

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2020 IL App (4th) 190675-U

NO. 4-19-0675

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 18, 2020

Carla Bender

4th District Appellate

Court, IL

NATALIE J. SAMS,)	Appeal from the
Petitioner-Appellee,)	Circuit Court of
v.)	Macon County
JEFF MOORE,)	No. 15F339
Respondent-Appellant.)	
)	Honorable
)	James R. Coryell,
)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court. Justices Turner and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court’s judgment ordering respondent to pay \$2475 in child support per month.

¶ 2 In July 2015, petitioner, Natalie J. Sams, petitioned the trial court to determine the existence of a parent and child relationship and to establish custody, visitation, and support between respondent, Jeff Moore, and the minor child, R.D.S-M. (14 years old).

¶ 3 In September 2018, following an evidentiary hearing, the trial court ordered Jeff to pay child support in the amount of \$2475 per month.

¶ 4 Jeff appeals, arguing the trial court erred in its calculation of child support. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 A. The Petition and Procedural History

¶ 7 In July 2015, Natalie filed a petition to determine the existence of a parent and child relationship and to establish custody, visitation, and support between Jeff and R.D.S-M. The petition alleged that Jeff was the putative father of R.D.S-M. and requested the court enter an order (1) establishing the existence of the parent and child relationship between Jeff and R.D.S-M., (2) awarding sole care, custody, control and education of R.D.S-M. to Natalie, and (3) granting child support in an amount that was reasonable and proper.

¶ 8 Because parenting time and the existence of a parent and child relationship are not at issue in this appeal, we discuss only the information related to child support.

¶ 9 B. The Orders for Support

¶ 10 In May 2017, the trial court entered a temporary support order requiring Jeff to pay \$2475 per month in child support.

¶ 11 In September 2018, the trial court conducted an evidentiary hearing regarding (1) the amount of child support and (2) whether Jeff should be given an additional one night every other week of parenting time.

¶ 12 Natalie argued that based upon the parties' financial affidavits from October 2017, (1) Jeff had an annual net income of \$316,839 and (2) Natalie had \$4170.10 in monthly earnings from employment plus an additional \$200 per month from cutting hair as a side business. Natalie's attorney contended that "there is a massive disparity in income" between the parties and therefore the amount of child support ordered of \$2475 "is reasonable." Natalie contended, "[w]e do not feel that a strict application of the, of the new method of calculating child support is appropriate and would serve as a windfall in [Jeff's] favor." Natalie also asserted that the amount she expected Jeff to request, \$500 to \$600 per month, was "not anywhere near sufficient to service the expenses for this child."

¶ 13 Jeff introduced his tax returns from 2015 and 2016. Jeff attempted to introduce his 2017 tax return, but the parties disputed whether it had been disclosed properly to Natalie in discovery. The trial court noted that the 2017 tax return had not been formally disclosed, but Jeff claimed he gave it to Natalie in court.

¶ 14 The trial court ultimately concluded as follows:

“All I can rely on, I think the local rules and Supreme Court rules require the parties to file financial affidavits, and that is what I’m to rely on doing what I’m doing. And what I have, the latest one I have from him is October of 2017. I’m really not that concerned about his 2017 tax return or what he put in it. I’m going to probably rely on the affidavit anyway.”

¶ 15 Jeff testified that as of September 2017 his net income was \$206,809.38 and his gross income was \$853,127.42. Natalie asked Jeff, “How in the world, now, do we have a tax return where your total gross is \$62,000?” Jeff replied, “That is why I brought my accountant here to explain it.”

¶ 16 Following Jeff’s testimony, the parties did not present any additional evidence, and Jeff did not call the accountant as a witness.

¶ 17 The trial court discussed the evidence from the hearing, noting that it believed “the financial figures we’ve got are somewhat unreliable.” Because of that, the court decided to rely on the financial affidavits. The court noted that as to the income tables that provide suggested child support amounts, “[t]he income shares really don’t contemplate an income like this.” The court said that “[t]he general purpose of the support act is to let the child enjoy the standard of living he would have received if the parties had stayed together, and I think the \$2,475 seems to have accomplished that.” The court ordered that Jeff pay child support in the

amount of \$2475 per month and made a docket entry summarizing the court's oral findings.

¶ 18 Jeff filed a petition to reopen evidence in February 2019, which claimed that the financial affidavit the court relied upon contained errors to the detriment of Jeff. The trial court denied the petition in March 2019.

¶ 19 In July 2019, the trial court entered a written order regarding child support in which it found Jeff's gross monthly income to be \$76,632.85, his deductions for business expenses to be \$50,229.40, and his net income to be \$26,000. The court ordered continued child support in the amount of \$2475 per month.

¶ 20 In August 2019, Jeff filed a motion to reconsider. In September 2019, at a hearing on that motion, counsel for Jeff told the trial court, "I had checked the transcript and it did not appear to me that there were really no calculations that I could see that anyone had really performed." He explained that since then, he had done calculations based upon the financial affidavits and believed the appropriate amount of child support to be \$1254.49. The court denied the motion.

¶ 21 This appeal followed.

¶ 22 **II. ANALYSIS**

¶ 23 Jeff appeals, arguing the trial court erred in its calculation of child support pursuant to section 505 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/505 (West 2016)). We disagree and affirm the trial court's judgment.

¶ 24 **A. The Trial Court's Calculation of Child Support**

¶ 25 Jeff argues the trial court made the wrong calculation when determining child support. Jeff contends the court used pre-tax net income instead of post-tax net income, resulting in a child support payment nearly twice as much as suggested by the guidelines. Further, Jeff

asserts that the \$2475 per month support amount was an upward departure from the recommendation table but the court failed to make the statutorily required written finding justifying the departure.

¶ 26 Natalie responds that because this information was not properly presented to the trial court at the time the court made its decision, the trial court did not abuse its discretion.

¶ 27 *1. The Standard of Review*

¶ 28 A trial court's order granting or modifying child support is generally reviewed for an abuse of discretion. See *In re Marriage of Juiris*, 2018 IL App (1st) 170545, ¶ 18, 127 N.E.3d 13. "On appeal, the relevant inquiry is not whether the appellate court would have come to a different conclusion; it is whether 'no reasonable person would take the view adopted by the court.'" *Id.* ¶ 19 (quoting *In re Marriage of Toole*, 273 Ill. App. 3d 607, 618, 653 N.E.2d 456, 465 (1995)).

¶ 29 *2. The Applicable Law*

¶ 30 Child support is calculated utilizing an income shares model. 750 ILCS 5/505 (West 2016). There is a rebuttable presumption that the amount of child support prescribed by the child support guidelines is the correct amount. *Id.* § 505(a)(3.3).

¶ 31 *3. This Case*

¶ 32 In this case, Jeff failed to present clear and concise evidence as to his income from his various businesses. We note that at one hearing, Natalie questioned Jeff about his income, and by way of answer he said, "that is why I brought my accountant here to explain it." He then did not call his accountant as a witness, and instead let his income remain unexplained. The trial court stated that in coming to its conclusion it found Jeff's evidence to be unreliable, and therefore relied upon Jeff's financial affidavit. The trial court further acknowledged that

