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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-257

Filed: 6 November 2018

New Hanover County, No. 17 CVD 833

CHERIE LYNN STYLES, Plaintiff,

v.

TODD DAVID STYLES, Defendant.

Appeal by plaintiff from order entered on or about 18 August 2017 by Judge Melinda H. Crouch in District Court, New Hanover County. Heard in the Court of Appeals 19 September 2018.

The Lea Schultz Law Firm, P.C., by James W. Lea, III and Ryan B. Schultz, for plaintiff-appellant.

No brief filed for defendant-appellee.

STROUD, Judge.

Mother appeals from a child support order, and the only issue on appeal is whether the trial court properly calculated her income for purposes of establishing child support under the Child Support Guidelines. Because the trial court properly treated gifts from Mother's parents as income, we affirm.

I. Background

After resolution of child custody and equitable distribution in another action, Mother filed a claim for retroactive and prospective child support for the two younger minor children born to the marriage.[1] After a hearing, the trial court entered an order requiring Mother to pay prospective child support of $215.00 per month to Father, starting 1 September 2017.[2] The findings relevant to Mother's appeal are:

> 9. [Mother's] 2017 income is currently $11.00 per hour, or $1906.00 per month working for Happy Kids Daycare. Before that job, she worked at Smart Start until September 2015 for a reported salary of $29,000.00; but she also receives substantial gifts from her parents. In 2014 [Mother] received $21,633 plus tuition to the children's private school from her parents; in 2015 she received $25,913 from her parents and they bought her a house valued at $185,000; in 2016 she received $44,466 from her parents in addition to buying her a house valued at $385,000. Thus far in 2017, they have given her at least $9,000. These regular and recurring gifts to [Mother] should be considered as income to [Mother].
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> . . . .
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> 11. [Mother's] income is based upon the last three years of her salary, the average amount of cash and children's tuition received from her parents, and the monthly value of the $385,000.00 house that her parents gifted her, which should be prorated at $1,800.00 a month, which would be a typical rent/mortgage for a similarly situated residence in New Hanover County, for a monthly average of $6,432.00.
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> . . . .

[1] The parties' oldest child turned 18 and graduated from high school in 2016.

[2] The trial court did not order retroactive child support, and Mother has not challenged this ruling on appeal.

> 15. Based upon Child Support Worksheet B, the court finds that the presumptive child support guideline amount to be $215.00 based upon Defendant's wages of $6,649.00 per month and [Mother's] wages of $6,432.00 per month.

The trial court's child support calculation was based upon the Child Support Guidelines, using Worksheet B, which was attached to the order. Mother timely appealed the trial court's order.

II. Analysis

Mother argues that "the trial court abused its discretion by entering the 18 August 2017 order on child support because the trial court miscalculated [Mother]'s gross monthly income and the figure that was entered was not supported by competent evidence in the record[.]" (Emphasis omitted.) Mother contends the trial court erred in finding her income was $6,432 per month and that "the order is devoid of any specific calculations on how it arrived at such a figure."

Mother's argument conflates two issues: (1) Whether there was sufficient evidence to support the trial court's Findings 9 and 11; and (2) whether the trial court erred by imputing income to Mother without proper findings to support imputation of income.

> Under N.C. Gen. Stat. § 50-13.4(c), a court shall determine the amount of child support payments by applying the presumptive guidelines established pursuant to subsection (c1) of this section. Child support set in accordance with the Guidelines is conclusively presumed to be in such amount as to meet the reasonable needs of the child and commensurate with the relative abilities of each

> parent to pay support.

Roberts v. McAllister, 174 N.C. App. 369, 373, 621 S.E.2d 191, 195 (2005) (citations and quotation marks omitted). The trial court's findings of fact must be based upon the evidence, and we review child support orders for abuse of discretion. *Id.* at 374, 621 S.E.2d at 195.

> In reviewing child support orders, our review is limited to a determination whether the trial court abused its discretion. Under this standard of review, the trial court's ruling will be overturned only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision. The trial court must, however, make sufficient findings of fact and conclusions of law to allow the reviewing court to determine whether a judgment, and the legal conclusions that underlie it, represent a correct application of the law.

Id. at 374, 621 S.E.2d at 195 (citations omitted).

