

No. 1-12-2142

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN RE THE CUSTODY OF:)	Appeal from the
)	Circuit Court of
J.M.B. and D.E.B., Minors,)	Cook County
)	
E.M.B.,)	
Petitioner-Appellant,)	No. 09 D 7970
)	
v.)	Honorable
)	Lisa Ruble Murphy
J.E.B.,)	Judge Presiding.
)	
Respondent-Appellee.)	

JUSTICE EPSTEIN delivered the judgment of the court.
Justices Fitzgerald Smith and Lavin concurred in the judgment.

ORDER

- ¶ 1 *Held:* Petitioner failed to show that trial court abused its discretion in determining whether to award child support. Affirmed.
- ¶ 2 Petitioner, E.M.B., filed a petition against her former domestic partner, respondent, J.E.B., for joint custody, child support and related expenses for the children, and allocation of and contribution to college education expenses, and other relief. After a three-day trial, the

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circuit court issued its written memorandum opinion and order. Among other things, the trial court found that neither party owed child support. Petitioner now appeals, arguing that the trial court erred, as a matter of law, in: (1) failing to recognize respondent's receipt of substantial gifts, loans "in name only," and other additions as income; (2) failing to consider the standard of living the children would have enjoyed had the relationship not ended; (3) concluding that the parents' lifestyle was irrelevant to the court's consideration of the lifestyle that the children would have enjoyed had the family's relationship continued; and (4) finding that child support was not warranted because the children spent equal time with each parent. For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Petitioner is a judge of the circuit court of Cook County. Respondent is a physician employed in a medical practice, of which she is a part owner. The parties resided together in a domestic partnership from 1982 until 2008. They have three children. Petitioner is the biological mother of T.M.B., born May 27, 1990, and J.M.B., born April 11, 1992. Respondent is the biological mother of D.E.B., born May 17, 1993. The parties entered into co-parent adoptions of all three children. The domestic partnership ended around January 2008 when respondent vacated the family home. On August 25, 2009, petitioner filed her petition. T.M.B. was emancipated before the petition was filed. By the time of trial, all three children were emancipated.

¶ 5

A. Trial

¶ 6 The trial was held on July 12, 13, and 14, 2011. During trial, the parties financial

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disclosure statements and tax returns were admitted into evidence. Petitioner's exhibits 1, 2, and 3 (which the parties agreed to admit using respondent's exhibit numbers 6, 7 and 8) comprised her financial disclosure statements dated October 15, 2009, November 30, 2010, and May 11, 2011. Petitioner's federal income tax returns for 2009 and 2010 were marked as respondent's exhibits 9 and 10. The disclosure statements and tax returns showed that petitioner's net monthly income was: \$9,777.10 in 2009; \$10,013.09 in 2010; and \$9,417.05 in 2011. There were discrepancies between petitioner's financial disclosure statements and her tax returns. During cross-examination, petitioner agreed that the following amounts shown on her tax returns had been omitted from her disclosure statements: \$8090 in interest income and \$3058 in dividends for 2009, and \$9985 in interest income, \$5622 in dividends, and \$28,070 in capital gains for 2010.

¶ 7 Respondent's exhibits 1, 2, and 3 were her disclosure statements dated September 11, 2009, November 30, 2010, and May 4, 2011. Respondent's federal income tax returns for 2009 and 2010 were marked as respondent's exhibits 4 and 5. The disclosure statements and tax returns showed that respondent's net monthly income was: \$19,099.55 in 2009; \$20,586 in 2010; and \$16,928 in 2011.

¶ 8 Respondent testified that she did not disclose two PNC accounts on her disclosure statements. The accounts include a 1996 Trust with a value of \$193,700 and a 2004 trust with a value of \$177,828. However, these accounts are listed on respondent's exhibit 16, which is the list of her assets.

¶ 9 Respondent testified regarding petitioner's exhibit 5, a two-page document containing a

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list of all deposits she made into her bank accounts in 2010. Respondent had prepared this document in response to an interrogatory request from petitioner. The total of all deposits was \$534,402.62, but that figure included transfers from other accounts and non-recurring documented loans and gifts to enable respondent to purchase her current house. The net payroll income shown on the exhibit was \$276,965.39. Respondent also testified regarding items listed on the document, including a loan she received from her father and gifts from her parents.

