

**ARKANSAS COURT OF APPEALS**

DIVISION III  
No. CA 09-567

TROY L. BOUDREAUX  
APPELLANT

V.

ANN MCNULTY BOUDREAUX  
APPELLEE

**Opinion Delivered** December 16, 2009

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT  
[NO. 2007-003252]

HONORABLE MACKIE PIERCE,  
JUDGE

DISMISSED

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**WAYMOND M. BROWN, Judge**

This is the second appeal in this divorce case. While the first appeal was pending, Troy Boudreaux petitioned to modify his alimony and child-support obligations to his former wife, Ann McNulty Boudreaux. The circuit court denied the petition, ruling that it had no jurisdiction to consider the matter due to the pending appeal before this court. Troy has appealed from that ruling, arguing that the circuit court did in fact have jurisdiction to consider his request. However, the outcome of the first appeal has rendered this appeal moot. Accordingly, we dismiss.

Ann filed for divorce on June 29, 2007, and the circuit court entered a decree of divorce on July 22, 2008. Among other things, the decree awarded alimony and child support to Ann. Troy pursued an appeal to this court, wherein he argued that the circuit court erred in



Cite as 2009 Ark. App. 877

calculating his income as if he was an independent contractor when the evidence showed that he had recently been switched to an employee. While the appeal was pending, Troy filed a petition to modify alimony and child support, citing the reduced income as a result of his employment status. On April 30, 2009, the circuit court entered an order denying the motion, ruling that it lacked jurisdiction to consider the motion during the pendency of the appeal. Meanwhile, we considered the first appeal, and on October 21, 2009, we reversed and remanded the divorce decree, agreeing with Troy's argument that the circuit court erred in how it calculated his income for child-support purposes. *See Boudreaux v. Boudreaux*, 2009 Ark. App. 685, 373 S.W.3d 329.

In this second appeal, Troy seeks reversal of the circuit court's April 30, 2009 order. He challenges the finding that the circuit court lacked jurisdiction to consider his motion to modify alimony and child support while the first appeal was still pending. However, our disposition in the first appeal renders this appeal moot.

As a general rule, the appellate courts of this state will not review issues that are moot. *Shipp v. Franklin*, 370 Ark. 262, 258 S.W.3d 744 (2007). To do so would be to render advisory opinions, which we will not do. *Id.* A case becomes moot when any judgment rendered would have no practical legal effect upon a then-existing legal controversy. *Id.* In other words, a moot case presents no justiciable issue for determination by the court. *Id.* There are two exceptions to this doctrine (those matters capable of repetition yet evade review and those matters that raise considerations of substantial public interest which, if addressed, would prevent further



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litigation), *see Bryant v. Bryant*, 2009 Ark. App. 231, 303 S.W.3d 91, but neither is applicable here.

When we reversed the original divorce decree, the parties were restored to the position they were in prior to the order being entered. *See Lowe v. Morrison*, 270 Ark. 668, 606 S.W.2d 569 (1980); *Palmer v. Carden*, 239 Ark. 336, 389 S.W.2d 428 (1965). Because we reversed the original divorce decree, the circuit court will have to recalculate alimony and child support. It is possible that a different order would result on remand, rendering any opinion in the current appeal merely advisory. For these reasons, we dismiss this appeal as moot.

Dismissed.

HENRY and BAKER, JJ., agree.

*Hilburn, Calhoun, Harper, Pruniski & Calhoun, Ltd.*, by: *Sam Hilburn* and *Shea DeClerk Halbert*, for appellant.

*Cathleen Compton*, for appellee.