 2010. Mr. Anderson was ordered to pay child support and spousal support.<sup>1</sup> On February 4, 2013, the trial court signed a judgment partitioning the community property between the parties, in which Ms. Anderson was awarded 100% of the right, title, and interest to the family home on Orion Avenue in Metairie, as well as an equalizing payment of \$110,148.75 to be paid by Mr. Anderson. In the ensuing years, the parties each filed various motions pertaining to support and other issues arising from their divorce proceeding.

On March 7, 2018, the parties entered into a consent judgment awarding Ms. Anderson final spousal support in the amount of \$2,500 per month, plus \$210 per month for health insurance, starting on January 1, 2018. The judgment set final spousal support for each month of the year, retroactive to June 23, 2011, as follows: 2011-\$1,812; 2012-\$1,800; 2013-\$1,785; 2014-\$1,770; 2015-\$2,041; 2016-\$2,500; and 2017-\$3,000. The judgment further provided that Mr. Anderson was in arrears for outstanding child and spousal support in the amount of \$56,156.87, and ordered an income assignment.

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<sup>1</sup> The parties have three children. However, child support is no longer an issue, because each of the children has attained the age of majority.

On July 29, 2021, Mr. Anderson filed a Motion to Reduce/Terminate Final Spousal Support, Request for Independent Medical Examination, and Request for Vocational Rehabilitation Evaluation, alleging there had been a change in circumstances, because Ms. Anderson was physically able to complete work-related tasks and capable of maintaining gainful employment. He asked the court to impute an income to Ms. Anderson based on her training as a respiratory therapist, pursuant to La. R.S. 9:355.11. Mr. Anderson further asserted that the parties had been married for approximately nine years and that Ms. Anderson was seeking to garnish his wages to collect the outstanding balance on the \$110,148.75 community property equalizing payment. Mr. Anderson further requested that the court order Ms. Anderson to submit to an independent medical examination under La. C.C.P. art. 1464 and to an updated vocational rehabilitation evaluation.<sup>2</sup>

The parties entered into a consent judgment on March 2, 2022, in which Mr. Anderson was ordered to pay \$1,000 per month to Ms. Anderson until the community property equalizing payment is paid in full.<sup>3</sup> On June 30, 2022, the trial court ordered Ms. Anderson to submit to an independent medical examination by a doctor of Mr. Anderson's choosing.

On June 30, 2023, Ms. Anderson filed a Rule to Increase Spousal Support, arguing there had been a material change in circumstances since the March 7, 2018 judgment on spousal support, specifically that Mr. Anderson's income had increased substantially and her expenses had notably increased. In December of 2023, Mr. Anderson's Motion to Reduce/Terminate Spousal Support and Ms. Anderson's Rule to Increase Spousal Support came before the domestic hearing officer, who recommended that Mr. Anderson's motions be denied and Ms.

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<sup>2</sup> Ms. Anderson had previously participated in an evaluation by a vocational rehabilitation expert in 2011.

<sup>3</sup> This judgment did not indicate that legal interest was to be included. Ms. Anderson filed a Motion for New Trial seeking to include legal interest on the \$110,148.75 payment, which was granted by the trial court on December 13, 2022.

Anderson's motion be granted. The hearing officer found Ms. Anderson was still disabled due to multiple physical conditions and was in need of final periodic support. She also found that Mr. Anderson's net monthly income was \$16,006 and that Ms. Anderson was entitled to a final spousal support award of \$5,335.33 per month, which was one-third of his income and the maximum allowed under La. C.C. art. 112(D). On March 4, 2024, the Domestic Commissioner signed an order in accordance with the hearing officer's recommendations.

Mr. Anderson filed an objection to the hearing officer's recommendations and requested a trial. Trial of this matter was held before the trial court on March 12, 2024 and April 19, 2024.

On the first day of trial, March 12, 2024, Dr. Ashley Lastrapes, who was accepted as an expert in vocational rehabilitation, testified that she performed a vocational assessment of Ms. Anderson. She indicated that she had a phone conference with Ms. Anderson on June 14, 2023. She also reviewed several documents, including medical records from several doctors and the report of Dr. Jonathan Thompson, who performed an independent medical examination of Ms. Anderson. Dr. Lastrapes prepared a report dated June 23, 2023, which was admitted into evidence. She testified that when performing the vocational assessment, she relied on Dr. Thompson's report, which was also admitted into evidence, in which he opined that Ms. Anderson was capable of performing part-time sedentary<sup>4</sup> work and outlined some physical restrictions regarding her ability to return to work. Dr. Lastrapes performed a labor market survey and identified several actual jobs in the labor market that fit with Ms. Anderson's restrictions, as well as jobs fitting her restrictions that were not necessarily available at that time,

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<sup>4</sup> Dr. Lastrapes indicated that "[s]edentary is basically a physical demand level outlined by the Dictionary of Occupational Titles which is published by the Department of Labor, where someone can frequently sit, occasionally stand and walk and can occasionally lift up to ten pounds and can frequently lift a negligible amount of weight."

but are generally available in the community. She testified that available jobs requiring only sedentary work that were available in her area had a pay range from \$9,952.80 to \$29,000.00 per year. Dr. Lastrapes stated that although Ms. Anderson was declared disabled by the Social Security Administration, a declaration of disability and receipt of disability benefits does not preclude a person from working at all. Based on the information provided, Dr. Lastrapes opined that Ms. Anderson can return to work.

On cross-examination, Dr. Lastrapes indicated that Dr. Thompson found Ms. Anderson should limit her driving to 20 or 30 minutes each time. She agreed that the jobs she located for Ms. Anderson were in Mandeville, which is within 30 miles of Ms. Anderson's home in Abita Springs. However, she indicated she could not say how long it would take Ms. Anderson to get to a job in Mandeville, as it would depend on traffic, the time of day, and other factors.

Anne Anderson testified that she is not employed, because she is disabled. She believes she filed for disability benefits in 2009 before the divorce, but she was not declared disabled until after the divorce. Ms. Anderson testified that she was married to Mr. Anderson for about ten years and has received spousal support from him since 2009.

According to Ms. Anderson, she requested an increase in spousal support in 2023, because her expenses have increased since the 2018 spousal support award. She acknowledged that she received the parties' former family home on Orion Avenue in the community property judgment. A copy of the mortgage document for this home was admitted, and it shows that the parties purchased the house in 2007 and mortgaged \$362,000 of the purchase price. Ms. Anderson purchased a lot in Abita Springs for \$13,000 in January of 2018, shortly before the March 2018 spousal support judgment was issued. She testified that she purchased the lot with money she received from Mr. Anderson for past-due support. Thereafter, Ms.

Anderson sold the house on Orion Avenue in the summer of 2018 for \$650,000, and contracted with a builder to construct the house she currently lives in for \$386,851. She testified that she also incurred additional expenses for her new house for items that were not originally on the plans, such as hand railings.

Ms. Anderson testified that she paid the mortgage on the Orion home until 2018, and then paid off the mortgage with the sale proceeds. When asked if she had \$300,000 left after the sale, Ms. Anderson indicated she did not because, “the real estate agent got a “huge chunk” of that,” a “good portion” was used for a down payment on her current house, and a “huge portion” was paid to her parents toward repayment of a \$180,000 promissory note. She could not remember the amount of the deposit on her new house. Ms. Anderson indicated that she has a fifteen-year mortgage with a note of \$1,873 per month for her new house. When asked why she opted for a 15-year instead of a 30-year mortgage, she stated that the interest rate was higher for a 30-year mortgage and it did not offer much of a savings.

Ms. Anderson was questioned about the expenses listed on her income and expense list, which totaled over \$6,000 per month. She maintained that she incurs expenses of \$125 per month for gas, though she is restricted from driving more than 20-30 minutes at a time, and has a car note of \$507 per month for a new Honda sports utility vehicle (“SUV”) she purchased in 2023. She testified that she needs an SUV, because she is not able to get into a car that is low to the ground due to her back problems. When asked if she looked for a vehicle costing less than \$507 per month, she replied that she looked at a lot of things, but needed a vehicle that was high enough, had lumbar support in the seat, and “things like that.” She testified that a vehicle with those features for less than \$507 per month “does not exist.”

