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2011 IL App (3d) 100385-U

Order filed July 26, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2011

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ILLINOIS DEPARTMENT OF	)	Appeal from the Circuit Court
HEALTHCARE & FAMILY	)	of the 12 <sup>th</sup> Judicial Circuit
SERVICES <i>ex rel.</i>	)	Will County, Illinois,
TARA R. LOCKHART,	)	
	)	
Plaintiff-Appellee,	)	Appeal No. 3-10-0385
	)	Circuit No. 09-F-1163
v.	)	
	)	
WALLACE EDWARDS,	)	The Honorable
	)	Mark Thomas Carney,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE McDADE delivered the judgment of the court.  
Presiding Justice Carter and Justice Holdridge concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The trial court did not err when it declined to grant defendant's request for a downward deviation from the amount of child support mandated by section 505(a)(1) of the Act because defendant did not meet his burden of showing that a deviation was appropriate, and no one prevented defendant from presenting relevant evidence to support his request for a deviation.

¶ 2 Defendant, Wallace Edwards, appeals from the trial court's award of child support to plaintiff, Tara Lockhart. Edwards argues that the court erred by declining to grant his request to deviate from the guidelines delineated in section 505(a)(1) of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/505(a)(1) (West 2008)). We affirm.

¶ 3 **FACTS**

¶ 4 Lockhart gave birth to the parties' minor son, Ian Edwards, on June 30, 2009. Thereafter, the Illinois Department of Healthcare and Family Services filed a petition on behalf of Lockhart seeking child support from Edwards.

¶ 5 The court conducted a hearing on this petition, during which Edwards proceeded *pro se*. Edwards testified that he worked as a consultant and earned \$40 per hour, which amounted to a biweekly gross income of \$3,200. Edwards disclosed that he had custody of two of his other children, and did not receive child support from their mother. Edwards also testified that he "ha[d] to pay for another residence," but the assistant Attorney General further inquired of his income before Edwards could elaborate on this statement. The assistant Attorney General estimated Edward's net biweekly pay at \$2,240, and suggested a biweekly child support payment of \$448, which represented 20% of Edwards' net income, the amount of support mandated for one child pursuant to section 505(a)(1) of the Act.

¶ 6 Edwards objected to the suggested amount of support. He explained that he and Lockhart had a prior agreement "because she ha[d] kids as [Edwards] ha[d] kids[,]" at which point the court stated that Edwards had "given [it] way too much information." The court asked Edwards to explain why he believed the suggested amount was too much, to which Edwards stated that he was the sole provider for two other children. The court inquired of "the amount [of child

support] that [Edwards] want[ed]" to provide for Ian, stated that it would construe his answer as a request for a deviation, and assured Edwards that it would listen to his explanation. Edwards responded that he wanted Lockhart to submit the expenses she incurred on behalf of Ian, and that he would pay for half of these expenses. The court believed that this scenario was "too complicated." The court inquired of the amount of child support that Edwards believed he should pay, to which Edwards responded \$250 biweekly, and stated that his "whole issue [was that he had] to provide for two other children." Lockhart objected to Edwards' offer to pay \$250, citing the rising cost of Ian's child care, and that Ian had medical issues with allergies and asthma. Lockhart further stated that she would not agree to a reduction from the statutory biweekly amount of \$448, as Edwards had not yet provided any financial support to Ian.

¶ 7 The court explained to Edwards that section 505(a)(1) of the Act mandated that he pay child support in the amount of 20% of his net income. The court thus set Edwards' child support obligation at \$448 biweekly. Edwards appeals.

¶ 8 ANALYSIS

¶ 9 On appeal, Edwards argues that the trial court erred when it declined to grant his request for a downward deviation from the statutory guidelines of section 505(a)(1) of the Act. In support of this argument, he contends that the assistant Attorney General and an unidentified person interrupted him and interjected inaccurate information during his testimony. Thus, he requests that this court remand the cause for a full evidentiary hearing on the matter of child support. Lockhart asserts that Edwards did not meet his burden of showing that a deviation from the statutory guidelines was appropriate and that the court correctly set the amount of child support by conforming to the statutory guidelines.