¶ 10 Both parties also testified regarding the parenting time, the children's reasonable needs and their standard of living, and the family and household expenses each had paid, both before and after the termination of their relationship. The evidence showed that, with respect to the parties' expenditures for their children's expenses during the relevant time period, petitioner had contributed \$119,258 and respondent had contributed \$179,319, for a total of approximately \$297,500. Petitioner testified that she spent \$37,512 in 2009, \$45,791 in 2010 and \$35,955 in 2011 to the date of trial, in direct expenses for the children. Respondent testified that she gave the children allowances, including cash, and they also had access to some of her credit cards. Respondent's exhibits 11 through 15 were admitted into evidence and contained tabulations of what she had spent on the children in 2009, 2010, and 2011.

¶ 11 B. Trial Court's Order

¶ 12 On June 20, 2012, the trial court issued its written memorandum opinion and order. The court granted the parties' request for an order of joint custody of J.M.B. and D.E.B. who had been minors when the petition was filed. The court discussed custody and parenting time, noting that the discussion "relate[d] only to a determination of the issue of the way in which the parties

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should have financially supported their children from 2009 until June 2011.” The court found that “the evidence established that the parties exercised relatively equal parenting time with J.M.B. and D.E.B. during the pendency of the case.”

¶ 13 The trial court then discussed child support and the children's expenses. The court found that “the application of the child support guidelines set forth in Section 505 of the *** Act would be inappropriate in this case due to the equal parenting time the parties enjoyed with their children and the parties' high income.” The court concluded that, once the children's education trust funds were depleted, respondent would be responsible for the payment of college tuition, room and board, and fees for the children, and petitioner would be responsible for the expenses of books, supplies and transportation. The court's decision on college expenses has not been appealed. Petitioner now appeals the trial court's decision that “neither party owes the other party child support for the period August 1, 2009 through July 1, 2011.”

¶ 14

II. ANALYSIS

¶ 15

A. Trial Court's Determination of “Net Income”

¶ 16 Petitioner first argues that “the trial court erred, as a matter of law, when it failed to recognize respondent's receipt of substantial gifts, loans in name only and other additions as income.” The parties disagree as to the standard of review we must apply. Petitioner contends it is *de novo*; respondent argues it is abuse of discretion.

¶ 17

Generally, the standard of review of a support order is whether it was an abuse of discretion, or whether the factual predicate for the decision was against the manifest weight of the evidence. *In re Marriage of Bates*, 212 Ill. 2d 489, 523-24 (2004). This court has also stated

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that “[t]he findings of the trial court as to net income and the award of child support are within its sound discretion and will not be disturbed on appeal absent an abuse of discretion.” (Internal quotation marks omitted.) *In re Marriage of Putzler*, 2013 IL App (2d) 120551, ¶ 28 (quoting *In re Marriage of Breitenfeldt*, 362 Ill. App. 3d 668, 675 (2005)). “[I]t is well established that an abuse of discretion will be found only where no reasonable person would take the view adopted by the trial court. *In re Marriage of O'Brien*, 2011 IL 109039, ¶ 52.

¶ 18 Respondent argues that *de novo* review is inapplicable because “the trial court did not interpret the language of any statute, but only weighed the evidence and exercised its discretion in accordance with settled principles of law.” Petitioner asserts that the trial court here erred, as a matter of law, because the trial court's interpretation of “net income” under section 505 of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/505 (West 2002)) was incorrect. Citing *In re Marriage of Rogers*, 213 Ill. 2d 129, 136 (2004), she argues that the interpretation of “net income” is a matter of law that is reviewed *de novo*. Petitioner notes that “income” is broadly defined and has cited cases that have considered certain items to constitute income as a matter of law. She further argues that respondent's assertion that this case should be decided under an abuse of discretion standard “put[s] the proverbial cart before the horse.” Petitioner asserts that “[b]ecause the trial court ignored the precepts of *Rogers*, the court's findings regarding [respondent's] gross and net income were flawed *ab initio*.” Citing *Korogluyan v. Chicago Title & Trust Co.*, 213 Ill. App. 3d 622, 671 (1991), she argues that whether a court has erred in the application of existing law is not reviewed under an abuse of discretion standard.

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¶ 19 In determining the net income of the parties, the trial court made the following findings. Respondent's net monthly income was: \$19,099.55 in 2009; \$20,586 in 2010 and \$16,928 in 2011. Petitioner's net monthly income was: \$9,777.10 in 2009; \$10,013.09 in 2010; and \$9,417.05 in 2011. The trial court based its determinations of net income on the parties' financial disclosure statements.

¶ 20 Petitioner now contends: "Based upon [respondent's] own exhibits and testimony, [petitioner] presented the following items as [respondent's] net income under Section 505 for 2010:

"Income from practice (payroll deposits) and legal work	\$240,044.00
Tax Refund	\$18,037.00
Gifts from Parents	\$76,000.00
401(k) addition	\$49,500.00
Joint Vanguard IRA	\$21,092.00
Alleged loan from [respondent's] father	\$125,000.00
Miscellaneous refunds	\$4,359.00
Total:	\$534,382.00"

The premise for petitioner's claim that respondent's income was \$534,382 is petitioner's exhibit 5, the previously described document listing deposits respondent made into her bank accounts in 2010. The trial court here acknowledged this claim, stating: "Petitioner argues that, for the year 2010, the Court should look at Respondent's bank deposits as the indicia of Respondent's income rather than her 13.3 financial affidavit and tax return." However, citing *In re Marriage of*

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McGrath, 2012 IL 112792 (withdrawals from savings account are not to be included as income for purposes of section 505 of the Act), the trial court concluded that petitioner's position was not supported by case law.

¶ 21 “ 'Net income' is defined in section 505(a)(3) of the Act as 'the total of all income from all sources.' ” *In re Marriage of Eberhardt*, 387 Ill. App. 3d 226, 231 (2008) (quoting 750 ILCS 5/505(a)(3) (West 2006)). Although a trial court's decision about whether to apply the statutory guidelines involves carefully balancing many factors, “the determination of net income should be a straightforward, rigorous process.” *In re Marriage of Minear*, 287 Ill. App. 3d 1073, 1077 (1997), *aff'd*, 181 Ill. 2d 552 (1998) (quoting *Gay v. Dunlap*, 279 Ill. App. 3d 140, 146 (1996)). Our supreme court has stated that “how to interpret the term 'net income' in section 505 of the Act” is solely a question of law for which our review is *de novo*.” *In re Marriage of McGrath*, 2012 IL 112792, ¶ 10. The *McGrath* court decided that, for purposes of calculating child support, money that the unemployed father regularly withdrew from his savings account in order to support himself was not “net income” as a matter of law. *Id.* In *In re Marriage of Rogers*, 213 Ill. 2d 129, 135-36 (2004), the case petitioner relies upon, the court held that the annual loans and gifts that the father received from his parents constituted income as a matter of law and the circuit court was correct to include them as part as part of the father's total income. Also, in *In re Marriage of Lindman*, 356 Ill. App. 3d 462, 465 (2005), the court applied a *de novo* standard of review and determined that the father's individual retirement account (IRA) disbursements constituted “income” for purposes of calculating net income under the Act. The *Lindman* court explained its standard of review:

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“Although the ultimate inquiry here may be whether the circuit court's decision amounted to an abuse of discretion, the more pressing issue, as we see it, is whether the circuit court correctly concluded that disbursements from petitioner's IRA are 'income' for the purposes of calculating net income under section 505 of the [Act] [citation] upon which a child support calculation must be based. The proper construction of section 505 is a question of law. [Citation.] Thus, our review is *de novo*.” *Id.* at 464-65.

¶ 22 In urging a *de novo* review, petitioner provides little additional reasoning or argument as to each individual item she now claims constitute income as a matter of law. Moreover, she seems to contend that the trial court's refusal to accept the list of bank deposits into respondent's account as “the indicia of Respondent's income rather than her 13.3 financial affidavit and tax return” means that the court failed to consider any of the items that were listed on petitioner's exhibit 5. However, the record clearly shows that respondent was questioned about these items and the court heard the testimony.

¶ 23 For example, respondent testified regarding the \$125,000 loan she received from her father. She stated that when she purchased her new residence, she “used cash that [she] had on hand as well as a loan from [her] 401(k) fund in order to have enough cash to put in as a down-payment.” She further testified that, after she made the down payment, she repaid her retirement account using the money from the loan that she received from her father. Respondent also testified that she was not obligated to repay the loan at the time of trial. Respondent challenges petitioner's characterization of this loan as “phony” or “in name only.” As respondent notes,

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merely because the holder of the June 2010 note had not yet demanded payment does not mean the loan was “phony.”