Ms. Anderson agreed that she listed \$1,100 for her monthly expenses for food and household supplies and \$133 per month for natural gas/propane. She

explained that her gas bill is high, because it “runs stuff in my house, plus my generator in case we lose power.” She indicated that she bought her generator after her new house was built, but did not recall how much it cost.

According to Ms. Anderson, she borrowed \$180,000 from her parents and executed a promissory note, because Mr. Anderson was not paying the support he owed and she had excessive legal fees. She agreed that Mr. Anderson paid all of his support arrears at some point, but indicated she did not use these funds to repay her parents. She testified that she pays her parents \$1,000 per month toward the promissory note, which is included on her expense list, but she pays in cash and has no records of these payments.

On the second day of trial, April 19, 2024, Warren Anderson testified that he is a certified registered nurse anesthetist (“CRNA”), but he was currently working as an anesthesia assistant earning \$4,000 per month. He explained that he previously had alcohol issues and had relapsed in 2023 due to the stress of his health and family issues. He entered into a rehabilitation program for nurses and a monitoring agreement with the Board of Nursing under which he could not work as a CRNA for six months. Mr. Anderson testified that he has had several health issues since he filed for termination or reduction in spousal support in 2021. He stated that he was hospitalized for 16 days in 2021 with a severe case of COVID, then for about a week due to low platelets, for another week in 2022 due to a pulmonary embolism, and for a week in 2023 due to cellulitis in his leg. Mr. Anderson asserted that the stress of his health and family issues also caused him to relapse with his alcohol issues. He stated that he was working as an anesthesia assistant at the time of trial, but he was not employed from July of 2023 to March of 2024.

Mr. Anderson identified paystubs from 2024 and his income expense lists from 2021 to 2024, which were admitted into evidence. He testified that his 2021



net monthly income was \$12,386.84, which was insufficient to cover his expenses of \$15,107.97 per month. He indicated his net income for 2022 was \$12,013.93, which did not cover his monthly expenses of \$12,520.13. Mr. Anderson testified that he obtained a loan from the Small Business Administration (“SBA”) in 2022 to cover expenses incurred when he did not have work as a CRNA due to the COVID pandemic. His SBA loan payment is \$536 per month and as of May 2023, the balance due was \$110,000. Mr. Anderson stated that he also took out a loan from his parents in 2009 when he first entered into an alcohol rehabilitation program, and this increased when he went through treatment again in July of 2023. He stated that he owes about \$46,000 and pays his parents \$250 per month on this loan. He testified that he also got a consolidation loan for credit card and other debt. Mr. Anderson testified that he pays Ms. Anderson \$1,000 per month toward the community property equalization payment. He cannot pay all of his expenses with his current \$4,000 per month salary and has had to borrow from friends and his parents.

Mr. Anderson testified that he had been paying \$2,500 per month for spousal support since the 2018 judgment, and the hearing officer recommended raising it to over \$5,500 per month, which he cannot afford. He stated that he is 57 years old, cannot buy or build a home for himself, and no longer has any retirement savings because he spent it on treatment.

On cross-examination, he agreed that his employer has paid Ms. Anderson directly support through a wage garnishment, which should have been included in his income.

After Mr. Anderson’s testimony, Ms. Anderson was called again to testify. She testified that she started receiving Social Security disability benefits in 2009, but they were terminated in 2015 because her income from spousal support was too high. She asserted that her health has gotten worse since the prior award of

spousal support and that she is unemployed due to physical disabilities, whereas Mr. Anderson is voluntarily underemployed due to his alcohol issues.

Ms. Anderson stated that she could not handle the job in Mandeville that Dr. Lastrapes identified, because it would take 35-40 minutes to get there and Dr. Thompson indicated she should only drive 20-30 minutes at a time. She acknowledged that it took an hour and a half to get to court that day, but stated her father drove. Ms. Anderson also testified that her house note had increased to over \$2,000 per month since the prior day of trial due to an increase in escrow. She indicated that the expenses listed on her income and expense form are accurate, and she cannot reduce any of them. She agreed that her prior vehicle was paid off, but it was ten years old. She stated that she needed to purchase her SUV because it has features, such as a seat with lumbar support, that she needs in order to be comfortable while driving.