¶ 10 Section 505(a)(1) of the Act (750 ILCS 5/505(a)(1) (West 2008)), provides that "[t]he court shall determine the minimum amount of support" for one child at 20% of the supporting parent's net income. Net income includes all of the supporting parent's income, less deductions for, among other things, taxes, health insurance premiums, court ordered child support obligations, and the repayment of certain debts. 750 ILCS 5/505(a)(3) (West 2008). The guidelines create a rebuttable presumption that support in their specific proportions of the supporting parent's net income is appropriate. *Parks v. Romans*, 187 Ill App. 3d 445 (1989).

¶ 11 In setting a child support award, a trial court may deviate from the statutory guidelines, but only if it finds "that application of the guidelines would be inappropriate, after considering the best interests of the child in light of evidence including but not limited to": (1) the financial resources and needs of the child, custodial parent and non-custodial parent; (2) the standard of living of the child if the parents had remained in their relationship; and (3) the physical and emotional condition of the child, and his educational needs. 750 ILCS 5/505(a)(2) (West 2008). The party seeking the deviation from the statutory percentage bears the burden to present evidence showing that "compelling reasons" exist to justify a deviation. *Roper v. Johns*, 345 Ill. App. 3d 1127, 1130 (2004).

¶ 12 The trial court has wide discretion in setting an award of child support, and we will not overturn their decision absent an abuse of discretion. *In re Marriage of Burbridge*, 317 Ill. App. 3d 190 (2000). A trial court abuses its discretion when its determination is arbitrary or unreasonable, or when no reasonable person could agree with the position taken by the trial court. *In re Marriage of Lindman*, 356 Ill. App. 3d 462 (2005); see also *In re Marriage of Stanley*, 279 Ill. App. 3d 1083 (1996) (the trial court abused its discretion when it granted a

downward deviation from the statutory child support guidelines only because the noncustodial parent was ordered to provide child support for other children).

¶ 13 In this case, we conclude that the trial court did not err when it declined to grant Edwards' request for a downward deviation from the amount of child support mandated by section 505(a)(1) of the Act for two reasons. First, Edwards did not meet his burden of showing that a deviation was appropriate. Second, no one prevented Edwards from presenting relevant evidence. Consequently, the trial court properly followed the guidelines of section 505(a)(1) of the Act and set Edwards' child support obligation at \$448.

¶ 14 First, Edwards did not meet his burden of establishing "compelling reasons" supporting a downward deviation from the relevant statutory guidelines. *Roper*, 345 Ill. App. 3d at 1130. At the hearing, Edwards stated that he had custody of two other children, for which he received no child support, and had another residence. However, Edwards did not submit proof of these expenses at trial, nor did he submit their respective amounts. Instead, he offered to split Ian's expenses with Lockhart, or to make biweekly payments of \$250. Thus, based on this evidence, we do not believe that Edwards' testimony amounted to compelling reasons to support a downward deviation from the statutory guidelines.

¶ 15 Next, our careful review of the record does not indicate that the assistant Attorney General, or an unidentified person, prevented Edwards from presenting relevant evidence supporting his request for a deviation. We acknowledge that the assistant Attorney General continued to ask Edwards a question about his income as Edwards stated that he "ha[d] to pay for another residence[.]" However, payment for the costs of a residence are not among those that support a downward deviation pursuant to section 505(a)(2) of the Act, nor do they provide a

deduction from the noncustodial parent's net income pursuant to section 505(a)(3) of the Act. Furthermore, the only time the court prevented Edwards from elaborating on his testimony was when it determined that Edwards had given it “too much information.” That information was not relevant to determining the award of child support. Thus, the record does not indicate that anyone prevented Edwards from presenting relevant testimony or interjected incorrect testimony into the proceeding.

¶ 16 Overall, our review of the evidence in this case shows that Edwards objected to the statutory biweekly \$448 child support payment for Ian because he was the sole provider for two other children. Edwards specifically acknowledged that his “whole issue [was that he had] to provide for two other children.” The court, however, cannot permit Edwards to dilute his support obligations to Ian simply because he must also provide for Ian's half-siblings.

¶ 17 In light of our determination that the trial court did not err by refusing to grant Edwards’ request for a deviation, we conclude that because the trial court followed the statutory guidelines of section 505(a)(1) of the Act, it did not abuse its discretion when it set Edwards’ child support obligation at 20% of his net income, or a biweekly payment of \$448.

¶ 18 **CONCLUSION**

¶ 19 For the foregoing reasons, we affirm the decision of the trial court of Will County.

¶ 20 Affirmed.