¶ 24 In *Rogers*, we held that the annual loans and gifts that father received from his parents were correctly included as part of the father's total income. *Rogers* is distinguishable. There, “by the father's own testimony, the gifts and loans from his family 'represent[ed] a steady source of dependable annual income *** he ha[d] received each year over the course of his adult life.' ” *Id.* at 134. As the court noted, the father had never been required to repay these “loans.” *Id.* As the court explained: “As the word itself suggests, 'income' is simply 'something that comes in as an increment or addition ***: a gain or recurrent benefit that is usu[ually] [*sic*] measured in money ***: the value of goods and services received by an individual in a given period of time.'

[Citation.] It has likewise been defined as '[t]he money or other form of payment that one receives, usu[ually] [*sic*] periodically, from employment, business, investments, royalties, gifts and the like.' [Citation.]” *Id.* at 136-37. Unlike the “loans” received by the father in *Rogers*, it cannot be said that respondent's one-time loan from her father under the facts here constituted “income” as a matter of law. In determining that the “loans” in *Rogers* were properly considered income, the court explained:

“the sums at issue here are loans in name only. According to the mother, whose testimony was found to be more credible by the circuit court, the father had never been required to repay any part of the substantial 'loans' given to him each year by his parents.” *Id.* at 140.

Although the *Rogers* court did not reach the issue of whether a true loan could be considered

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income, this court later held that, in general, loans should not be considered income. *In re Marriage of Tegeler*, 365 Ill. App. 3d 448, 458 (2006). As we noted: “loans typically should not be counted as income because they usually do not directly increase an individual's wealth.” *Id.* Here, the circuit court did not err as a matter of law in declining to include the loan amount in its determination of respondent's 2010 net income.

¶ 25 However, we reach a different conclusion with respect to the \$76,000 that respondent received in 2010 as gifts from her parents. As the *Rogers* court clearly held, even if not subject to taxation by the federal government, “gifts” qualify as income under section 505(a)(3) of the Act because they represent a valuable benefit to the party that enhance his wealth and facilitate his ability to support his child. *Rogers*, 213 Ill. 2d 129, 137 (2004). During cross-examination, respondent conceded that she received this amount in gifts, and even noted that she had inadvertently omitted one of the gifts from the list on page two of petitioner's exhibit 5. Nonetheless, respondent's exhibit 2, the financial disclosure statement dated November 30, 2010, that the trial court relied upon to determine respondent's net income for that year, did not list these gifts.

¶ 26 In *In re Marriage of Anderson & Murphy*, 405 Ill. App. 3d 1129, 1137 (2010), we held that the trial court abused its discretion in failing to include the gifts that the father received from his family in calculating net income for child support purposes. We noted that the gifts appeared to be a continuing source of income that he had received over the course of his adult life which were a valuable benefit that facilitated his ability to support his children. *Id.* There, however, the trial court had entered a child support award under the guidelines calling for the father to pay

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28% of his statutory net income for child support for the two children. *Id.* at 1131. The mother had requested language in the court's order requiring the father to include 28% of any gifts or loans he may receive from his parents in his child support payments in accordance with statutory guidelines. *Id.* at 1137. We remanded the matter for the trial court to enter a modified child support order to include the gifts as income.

¶ 27 The situation here, however, is far different from the one in *In re Marriage of Anderson & Murphy*. Here, in determining whether to award child support, the trial court decided that “the application of the child support guidelines set forth in Section 505 of the *** Act would be inappropriate in this case due to the equal parenting time the parties enjoyed with their children and the parties' high income.”

¶ 28 The statutory guidelines for child support provide that the amount of a child support award be based on the number of children and a percentage of the supporting party's net income. *Id.* The Act provides that where there are two children, as there are here, the guideline award is 28% of the supporting party's net income. See 750 ILCS 5/505(a)(1) (West 2010). The Act further provides that the “guidelines shall be applied in each case unless the court, after considering evidence presented on all relevant factors, finds a reason for deviating from the guidelines.” 750 ILCS 5/505(a)(2) (West 2010). The “[r]elevant factors may include but are not limited to:

- “(a) the financial resources of the child;
- (b) the financial resources and needs of the custodial parent;
- (c) the standard of living the child would have enjoyed had the marriage not been

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dissolved;

(d) the physical and emotional condition of the child, and his educational needs;

and

(e) the financial resources and needs of the non-custodial parent.” *Id.*

A trial court may deviate from the statutory guidelines if it “(1) makes a finding, after considering the best interests of the child, that the application of the guidelines would be inappropriate; (2) states the amount of support that would have been required under the guidelines, if determinable; and (3) indicates the reason for the variance from the guidelines.

