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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-825

Filed: 19 May 2020

Watauga County, No. 18CVD168

WATAUGA COUNTY DEPARTMENT OF SOCIAL SERVICES EX. REL. DAMON  
ANAGNOS, Plaintiff,

v.

MARGARET DILLARD, Defendant.

Appeal by Defendant from orders entered 29 April 2019 by Judge Hal G.  
Harrison, in Watauga County District Court. Heard in the Court of Appeals 18 March  
2020.

*Di Santi Watson Capua Wilson & Garrett, PLLC, by Chelsea Bell Garrett, for  
Plaintiff-Appellee.*

*Morgenstern & Associates, PLLC, by Ashley D. Bennington, for Defendant-  
Appellant.*

DILLON, Judge.

Defendant Margaret Dillard (“Mother”) appeals from orders granting Plaintiff  
Damon Anagnos’ (“Father”) Rule 60 motion, denying Mother’s Rule 59 and Rule 60  
Motions, and amending child support.

I. Background

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Mother and Father were married from 1987 through 2014 and have one minor child who was born in 2001. Before this action was filed, the child was in the primary care of Father and has continued to stay in Father's primary care. Mother spent time with the child weekly; however, the child never stayed overnight with Mother. Father is a plastic surgeon with his own practice. Mother is self-employed, owning and managing rental properties.

Father filed this action to receive retroactive child support for the three years before this matter was filed where the child was in his care primarily, and also for prospective child support.

During the retroactive period, Father's practice paid for Father's and child's phone bills, Father's home mortgage, and Father's health insurance, which also covered the child. Because these expenses were paid for by Father's medical practice, the amounts were not included in the total of the actual expenditures for the minor child's care that accrued over the three-year period.

Mother has a law degree and maintains a current license to practice law. In addition to the rental properties she owns, she has other investments, but it is not certain as to whether they have produced income. Mother maintains two residences: one in Boone and one in Charleston, South Carolina. She spends about fifty percent of her time in each house.

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The trial judge entered a Child Support Order (“the Order”) that was later amended after the filing of post-trial motions. The trial court found that the parties’ gross income was \$354,524.00, with Father earning 89% and Mother earning 11%. And the trial court ordered Mother to pay 11% of the child’s prospective reasonable expenses, or \$91.66 monthly. However, the trial court ordered Mother to pay retroactive child support equal to 50% of the child’s expenses for that period. Mother timely appealed.

II. Analysis

Mother argues that the trial court abused its discretion in ordering her to pay for 50% of the retroactive child support expenses where the evidence shows that she only earns 11% of the parties’ gross annual income.

In reviewing a child support order for an abuse of discretion, we note that “[these orders that are] entered by a trial court are accorded substantial deference by appellate courts[.]” *Biggs v. Greer*, 136 N.C. App. 294, 296, 524 S.E.2d 577, 581 (2000). However, a trial court’s ruling can be overturned, but “only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision.” *Id.* at 297, 524 S.E.2d at 581.

Generally, the courts use the North Carolina Child Support Guidelines, which are based on an income shares model approach. *See Fink v. Fink*, 120 N.C. App. 412, 423, 462 S.E.2d 844, 853 (1995). However, here, due to the parties’ combined income

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exceeding \$25,000 per month, the guidelines are not applicable. *See* N.C. Gen. Stat. § 50-13.4(c) (2018). The court does, however, take certain matters into account in determining retroactive child support when the case occurs outside the realm of the North Carolina Child Support Guidelines, also referred to as high-income cases. *See Zuroskey v. Shaffer*, 236 N.C. App. 219, 246, 763 S.E.2d 755, 771 (2014) (“The trial court made extensive findings of fact concerning the parents’ income levels, the children’s health, activities, educational needs, travel needs, entertainment, work schedules, living arrangements, and other household expenses.”)

Our Supreme Court has held that “the relative ability of [the parties] to provide support or the inability of one or more of them to provide support” is but one circumstance that the court looks at when determining child support amounts. *Coble v. Coble*, 300 N.C. 708, 711, 268 S.E.2d 185, 188 (1980). However, “the ultimate objective in setting awards for child support is to secure support commensurate with the needs of the children and the ability of the obligor to meet the needs.” *Smith v. Smith*, 247 N.C. App. 135, 150-51, 786 S.E.2d 12, 25 (2016) (internal marks omitted) (citations omitted).

In *Lawrence v. Tise*, the plaintiff’s income was found to be 6% of the parties’ combined total. 107 N.C. App. 140, 145-46, 419 S.E.2d 176, 180 (1992). The plaintiff appealed the matter after the trial court ordered the parties to split the cost of their minor child’s uninsured medical and dental expenses equally. *Id.* at 150, 419 S.E.2d

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at 182-83. Our Court held that “[g]iven the large disparity in the incomes of the parties . . . , an order requiring equal payment of uninsured medical and dental expenses incurred on behalf of the child is manifestly unsupported by reason and therefore remand is necessary.” *Id.* at 151, 419 S.E.2d at 183 (internal quotation marks omitted) (citation omitted).

Here, much like in *Lawrence*, there is quite a disparity in income between the parties. The trial court made findings about the parties’ separate incomes, spending habits, and potential for income. However, we conclude that the findings are not sufficient to support the trial court’s order directing Mother to pay 50% of her child’s retroactive child support. We therefore vacate that portion of the order and remand for further proceedings. On remand, the trial court may take additional evidence and make additional findings.

III. Conclusion

We conclude that the findings do not support the portion of the Order directing Mother to pay 50% of the child’s retroactive expenses. We remand that portion of the Order for further findings. On remand, the trial court may hear further evidence, in its discretion. We affirm all other portions of the Order.

AFFIRMED IN PART, VACATED AND REMANDED IN PART.

Judges COLLINS and BROOK concur.

Report per Rule 30(e).