FILED
JUN 29 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

Nos. 2-565 / 92-569

000239

STATE OF IOWA, ex rel., DEMARCUS TRELL BRADFORD, A Minor Child,
Petitioner-Appellee,

vs.

JOHNNIE EDWARD SANDERS,
Respondent-Appellant.

STATE OF IOWA, ex rel., RALEEN LYNETTE BRADFORD, A Minor Child,
Petitioner-Appellee,

vs.

JOHNNIE EDWARD SANDERS,
Respondent-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Walter W. Rothschild, Judge.

Johnnie Sanders appeals an order from the district court denying his motion to vacate and motion to quash a default order establishing paternity, support and reimbursement of AFDC payments. **AFFIRMED.**

Stanford J. Patterson of Patterson Law Firm, Waterloo, for appellant.

Bonnie J. Campbell, Attorney General, John Parmeter, Special Assistant Attorney General, Kay Delafield, Assistant Attorney General, and James A. Lally, Assistant County Attorney, for appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

PER CURIAM 000240

Respondent-appellant Johnnie Edward Sanders appeals from a trial court order denying his motion to vacate a default judgment and a motion to quash mandatory income withholding, finding him to be the father of children born January 21, 1982 and June 5, 1991, and ordering him to pay child support and reimburse the State for public assistance paid the children's mother. Sanders contends the trial court erred in failing to vacate the default judgment. We affirm.

On May 29, 1991, the State filed a petition against Sanders asking he be found the father of a child born January 21, 1982, and that he pay child support and reimburse the State for support paid the child's mother. On June 5, 1991, a similar petition was filed by the State in behalf of a child born November 27, 1987.

On June 3, 1991, Sanders was served an original notice of suit on the petition concerning the oldest child. Sanders was served by substitute service on an adult residing in his household. On June 13, 1991, Sanders was personally served an original notice of suit on the petition concerning the younger child. Sanders did not appear or answer either petition. On August 16, 1991, Sanders was found in default in both cases. Judgments finding him to be the father of both children and ordering him to pay child support of $74 a month and reimbursement of $7 a month to the State for public assistance paid were entered in both cases. On August 16, 1991, the Child Support Recovery Unit sought mandatory income withholding.

On September 12, 1991, Sanders, pro se, filed an answer/motion to quash/application for hearing alleging he was not the father of the children and was not liable for child support. A hearing was set for September 30, 1991. Sanders appeared pro se.

The court found Sanders was personally served notice and failed to timely file an appearance or answer in either suit. The court found there was no evidence of good cause to set aside the default or to quash the mandatory income withholding. Sanders did not appeal this order.

On January 23, 1992, Sanders filed a motion to vacate the default judgments alleging "due to unavoidable casualty and misfortune [he] was unable to defend this action until now." The State resisted the motion. A hearing was set for March 3, 1992. On February 10, 1992, Sanders filed a motion to quash temporary support. The State resisted the motion. The court denied Sanders' motions finding the order of October 1, 1991 to be the law of this case. Sanders appealed in both cases and they have been consolidated.

Sanders contends the district court erred in failing to vacate the default judgment (1) by the court's order filed October 2, 1991, failing to recognize Sanders' motion filed September 12, 1991, as a motion to set aside default pursuant to Iowa Rule of Civil Procedure 236; (2) by failing to apply Iowa Rule of Civil Procedure 67 in consideration of Sanders' motion filed September 12, 1991; (3) by failing at the hearing on or about September 30

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1991, to establish or take evidence as to Sanders' disability in reading, writing and understanding the proceedings; (4) by failing, at the hearing on or about September 30, 1991, to determine the Child Support Recovery Unit had factually written the "Answer/Motion to Quash/Application for Hearing" out for Sanders and had him sign the document; (5) by failing, at the hearing on or about September 30, 1991, to note Sanders had never been notified of a default hearing; (6) by failing, at the hearing on or about September 30, 1991, to establish the grounds by which Sanders wished to vacate the default judgment although noting the defense Sanders had to the allegations and petition; and (7) by totally refusing to allow any hearing March 3, 1991, on Sanders' motion to vacate default judgment, timely filed under Iowa Rules of Civil Procedure 251, 252 and 253.

The issue before us on appeal is whether the default judgments should be set aside. This issue was raised at the September 30, 1991 hearing. On October 1, 1991, the court denied Sanders the requested relief. When an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or different claim. Restatement (Second) of Judgments § 68 (Tent. Draft No. 4, 1977); Hunter v. City of Des Moines, 300 N.W.2d 121, 123 (Iowa 1981). Before the

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doctrine of issue preclusion may be employed, four requirements must be met:

(1) The issue concluded must be identical;

(2) The issue must have been raised and litigated in the prior action;

(3) The issue must have been material and relevant to the disposition of the prior action; and

(4) The determination made of the issue in the prior action must have been necessary and essential to the resulting judgment.

Clark v. Glanton, 370 N.W.2d 606, 608 (Iowa App. 1985). The doctrine of issue preclusion prevents Sanders from relitigating the same issue in a subsequent proceeding. Hunter, 300 N.W.2d at 123. The district court found Sanders' "Motion to Vacate" was an attempt "to relitigate [the] issues" raised in the earlier hearing and decided by the court in the October 1, 1991 order. The October 1, 1991 order was not appealed. We affirm.

AFFIRMED.