[Citation.]” *In re Marriage of Berberet*, 2012 IL App (4th) 110749, ¶ 37. The trial court here complied with these requirements. “Despite the existence of child support guidelines, the setting of child support is a judicial function.” *Id.* “The trial court is required to exercise its best judgment in setting child support, whether the amount set is higher or lower than the guidelines.” *Id.*

¶ 29 The court found that respondent's monthly net income for 2010 was \$20,586. Had the court considered the \$76,000 (\$6,333 per month) as 2010 income, respondent's monthly net income would have instead been \$26,919. Had the statutory guidelines been applied, as they were in *In re Marriage of Anderson & Murphy*, it would appear that respondent could have been required to pay 28% of that amount, or an additional \$1,773.24 per month. However, the guidelines were not applied. Thus, although it appears that the court did not consider respondent's gifts from her parents in its income determination, we do not believe a different determination of respondent's net income, in this case, would have affected the ultimate decision

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on child support. Although petitioner argues that the trial court's calculation of income “substantially understated [respondent's] income and minimized the disparity in the two parents' incomes,” the fact remains that this case involved two parties with high income and the court chose not to apply the statutory guidelines when determining child support. Thus, we believe any error in calculating net income was harmless. See *In re Marriage of Stockton*, 169 Ill. App. 3d 318, 324-25 (1988) (although the calculation of respondent's net income was not sufficiently precise to make a determination of child support based on percentage of net income, court concluded it need not be concerned with the net income figure where trial court chose to rely on other evidence to go below the statutory guidelines for child support, and petitioner was not prejudiced by the inaccuracy); see also *In re Marriage of Wojcik*, 362 Ill. App. 3d 144, 153-54 (2005) (trial court's miscalculation of parties' incomes in marriage dissolution proceedings, which resulted in understatement of wife's annual income and overstatement of husband's, was harmless error since neither the property division nor the court's maintenance determination would have been different).

¶ 30 B. Trial Court's Child Support Award

¶ 31 “We review an award of child support for an abuse of discretion.” *In re Marriage of Sobieski*, 2013 IL App (2d) 111146, ¶ 53. An abuse of discretion will be found only where no reasonable person would take the view adopted by the trial court.

¶ 32 1. Children's Standard of Living

¶ 33 Petitioner now asserts that the trial court erred “as a matter of law,” when it stated that it was not *required* to consider section 505(a)(2)(c) in the determination to award child support.

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Section 505(a)(2)(c) concerns “the standard of living the child would have enjoyed had the marriage not been dissolved.” However, as respondent correctly notes (and as the court's order plainly states) the trial court *did* consider section 505(a)(2)(c). The trial court's order clearly states: “In calculating the appropriate amount of the child support that the parties should pay, the Court finds that it should consider *all* the factors set forth in Section 505(a)(2) of the Act.” Thus, we decline petitioner's request that we address this issue further “so that no trial court differentiates between the children of unmarried vs. married parents in any aspect of a child support case.” Courts of review “do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided.” *Wright Development Group, LLC v. Walsh*, 238 Ill. 2d 620, 632 (2010) (quoting *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009)).

¶ 34

2. Parents' Lifestyle

¶ 35 Petitioner next argues that “the trial court erred when it concluded as a matter of law that the parents' lifestyle was 'irrelevant' to the court's consideration of the lifestyle the children would have enjoyed had the family's relationship continued.” Petitioner submitted into evidence the checking account statements from the parties' 2007 and 2008 joint accounts to show the family's income and spending habits. As respondent notes, however, petitioner did not attempt to explain bank statements she claimed supported her assertions as to the 2007 and 2008 “family expenses” but, instead, “simply dumped the account statements *en masse* on the trial court without any specific testimony or explanation.” As the court stated in its ruling: “The Court reviewed the bank records submitted by the Petitioner which purportedly were submitted to establish the

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lifestyle of the children during the time prior to the parties separation. The Court finds that this evidence does not establish a lifestyle for the children as many of the expenditures reflected on the bank records do not relate to the children.”

