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Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3609-15T2

PAUL A. REAGAN,

Plaintiff-Appellant,

v.

JENNIFER L. RYAN,

Defendant-Respondent.

Submitted May 16, 2017 – Decided June 6, 2017

Before Judges Koblitz and Mayer.

On appeal from the Superior Court of New
Jersey, Chancery Division, Family Part,
Atlantic County, Docket No. FM-01-995-11.

Cynthia Ann Brassington, attorney for
appellant.

Jennifer L. Ryan, respondent pro se.

PER CURIAM

Plaintiff appeals from a March 18, 2016 order denying his motion to recalculate child support.¹ We affirm.

The facts relevant to this appeal are undisputed. The parties entered into a Consent Final Judgment of Divorce (JOD) on July 31, 2012. The JOD provided that the parties share joint legal custody of their daughter, Z.R., born February 10, 2006. Plaintiff was designated as the parent of primary residence. Defendant was allowed two overnights per week from 4:00 p.m. on Sunday until 7:00 p.m. on Tuesday. In addition, defendant was permitted one weeknight dinner with Z.R. The JOD provided that child support would be calculated upon the expiration of plaintiff's payment of limited duration alimony.

When plaintiff's alimony obligation terminated, plaintiff filed a motion to calculate child support. By order dated December 9, 2014, Judge Michael J. Blee required defendant to pay \$10.00 per week in child support. Judge Blee calculated child support using a shared parenting worksheet despite plaintiff's argument that a shared parenting worksheet was inappropriate because

¹ Plaintiff's motion sought other relief as well. However, plaintiff's appeal is limited to the denial of recalculated child support.

defendant did not have separate sleeping accommodations for Z.R.² In calculating child support, the judge considered plaintiff's non-taxable annual pension of \$58,588.08, plus plaintiff's annual gross taxable income of \$26,930.66, and defendant's annual gross income of \$23,425.00.

Both parents resided in Atlantic County from the date of the JOD until September 2015. In 2015, plaintiff moved from Atlantic County to Burlington County. In February 2016, plaintiff filed a motion requesting the following relief: modification of the parenting schedule based upon plaintiff's relocation to Burlington County; modification of child support due to defendant's increased earnings; and transfer of venue to Burlington County.

On March 18, 2016, Judge Jeffrey D. Light granted plaintiff's motion in part. The judge modified defendant's parenting schedule to allow Z.R. to spend three weekends per month with defendant and additional summer vacation time. Judge Light denied plaintiff's motion to recalculate child support and transfer venue.

Because the judge reduced defendant's parenting time to three weekends per month, the number of overnights exercised by defendant decreased from 104 overnights per year to 72 overnights per year. Judge Light calculated child support using a shared parenting

² Defendant was living in a two-bedroom condominium with her mother.

worksheet and, based upon the parties' financial information, determined that defendant did not have a child support obligation. However, the judge ordered defendant to continue payment of child support at \$10.00 per week because parents have a statutory obligation to provide child support to the best of each parent's ability.

In calculating child support, Judge Light took into consideration that plaintiff moved from Atlantic County to Burlington County, a distance of approximately fifty miles. Plaintiff's unilateral move necessarily affected the parenting time schedule as defendant had to commute an hour and fifteen minutes to see Z.R. Plaintiff's relocation also eliminated defendant's ability to share dinner with Z.R. during the school week as contemplated in the JOD.

As for use of a shared parenting worksheet rather than a sole parenting worksheet, Judge Light determined that it was unfair for plaintiff to relocate, thereby reducing defendant's parenting time with Z.R., and to receive an increase in child support under the circumstances.

Plaintiff argues the judge abused his discretion by deviating from the New Jersey Child Support Guidelines (Guidelines) in using a shared parenting worksheet rather than a sole parenting worksheet to calculate child support.

A trial court's determination of a child support award is reviewed under the abuse of discretion standard. Jacoby v. Jacoby, 427 N.J. Super. 109, 116 (App. Div. 2012)(citations omitted). "When reviewing decisions granting or denying applications to modify child support, we examine whether, given the facts, the trial judge abused his or her discretion." J.B. v. W.B., 215 N.J. 305, 325-26 (2013)(quoting Jacoby, supra, 427 N.J. Super. at 116). We accord particular deference to judges in the Family Part "because of [their] 'special jurisdiction and expertise' in family matters." Harte v. Hand, 433 N.J. Super. 457, 461 (App. Div. 2013)(quoting Cesare v. Cesare, 154 N.J. 394, 412 (1998)). Unless a child support award is "manifestly unreasonable, arbitrary, or clearly contrary to reason or to other evidence, or the result of whim or caprice," we will not disturb the award. Foust v. Glaser, 340 N.J. Super. 312, 315-16 (App. Div. 2001)(internal quotation marks and citations omitted).

The Guidelines are set forth in Appendix IX-A and IX-B to Rule 5:6A. Rule 5:6A provides:

The guidelines set forth in Appendix IX of these Rules shall be applied when an application to establish or modify child support is considered by the court. The guidelines may be modified or disregarded by the court only where good cause is shown. Good cause shall consist of a) the considerations set forth in Appendix IX-A, or the presence of other relevant factors which may make the

guidelines inapplicable or subject to modification, and b) the fact that injustice would result from the application of the guidelines. In all cases, the determination of good cause shall be within the sound discretion of the court.

Both the Rule and Appendix accord family judges discretion to deviate from the Guidelines. See Lozner v. Lozner, 388 N.J. Super. 471, 480 (App. Div. 2006)(citing Ribner v. Ribner, 290 N.J. Super. 66, 73 (App. Div. 1996)). "The Child Support Guidelines are not cast in stone, but are in fact guidelines, subject to deviation as a matter of fairness on a case-by-case basis." Fichter v. Fichter, 444 N.J. Super. 205, 215 (Ch. Div. 2015). Among the factors that may be considered by the family court when establishing a child support award are: the "[s]tandard of living and economic circumstances of each parent," "[a]ll sources of income and assets of each parent," the "[e]arning ability of each parent," and "[a]ny other factors the court may deem relevant." N.J.S.A. 2A:34-23(a).

Applying this standard of review, we find Judge Light's child support award in this case was not an abuse of discretion. The judge considered that plaintiff earned three times more than defendant earned. Additionally, the judge weighed plaintiff's relocating approximately one hour and fifteen minutes farther from defendant under the "fairness" factor in determining the child

support award. Here, the judge found that the use of a sole parenting worksheet would result in a penalty to defendant. Defendant wanted to exercise more parenting time with Z.R. However, plaintiff's relocation made it impossible to abide by the parenting schedule agreed upon in the JOD.

The judge's award was not arbitrary, capricious or unreasonable given the facts before the court. The judge exercised his discretion and deviated from the Guidelines based upon the disparity in the parties' income as well increased travel distance required to enjoy parenting time with Z.R.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION