

**IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY**

LAKISHA LENOIR, et al.	:	
	:	Appellate Case No. 23732
Plaintiff-Appellants	:	
	:	Trial Court Case No. JC-2000-1214
v.	:	
	:	
TERRANCE T. PASCHAL	:	(Civil Appeal from Common Pleas Court, Juvenile)
	:	
Defendant-Appellee	:	
	:	

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OPINION

Rendered on the 25th day of June, 2010.

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Defendant-Appellee, *pro se*

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BROGAN, J.

{¶ 1} The Montgomery County Child Support Enforcement Agency (MCCSEA) and Lakisha Lenoir appeal from the trial court’s judgment entry reducing appellee Terrance Paschal’s child-support obligation. In their sole assignment of error, MCCSEA and Lenoir contend the trial court erred in lowering Paschal’s support obligation without completing a child-support worksheet.

{¶ 2} The record reflects that Lenoir and Paschal had one child together. Prior to the reduction at issue, the trial court had ordered Paschal to pay child support of \$50 per month plus \$10 per month toward an arrearage. At some point, Lenoir began receiving public assistance and assigned her child-support rights to the Montgomery County Department of Job and Family Services. Thereafter, in March 2009, MCCSEA filed an “Administrative Adjustment Recommendation,” seeking to have Paschal’s child-support obligation increased to \$250.63 per month plus \$10 per month toward the arrearage. MCCSEA’s filing included a proposed child-support worksheet prepared by the agency. It suggested imputing to Paschal minimum-wage income. Paschal objected to MCCSEA’s recommendation and separately moved for a reduction in his support obligation. In his brief, Paschal alleged, without supporting evidence, that his only income was a “Veterans Administration pension in the amount of \$541.00 per month.”

{¶ 3} On August 21, 2009, the trial court overruled Paschal’s objection to MCCSEA’s recommendation as “moot” in light of his pending motion for a child-support reduction, which the trial court set for a hearing. The trial court subsequently held the scheduled hearing on September 21, 2009. The brief hearing addressed Paschal’s support obligation for the child he had with Lenoir as well as for five additional children he had with three other women. The trial court initially reviewed the existing support orders with counsel. Addressing one of the women, the trial court then stated: “Ms. Hoskins, you’re in a bad situation here in that you have a child with a man who has five other kids. It’s been brought to the Court’s attention through all these different cases, he’s on V.A. disability, and the V.A. disability totals

about \$650 a month. That's not exact but in that area. Frankly, there's no way for an individual making \$650 a month [that] this court is going to be able to order him to pay a substantial amount of child support. * * *." (Hearing transcript at 5). When Ms. Hoskins complained about not receiving at least \$50 per month, the trial court responded: "In a normal situation, if the person isn't disabled, you're right, it's \$50 a month, the lowest amount. When a person is disabled, all the rules go out the window, and that's the distinction. * * *." (Id.). Without taking any evidence, the trial court then reduced Paschal's support obligation to \$10 per month for each of his six children plus an extra \$5 per month for each of three arrearages. One of the women, Ms. Fontenot, responded by complaining that Paschal could pay more because he lives in his father's house and has no bills. (Id. at 8-9). The trial court declined to reconsider its ruling and ordered Paschal to pay a total of \$75 per month or go to jail. (Id. at 9). The trial court journalized its reduced support order on October 5, 2009. This appeal followed.

{¶ 4} As set forth above, MCCSEA and Lenoir claim the trial court erred in reducing Paschal's support obligation without completing a child-support worksheet.¹ The appellants insist that completion of such a worksheet is mandatory and that the trial court's failure to complete one constitutes reversible error. In conjunction with

¹The appellants also allege in their brief that the trial court conducted its September 21, 2009 hearing without providing notice to Lenoir and without her presence. On the other hand, the trial court's October 5, 2009 order from which MCCSEA and Lenoir have appealed indicates that she was present. We need not resolve the dispute because the appellants have not raised Lenoir's absence from the hearing as an assignment of error. As set forth above, their single assignment of error challenges the trial court's reduction of Paschal's support obligation without completing a child-support worksheet.

this argument, the appellants assert that the trial court failed to make—and without a worksheet could not make—any factual findings to support a deviation from the statutorily presumed support level. For his part, Paschal has not filed an appellate brief.

{¶ 5} We review the trial court’s child-support modification for an abuse of discretion. *In re S.H.*, Montgomery App. No. 23382, 2009-Ohio-6592. In *In re S.H.*, we held that the trial court abused its discretion by reducing a child-support obligation without completing a worksheet or making findings necessary to support the reduction. In reaching this conclusion, we reasoned:

{¶ 6} “‘In any action in which a court child support order is issued or modified * * *, the court or agency shall calculate the amount of the obligor's child support obligation in accordance with the basic child support schedule, the applicable worksheet, and the other provisions of sections 3119.02 to 3119.24 of the Revised Code.’ R.C. 3119.02. The Supreme Court of Ohio has required strict compliance with the statutory procedures for an initial award or modification of a child support order. *Marker v. Grimm* (1992), 65 Ohio St.3d 139. Addressing R.C. 3113.215, which formerly addressed the calculation of child support obligations, the supreme court stated that use of the worksheet is mandatory and that it ‘must *actually* be completed for the order or modification of support to be made.’ (Emphasis sic.) *Id.* at 142. The trial court must include the worksheet in the record so that an appellate court can meaningfully review the trial court's order. *Id.*

{¶ 7} “Generally, the amount of child support that would be payable under a child support order, as calculated pursuant to the basic child support schedule and

applicable worksheet through the line establishing the actual annual obligation, is rebuttably presumed to be the correct amount of child support due. R.C. 3119.03. However, R.C. 3119.22 authorizes the court to order an amount of child support that deviates from the amount determined from the child support schedule and worksheet if, upon considering the factors set forth in R.C. 3119.23, the court determines that the calculated amount 'would be unjust or inappropriate and would not be in the best interest of the child.' If the court enters a child support order that deviates from the calculated amount, 'the court must enter in the journal the amount of child support calculated pursuant to the basic child support schedule and the applicable worksheet, through the line establishing the actual annual obligation, its determination that that amount would be unjust or inappropriate and would not be in the best interest of the child, and findings of fact supporting that determination.' R.C. 3119.22; see, also, *Marker*, 65 Ohio St. at 143 (stating that any deviation from the worksheet and the basic child support schedule must be entered in the court's journal and include findings of fact)." *In re S.H.*, supra, at ¶¶45-46.

{¶ 8} In the present case, the only child-support worksheet was prepared by MCCSEA as part of its "Administrative Adjustment Recommendation." The trial court plainly did not rely on this worksheet as it suggested imputing full-time, minimum wage income to Paschal. Without using any worksheet or taking evidence on the record, the trial court stated that it had been "brought to the Court's attention through all these different cases, he's on V.A. disability, and the V.A. disability totals about \$650 a month." Based solely on that determination, which itself is not supported by any record evidence, the trial court opined that Paschal could pay only \$10 per

month in child support for each of his six children plus a total of \$15 per month toward his arrearages. While this may be true, we have no meaningful way to review the determination. The trial court completed no child-support worksheet. It took no evidence about Paschal's living expenses. We also do not know whether his "V.A. disability" is full or whether he is capable of working in some capacity and voluntarily unemployed. In short, the trial court abused its discretion in not following the statutorily mandated procedure, which required preparing a worksheet and making all necessary findings to support a deviation. Accordingly, the assignment of error is sustained.

{¶ 9} The trial court's judgment is reversed, and the cause is remanded for further proceedings.

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FAIN and FROELICH, JJ., concur.

Copies mailed to:

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