¶ 36 Petitioner asserts that lifestyle includes more than “shown needs.” She now argues that the court erred in artificially separating the “lifestyle of the children” from the “lifestyle of the family.” We disagree. To the extent petitioner now argues that her own standard of living was diminished, this is not a maintenance case, and neither party had any obligation to support the standard of living of the other. Petitioner failed to introduce any evidence to show the supposed diminution in the children's standard of living. The evidence showed that the parties spent a total of \$297,500 on the children (\$179,319 paid by respondent and \$119,258 by petitioner) during the relevant time period. Petitioner provided no evidence of what standard of living would have required the expenditure of \$628,000 on the children that she now contends was actual amount necessary. As we have earlier noted, in determining its child support award, the trial court here balanced the competing concerns and expressly considered *all* of the factors set forth in section 505(a)(2) of the Act.

¶ 37 As respondent notes, although child support cases generally involve awards for the “prospective” support of “minor” children, this case does not. When the trial court issued its order all three of the parties' children were emancipated. The trial court's decision concerned the parties' responsibilities for the financial support of the children for a finite period that had passed – from August 1, 2009 until June 2011. As noted, during that time period, petitioner had contributed \$119,258 and respondent had contributed \$179,319, for a total of \$297,500. The

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issue before the trial court was whether the amounts that each party had already paid during the relevant period were equitable and sufficient. The trial court decided that they were. Respondent argues that the trial court made this determination in the exercise of its discretion “[a]fter hearing and weighing three days of disputed trial evidence.” The trial court here did not abuse its discretion in deciding that neither party was required to pay child support.

¶ 38

3. Parenting Time

¶ 39 Petitioner next argues that “the trial court erred, as a matter of law, when it found that child support was not warranted because the children spent 'equal time' with each parent.” This statement is inaccurate. The trial court here found two separate bases to deviate from the guidelines. The first was “the equal parenting time the parties enjoyed with their children.” The other was the parties' high income.

¶ 40 Regarding the first basis, petitioner, citing *In re Marriage of Sobieski*, 2013 IL App (2d) 111146 and *In re Marriage of Demattia*, 302 Ill. App. 3d 390, 393 (1999) argues that “[w]hen both parents provide significant care to the children, it is appropriate to award child support to the parent with fewer financial resources.” Petitioner asserts that the cases relied upon by the trial court do not apply here because this was not a “split custody” case. Petitioner then states: “That the trial court apparently failed to read the very cases upon which it relied is not an overstatement.” We do not condone such *ad hominem* attacks on the trial judge. We also conclude that the cases relied upon by the trial judge, as well as the facts of this case, support the trial court's decision.

¶ 41 In *In re Marriage of Steadman*, 283 Ill. App. 3d 703 (1996), a relevant case relied upon

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by the trial court, we explained that “[in] split custody cases a trial court may disregard the statutory guidelines in the Act and may instead consider the factors listed in section 505 of the Act.” *Id.* at 708 (1996). Several cases have explained that the guidelines may be deviated from in those instances involving split custody. See, e.g., *In re Marriage of Keown*, 225 Ill. App. 3d 808, 812 (1992) (“A strict mathematical application of the guidelines where there is split custody of the children is not contemplated by the statute.”); *In re Marriage of White*, 204 Ill. App. 3d 579, 582 (1990) (“There are no guidelines for trial courts when custody is split between the parties nor when a party is responsible for the support of other children from other marriages.”). Although each case will have different factual circumstances, the legal principle that a trial court may deviate from the statutory guidelines in split custody cases, applies equally to the unique factual circumstances of the instant case. We agree with respondent that petitioner's attempts to distinguish the instant case from those cited by the trial court on the basis that this is not a “split custody” case is a distinction without a difference. We reject petitioner's argument that the trial court erred “as a matter of law” when it found that child support was not warranted because the children spent “equal time” with each parent.