At the conclusion of trial, the trial court took the matter under advisement and granted the parties additional time to file post-trial memoranda. Thereafter, on June 28, 2024, the trial court rendered a judgment denying Mr. Anderson's request to terminate spousal support, but granting his motion to reduce the final spousal support award and reducing it to \$1,333.20 per month. The court also ordered Mr. Anderson to provide Ms. Anderson with a copy of his annual federal and state tax returns on or before May 31<sup>st</sup> of each year, until further order of the court. Ms. Anderson filed an appeal of this judgment and Mr. Anderson filed an answer to the appeal seeking attorney's fees and costs.

## **LAW AND DISCUSSION**

On appeal, Ms. Anderson argues that the trial court erred by reducing her monthly spousal support award. She asserts that Mr. Anderson did not prove a change in circumstances sufficient to warrant a modification of the spousal support obligation for the period of July 31, 2021 to March 1, 2024. She acknowledges

that Mr. Anderson's income decreased materially on March 1, 2024 when he entered a rehabilitation program for nurses due to alcoholism, but claims he should be found to be voluntarily underemployed because the decrease in his income was due to his fault and is only temporary. Ms. Anderson claims she has sufficiently shown her inability to work and her need for support, as well as Mr. Anderson's ability to pay the prior spousal support award.

Mr. Anderson responds that he proved a material change in circumstances after the March 7, 2018 spousal support award, because: 1) the testimony and evidence showed that Ms. Anderson is capable of maintaining gainful employment; 2) she received over \$300,000 in cash from the sale of immovable property; 3) her expenses are excessive; and 4) his income has decreased.

La. C.C. art. 114 provides that an award of spousal support may be modified if the circumstances of either party materially change and shall be terminated if it becomes unnecessary. *Faucheux v. Faucheux*, 11-939 (La. App. 5 Cir. 3/27/12), 91 So.3d 1119, 1126; *Richards v. Richards*, 49,260 (La. App. 2 Cir. 8/13/14), 147 So.3d 800, 805. The movant must show either a change in the obligee's needs or a change in the obligor's ability to pay. *Martin v. Martin*, 16-324 (La. App. 4 Cir. 11/16/16), 204 So.3d 717, 721.

In Mr. Anderson's Motion to Reduce/Terminate Spousal Support, he argued there was a material change in circumstances because Ms. Anderson was capable of maintaining gainful employment. In Ms. Anderson's Rule to Increase Spousal Support, she contended there was a material change in circumstances because Mr. Anderson's income had increased and her expenses had increased. On appeal, however, Ms. Anderson now argues there has been no material change in circumstances.

Upon review, we find the testimony and evidence produced at trial provided an adequate basis for the trial court's finding that Mr. Anderson proved a material

change in circumstances since the March 7, 2018 judgment that awarded Ms. Anderson \$2,500 per month in spousal support. The testimony of Dr. Lastrapes and the exhibits support a finding that Ms. Anderson is capable of working part-time with sedentary duties. Dr. Lastrapes testified that the pay for such available jobs ranges from \$9,952.80 to \$29,000 per year. Also, in Dr. Thompson's report, he concluded that Ms. Anderson was capable of working part-time at a sedentary job.