The evidence supports each of the numbers found in Findings 9 and 11. Mother testified about her income and employment with Happy Kids Child Development Center and Smart Start. She voluntarily quit her job at Smart Start in 2015 and testified that she was "unemployed" for most of 2016. But she also testified that she did "consulting work" for her parents' agricultural business in 2016, for which they paid her $46,466.00. She did not report these payments as income on her tax returns. She testified that her parents purchased a home for her in 2016 worth $385,000.00. Although she began working again before trial, in 2017 her parents continued to make regular cash gifts to her and to pay tuition for the children's school.

Mother argues that "[w]hile it is well settled law that a court can impute income to a party, it must make requisite findings regarding bad faith." The trial court may impute income to a party only upon finding that the party has "deliberately depressed his income or deliberately acted in disregard of his obligation to provide support." *See Lasecki v. Lasecki*, 246 N.C. App. 518, 523-24, 786 S.E.2d 286, 291-92 (2016) ("Generally, a party's ability to pay child support is determined by that party's actual income at the time the award is made. A party's capacity to earn may, however, be the basis for an award where the party deliberately depressed his income or deliberately acted in disregard of his obligation to provide support. Before earning capacity may be used as the basis of an award, there must be a showing that the actions reducing the party's income were taken in bad faith to avoid family responsibilities."). Mother contends that "the trial court made no findings on the issue of bad faith yet appears to impute income to [Mother]." But the trial court did not impute income to Mother; it treated regular, recurring gifts from her parents as income and prorated the value of the house they purchased for her, in accord with the Child Support Guidelines.

Under the North Carolina Child Support Guidelines, regular, recurring gifts and gifts made on a "one-time basis" – such as a house – may be included in "income."

> "Income" means a parent's actual gross income from any source, including but not limited to . . . *gifts*, prizes and alimony or maintenance received from persons other than the parties to the instant action. When income is received

> on an *irregular, non-recurring, or one-time basis, the court may average or prorate the income over a specified period of time* or require an obligor to pay as child support a percentage of his or her non-recurring income that is equivalent to the percentage of his or her recurring income paid for child support.

(Emphasis added.)

Here, there was abundant evidence of recurring, substantial gifts from Mother's parents from 2014, when the parties separated, up to the hearing. The trial court considered gifts from Mother's parents when determining Mother's income as directed by the North Carolina Child Support Guidelines. The court did not impute income so no finding of bad faith was required. The trial court also prorated the value of the house – a "non-recurring, or one-time basis" gift – based on a rental value of $1800.00 per month, which equates to a proration of the value of $385,000.00 over 17.8 years. We see no abuse of discretion in the trial court's proration of the house value over this time period. The trial court could have prorated the house value over a much shorter time period, resulting in a higher monthly value attributed to Mother which would *increase* Mother's income and *reduce* Father's child support obligation. A child support reduction is presumably not the result she seeks, and Father has not cross-appealed.

Mother is correct that the order does not include the trial court's exact calculations of her monthly income, but its findings are sufficient for us to review the order. *See Loosvelt v. Brown*, 235 N.C. App. 88, 101, 760 S.E.2d 351, 359 (2014) ("The

purpose of the requirement that the court make findings of those specific facts which support its ultimate disposition of the case is to allow a reviewing court to determine from the record whether the judgment – and the legal conclusions which underlie it – represent a correct application of the law."). The trial court added Mother's income from her employment for 2014, 2015, 2016, and 2017 as of the date of trial, to the cash gifts from her parents for each year; added the tuition for the children her parents paid for each year; and added $1800.00 per month as the prorated gift amount for the house. The trial court determined the average of these sums over the prior three years and found this average as Mother's income. Mother also argues that the trial court erred by failing to make a conclusion of law on the amount of Mother's income. But her income is a fact, and the trial court properly found it as a fact. The trial court attached Worksheet B showing its calculations under the child support guidelines.

III. Conclusion

The trial court's findings of fact were supported by the evidence, and it did not abuse its discretion in setting child support under the Child Support Guidelines. We affirm the trial court's 18 August 2017 order.

AFFIRMED.

Judges ZACHARY and MURPHY concur.

Report per Rule 30(e).