

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA12-1030

JOHN D. WELLS

APPELLANT

V.

LINDA F. WELLS

APPELLEE

Opinion Delivered May 1, 2013

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT,
FORT SMITH DISTRICT
[NO. DR-08-174]

HONORABLE JIM D. SPEARS,
JUDGE

AFFIRMED

WAYMOND M. BROWN, Judge

Appellant John Wells appeals the October 3, 2012 order of the Sebastian County Circuit Court denying his motion to modify the amount of alimony he agreed to pay appellee Linda Wells. He argues that the trial court's reliance on *Tiner v. Tiner*¹ was misplaced and that the parties' agreement was subject to modification by the court. We affirm.

The parties were divorced by decree on June 16, 2009. On June 2, 2009, the day of the hearing, the parties' attorneys dictated a stipulation into the record of the court, whereby appellant agreed to pay appellee \$7,000 a month for alimony for twelve months, or until appellant retired from the active practice of medicine, which ever occurred later.² Appellant

¹2012 Ark. App. 483, 422 S.W.3d 178.

²There was no separate written agreement.



filed a motion for modification on May 7, 2012, citing the reduction of his income. Appellee filed a response on May 29, 2012, objecting to appellant's motion. A hearing was conducted on August 23, 2012. The parties subsequently filed post-hearing briefs. The court issued an order on October 3, 2012, denying appellant's motion to modify. Relying on *Tiner*,³ the court found that the parties' agreement for alimony was a separate and distinct contract, not subject to modification by the court. Alternatively, the court found that modification was not proper in this case because appellant failed to demonstrate that the change in his income was substantial enough to justify a modification of the parties' alimony agreement.

Appellant filed a motion for reconsideration on October 17, 2012. Appellee filed a response on October 22, 2012. The court denied the motion by an order filed on October 31, 2012. In that order, the court reiterated its findings that the alimony agreement was not modifiable and that appellant failed to prove a change in circumstances in regard to income. Appellant filed a timely notice of appeal on November 1, 2012.

On appeal, appellant argues that the trial court erred by finding that the alimony agreement in this case was not modifiable. Appellant does not challenge, however, the court's finding that he failed to demonstrate a material change in circumstances in regard to his income. When the trial court bases its decision on two independent grounds and appellant challenges only one on appeal, the appellate court will affirm without addressing either.⁴ Thus, we summarily affirm.

³*Supra.*

⁴*See Coleman v. Regions Bank*, 364 Ark. 59, 216 S.W.3d 569 (2005).



Cite as 2013 Ark. App. 298

Affirmed.

HARRISON and GRUBER, JJ., agree.

Hayes, Alford & Johnson, PLLC, by: *Joel D. Johnson*, for appellant.

Hardin, Jesson & Terry, PLC, by: *Rex M. Terry*, for appellee.