¶ 42

4. Parties' High Income

¶ 43 As noted, the trial court stated an additional basis supporting its deviation from the guidelines: “the parties' high income.” “Where the individual incomes of both parents are more than sufficient to provide for the reasonable needs for the parties' children, taking into account the life-style the children would have absent the dissolution, the court is justified in setting a figure below the guideline amount.” *In re Marriage of Bush*, 191 Ill. App. 3d 249, 260 (1989);

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accord *In re Marriage of Singleteary*, 293 Ill. App. 3d 25, 36 (1997); *In re Marriage of Lee*, 246 Ill. App. 3d 628, 643 (1993). The trial court relied on *Bush*, which petitioner does not attempt to distinguish. The *Bush* court stated as follows:

“Our courts have recognized that in fixing child support, or in modifying child support, a court must consider the standard of living the child would have enjoyed absent parental separation and marital dissolution. [Citations.]. Despite the requirement that a court consider a child's station in life, the courts are not required to automatically open the door to a windfall for children where one or both parents have large incomes. A large income does not necessarily trigger an extravagant life-style or the accumulation of a trust fund. A large increase in income will not necessarily result in an equal change in one's life-style. There are other rational options for an individual with a large income than just conspicuous consumption. The wealthy person may prefer personal frugality, or the enrichment of others through charitable giving, or simply deferring income through tax-delay investments, in order to build an estate. Keeping in mind the fact that this case involves incomes for both mother and father which are far above average, we know of no rule of law requiring excessive child support so that the child (or the custodial parent) can diminish the accumulation of an estate by the noncustodial parent. We are not required to equate large incomes with lavish life-styles. Neither are the courts required to provide opulence and excess as an award for child support simply because it exists for one of the parties.” *Id.*

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at 261.

¶ 44 As the *Lee* court later explained:

“Determining the amount of child support to be paid by a high-income parent is a difficult exercise for the trial court. Where the individual incomes of both parents are more than sufficient to provide for the reasonable needs for the parties' children, taking into account the life-style the children would have absent the dissolution, the court is justified in setting a figure below the guideline amount. * * *.

In fixing the child support obligation of a high-income parent, the trial court must balance competing concerns. On one hand, the trial court should not limit the amount of child support to the child's shown needs, because a child is not expected to live at a minimal level of comfort while the noncustodial parent is living a life of luxury. [Citation.] The trial court must consider the standard of living the child would have enjoyed absent parental separation and dissolution. [Citation.] On the other hand, child support payments are not intended to be windfalls, but rather adequate support payments for the upbringing of the children. [Citation.]” (Internal quotation marks omitted.) *Id.* at 643-44.

The trial court here balanced the competing concerns and expressly “consider[ed] *all* of the factors set forth in Section 505(a)(2) of the Act.” (Emphasis added.)

¶ 45 5. Trial Court Did Not Abuse Its Discretion

¶ 46 After considering all of the relevant factors in section 505(a) of the Act, as well as the

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parties' relative equal parenting time, the trial court found that the parties provided the necessary support to meet the needs of the children and the lifestyle they would have enjoyed had the parties not separated. In deciding that neither party owed the other party child support for the relevant time period, the court explained: "Contrary to the arguments advanced by the Petitioner, the Court finds that there is *absolutely no evidence* to support the finding that the financial support provided by the parties was insufficient to meet the needs of the children *and* the lifestyle they would have enjoyed had the parties not separated." (Emphasis added.) As the court further noted:

"A review of [petitioner's and respondent's exhibits] reveal[ed] that the parties' children attended the same high school they attended before and after the separation, they continued to travel extensively, they continued to dine out, they continued to receive an allowance, they continued to have cell phones, and they applied to and attended elite colleges.¹ T.M.B. and J.M.B. had a car. The simple fact is that the Petitioner did not introduce any evidence whatsoever to prove her assertion, or upon which the Court could base a finding, that the children's lifestyle suffered after the parties' separation."

The trial court further acknowledged that respondent earned a higher income than petitioner and ruled that respondent "should be required to provide a disproportionate percentage of the children's expenses." Petitioner has failed to show that the trial court's decision was an abuse of

¹The court noted elsewhere in its order that "[t]he evidence established that the parties' children have attended, or are attending, private colleges and universities that are quite expensive."

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discretion.

III. CONCLUSION

¶ 47 In view of the foregoing, we conclude that the trial court did not abuse its discretion in finding that neither party owed the other party child support for the period of August 1, 2009 through July 1, 2011. We affirm the judgment of the circuit court of Cook County.

¶ 48 Affirmed.