Additionally, Mr. Anderson testified that his income decreased after the 2018 judgment, particularly due to the COVID pandemic and various hospitalizations, and that he had to obtain loans from friends and his parents to satisfy his financial obligations. Although Ms. Anderson argues there is no evidence of Mr. Anderson's income at the time of the prior spousal support award, the March 2018 spousal support judgment reflects that Mr. Anderson's net income at that time was \$13,154 per month. Mr. Anderson testified that he was earning \$4,000 per month at the time of trial. He also testified that he did not work from July of 2023 to March of 2024. Further, shortly after the March 2018 judgment, Ms. Anderson sold the former family home for a profit of approximately \$300,000. There is no bright line rule showing what constitutes a change in circumstances to warrant modification. *Vincent v. Vincent*, 11-1822 (La. App. 4 Cir. 5/30/12), 95 So.3d 1152, 1164; *Guinther v. Baird*, 33,550 (La. App. 2 Cir. 10/6/00), 768 So.2d 847, 850, *writ denied*, 00-3050 (La. 11/27/00), 775 So.2d 1070. Further, a trial court's determination of whether a material change in circumstances has been established as to enable modification of spousal support will not be disturbed on appeal absent an abuse of discretion. *Williams v. Poore*, 10-1087 (La. App. 4 Cir. 1/12/11), 55 So.3d 953, 959; *Hebert v. Hebert*, 06-1315 (La. App. 3 Cir. 2/7/07), 948 So.2d 1239, 1241-1242.

In the present case, the trial court found that there was a material change in circumstances since the 2018 award of spousal support. Based on the testimony and evidence, the trial court did not abuse its discretion in so finding.

A finding of a material change in circumstances, however, does not automatically result in a modification of spousal support; rather, it shifts the burden to the party opposing the modification to prove need and the relevant statutory factors under the spousal support statute. *Martin v. Martin*, 204 So.3d at 722; *Williams*, 55 So.3d at 961. La. C.C. art. 112(D) limits the amount of a spousal support award to one-third of the obligor spouse's net income. *Id.*

To determine whether an award for periodic support will be modified or terminated based on the changed circumstances of either party, the trial court should consider the relevant factors listed in La. C.C. art. 112. *Williams*, 55 So.3d at 959. La. C.C. art. 112 sets forth eight factors for the trial court to consider in awarding and modifying final spousal support, including:

1. The income and means of the parties, including the liquidity of such means.
2. The financial obligations of the parties.
3. The earning capacity of the parties.
4. The effect of custody of children upon a party's earning capacity.
5. The time necessary for the claimant to acquire appropriate education, training, or employment.
6. The health and age of the parties.
7. The duration of the marriage.
8. The tax consequences to either or both parties.

All relevant factors are to be considered, and the court is not limited to those specifically listed in La. C.C. art. 112. *Shirley v. Shirley*, 48,635 (La. App. 2 Cir. 10/16/13), 127 So.3d 935, 941-42.

Final periodic spousal support is awarded to a former spouse in need and is limited to an amount sufficient for maintenance as opposed to a continuation of an accustomed style of living. *Dufresne v. Dufresne*, 10-963 (La. App. 5 Cir. 5/10/11), 65 So.3d 749, 762. Maintenance includes food, shelter, clothing, transportation, medical and drug expenses, utilities, household necessities, and income tax liability generated by spousal support payments. *Id.*

Ms. Anderson asserts that the trial court erred by reducing her spousal support when she sufficiently established her need. She testified that spousal support is her sole source of income since she is unable to work. However, Dr. Thompson found that Ms. Anderson is capable of performing a part-time job with sedentary duties, and Dr. Lastrapes agreed. Earning capacity is considered when determining a party's need for support per La. C.C. art. 112(3). *Faucheux*, 91 So.3d at 1125. Ms. Anderson claims there are no jobs she can perform in Abita Springs, where she chose to relocate shortly after the prior spousal support judgment was rendered. She also avers that Abita Springs is about 35 minutes from Mandeville, where Dr. Lastrapes identified potential jobs, but she argues she cannot work in Mandeville because she cannot drive more than 30 minutes at a time due to her disabilities. Dr. Lastrapes testified that Ms. Anderson indicated she does not believe she can work, and the record does not show that Ms. Anderson has sought any employment.

Both parties contend that their expenses exceed their income. Ms. Anderson argues that her expenses have increased since the 2018 judgment and are over \$6,000 per month. She testified that she cannot reduce any of her expenses. However, the expenses listed on her income and expense list are clearly inflated and/or beyond what is necessary for maintenance. Shortly after the 2018 judgment, Ms. Anderson sold the family home, which she received in the community property settlement, for a profit of over \$300,000. She contends that

she did not actually receive this amount due to real estate agent fees, repayment of a loan she had received from her parents, and a deposit on her new house, though she could not recall the amount of the deposit. Rather than using some of this money for expenses and maintenance, she chose to build a new house, which is 1,900 square feet, at a cost of over \$386,000. Her new house is secured by a fifteen-year mortgage requiring monthly payments of \$1,873. Mr. Anderson testified that he cannot afford to purchase a house and pays rent of \$850 per month.

