

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA10-430

ANTHONY E. OWENS

APPELLANT

V.

OFFICE OF CHILD SUPPORT
ENFORCEMENT

APPELLEE

Opinion Delivered MAY 11, 2011

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. DR-2002-707 (III)]

HONORABLE JIM D. SPEARS,
JUDGE

AFFIRMED

ROBIN F. WYNNE, Judge

Anthony E. Owens, acting pro se, appeals from an order of the circuit court denying his motion for transcript, his petition to hold support in abeyance or to reduce support while incarcerated, and his petition for modifications. We affirm.

On September 3, 2002, the Office of Child Support Enforcement (OCSE) filed a complaint seeking to have appellant ordered to pay child support. After a hearing, which appellant did not attend, the court ordered appellant to pay child support in the amount of \$74 per week.¹ Appellant appears to have failed to pay support as ordered, and, at some point, he was convicted of criminal nonsupport. On October 7, 2009, appellant filed a petition to

¹At some point subsequent to the filing of this appeal, appellant notified appellee and the circuit court that the child-support order contained an incorrect hearing date. On October 25, 2010, the circuit court entered a nunc pro tunc order correcting the hearing date.

hold support in abeyance or to reduce support while incarcerated. Also on October 7, 2009, appellant filed a petition in which he requested a modification of his child-support obligation.

The circuit court held a hearing on appellant's petitions on January 19, 2010. At the hearing, appellant testified that he was serving a ten-year sentence for nonsupport with twelve years suspended. He stated that he was requesting that the court reduce his support obligation because he was incarcerated and disabled from back surgeries. Appellant admitted on cross-examination that he had income since a prior court appearance in 2008, but had not paid child support. Appellant testified to a prior back surgery fifteen years ago, but admitted he had no medical documentation pertaining to his injury or surgery. In an order entered on March 18, 2010, the circuit court denied appellant's petitions. Appellant has now appealed to this court.

In bench trials, the standard of review on appeal is not whether there is substantial evidence to support the finding of the court, but whether the judge's findings were clearly erroneous or clearly against the preponderance of the evidence. Ark. R. Civ. P. 52(a) (2010); *Cochran v. Bentley*, 369 Ark. 159, 251 S.W.3d 253 (2007).

Appellant's argument on appeal is that the initial child-support hearing in this case, which was held in 2003, was held without his presence and in violation of his constitutional rights. This argument has no connection whatsoever to the order on appeal, which denied appellant's petition to have his child-support obligation abated or reduced while he is incarcerated for nonpayment of child support. Appellant does not raise any point of error with

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the order on appeal. The record before us demonstrates no error with the trial court's order denying appellant's petitions. Appellant's argument also contains no citation to authority. Arkansas appellate courts will not consider arguments that are unsupported by legal authority. *Weatherford v. State*, 352 Ark. 324, 101 S.W.3d 227 (2003). Even assuming appellant's constitutional argument were somehow connected to the order on appeal, there is no evidence in the record that appellant raised that argument before the trial court. Arguments not raised below, even constitutional ones, are waived on appeal. *Hunter v. Runyan*, 2011 Ark. 43, 382 S.W.3d 643.

Affirmed.

ABRAMSON and BROWN, JJ., agree.