Ms. Anderson filed a Rule to Increase Spousal Support on June 30, 2023, arguing that her expenses had notably increased. However, a review of the record suggests that Ms. Anderson voluntarily increased some of her expenses. Not only did Ms. Anderson contract to have a new house custom-built for her just after the 2018 spousal support award, but she also testified that in 2023, she purchased a new Honda CRV with a note of \$507 per month. She indicated that she needed this new SUV because it was difficult to get in her car since it was lower to the ground than an SUV and because her new car has lumbar support in the seats, which she needs in order to be comfortable while driving. Ms. Anderson also indicated that she spends \$125 per month for gasoline, though she cannot drive for longer than 30 minutes at a time.

The purpose of permanent spousal support is to provide a spouse in need with sufficient means for support and maintenance. *Smith v. Smith*, 08-575 (La. App. 5 Cir. 1/12/10), 31 So.3d 453, 465. In making a determination of final periodic spousal support, a court considers the expenses required to procure the basic necessities of life, such as food, shelter, and clothing, as well as reasonable and necessary automobile expenses, medical and drug expenses, utilities, and household expenses. *McClanahan v. McClanahan*, 14-670 (La. App. 5 Cir. 3/25/15), 169 So.3d 587, 597. Maintenance does not include luxury items or expenses necessary to maintain the lifestyle enjoyed during the parties' marriage.

*Dufresne*, 65 So.3d at 762; *Noto v. Noto*, 09-1100 (La. App. 5 Cir. 5/11/10), 41 So.3d 1175, 1181. Final periodic spousal support is limited to an amount sufficient for maintenance, rather than the continuation of an accustomed lifestyle.

*McClanahan*, 169 So.3d at 597; *Faucheux*, 91 So.3d at 1123; *Bloxom v. Bloxom*, 52,728 (La. App. 2 Cir. 8/14/19), 279 So.3d 474, 480.

Ms. Anderson asserts she borrowed over \$100,000 from her parents due to Mr. Anderson's prior failure to pay support and that she pays them \$1,000 per month toward this debt. However, she acknowledges that Mr. Anderson has paid all of his support arrearages, which she did not use to repay the loan.

Ms. Anderson argues the trial court should have found Mr. Anderson was voluntarily underemployed and that his reduction in income was temporary. Mr. Anderson testified that he had issues with alcohol abuse and that he voluntarily entered into a rehabilitation program and monitoring agreement with the Board of Nursing. Whether a party is voluntarily unemployed or underemployed is a question of good faith. *Martin*, 204 So.3d at 721. Voluntary underemployment is a fact-based determination subject to the manifest error standard of review. *Id.* Based on the testimony and evidence, we find no error in the trial court's failure to find Mr. Anderson was voluntarily underemployed.

Ms. Anderson also argues that Mr. Anderson's *gross* income from 2021 to 2023 was consistently over \$16,000 per month, which establishes his ability to pay a greater amount of spousal support. Mr. Anderson agreed that his gross monthly income was generally over \$16,000, and testified that his *net* monthly income for from 2021 to 2023 was approximately \$12,000. However, he stated that he had to take out a loan from the SBA in 2022 due to loss of income when there was no work as a CRNA during the COVID pandemic, and he still owes approximately \$109,000. He stated that he pays \$536 per month for this loan. Mr. Anderson also explained that he had several hospitalizations in 2021 and 2022, and he had to



borrow money from his parents. He still owes them \$46,000, and pays them \$250 per month. He is also paying back a consolidation loan.

At the time of trial, Mr. Anderson was unable to work as a CRNA and was earning \$4,000 as an anesthesia assistant. In its reasons for judgment, the trial court stated that Mr. Anderson's current condition limited his ability to earn significantly more than \$4,000 per month. However, it recognized that Mr. Anderson's income would increase if he is reinstated as a CRNA after the six-month period and, therefore, it ordered Mr. Anderson to provide Ms. Anderson with a copy of his federal and state tax returns each year.

We have considered the La. C.C. art. 112 factors for determining an amount of final spousal support. The parties were married nine years before the petition for divorce was filed in 2009, and Mr. Anderson has been responsible for spousal support since that time, which, as pointed out by the trial court, has been longer than the parties' marriage. Mr. Anderson testified that he was 57 at the time of trial. Both parties have financial obligations they contend exceed their income, though Ms. Anderson voluntarily increased some of her expenses. While Mr. Anderson rents an apartment because he cannot afford a house, Ms. Anderson contracted to have a new house built and recently bought a new SUV. Although Ms. Anderson has multiple medical issues and has been found to be disabled, Dr. Lastrapes and Dr. Thompson found that Ms. Anderson is capable of maintaining part-time employment. Further, Mr. Anderson also suffers from medical issues and had to borrow money to meet his financial obligations, which he is currently paying back.

The trial court is vested with great discretion in determining awards of spousal support, and these determinations will not be disturbed absent a clear abuse of that discretion. *Faucheux*, 91 So.3d at 1122; *Noto*, 41 So.3d at 1181. The abuse of discretion standard is highly deferential to the trial court's rulings. *Williams v.*

*Williams*, 55,501 (La. App. 2 Cir. 4/10/24), 384 So. 3d 452, 457, *writ denied*, 24-587 (La. 9/24/24), 392 So. 3d 1142.

In awarding final spousal support in the amount of \$1,333.20, the trial court considered that La. C.C. art. 112(D) provides that the amount of spousal support awarded shall not exceed one-third of the obligor's net income, which was \$4,000 at the time of trial. Although Mr. Anderson's income was higher from 2021 to 2023, considering all of the testimony and evidence presented, including his health issues and financial constraints, we cannot say that the trial court abused its discretion in granting the motion to reduce spousal support and setting it at \$1,330.20 per month.

After the appellate record was lodged with this Court, Mr. Anderson filed an answer to the appeal, pursuant to La. C.C.P. art. 2133, arguing that the trial court erroneously failed to award him attorney's fees and court costs as the prevailing party in this matter. He further stated that he would establish why he is entitled to attorney's fees and costs in his appellee brief. However, when Mr. Anderson filed his appellee brief on March 17, 2025, he did not mention this issue, nor did he file a separate supplemental brief in support of his answer.

The party answering an appeal is an appellant for purposes of the appellate relief he seeks. *Succession of Poole*, 15-1317 (La. App. 1 Cir. 10/28/16), 213 So.3d 18, 26. Uniform Rules, Courts of Appeal, Rule 2-12.4, provides that an appellate court may consider as abandoned an assignment or specification of error which has not been briefed. *Id.* Mr. Anderson has not briefed the issue of entitlement to attorney's fees and costs in his appellee brief. Accordingly, we consider this issue abandoned.

**DECREE**

For the foregoing reasons, we affirm the trial court's judgment reducing Mr. Anderson's monthly spousal support obligation to \$1,333.20 per month. We dismiss Mr. Anderson's answer to appeal, finding it was abandoned.

**JUDGMENT AFFIRMED;**  
**ANSWER TO APPEAL DISMISSED**

SUSAN M. CHEHARDY  
CHIEF JUDGE

FREDERICKA H. WICKER  
JUDE G. GRAVOIS  
MARC E. JOHNSON  
STEPHEN J. WINDHORST  
JOHN J. MOLAISSON, JR.  
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TIMOTHY S. MARCEL

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(504) 376-1498 FAX

**NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY**

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **APRIL 23, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

**CURTIS B. PURSELL**  
CLERK OF COURT

**24-CA-559**

**E-NOTIFIED**

24TH JUDICIAL DISTRICT COURT (CLERK)  
HON. LEE V. FAULKNER, JR. (DISTRICT JUDGE)  
MICHAEL D. CONROY (APPELLANT)                      REBECCA A. GILSON (APPELLEE)

**MAILED**

NO ATTORNEYS WERE MAILED