

IN THE SUPREME COURT OF THE STATE OF NEVADA

LOUIS SCHEFF,  
Appellant,  
vs.  
WENDY SCHEFF A/K/A WENDY UBL,  
Respondent.

No. 55988

**FILED**

**MAR 21 2011**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *T. Linde*  
DEPUTY CLERK

ORDER AFFIRMING IN PART,  
REVERSING IN PART, AND REMANDING

This is a proper person appeal from a district court post-divorce decree order regarding child custody and child support. Eighth Judicial District Court, Family Court Division, Clark County; William G. Henderson, Judge.

Having considered the civil proper person appeal statement, respondent's response, and the district court record, we conclude that the district court did not abuse its discretion in modifying the child custody arrangement, ordering appellant to pay child support, including child support arrears, or in deciding that appellant was responsible for paying half of the child's medical insurance premiums, including payment for the insurance premiums retroactive to the date of respondent's motion. Wallace v. Wallace, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996) (recognizing that neither a district court's child custody decision nor its child support award will be disturbed absent an abuse of discretion); Potter v. Potter, 121 Nev. 613, 618, 119 P.3d 1246, 1249 (2005) (providing that a court may modify joint physical custody if it is in the child's best interest); NRS 125B.080(7). Accordingly, we affirm these portions of the district court's order.

Regarding appellant's child support obligation and arrears, however, we conclude that the district court abused its discretion in calculating those amounts. See Jackson v. Jackson, 111 Nev. 1551, 1553, 907 P.2d 990, 991 (1995) (recognizing that the district court's discretion is limited to "the confines of the statutory scheme"). Specifically, the district court stated in its order that appellant's gross monthly income is "at least \$5,000."<sup>1</sup> Under NRS 125B.070, appellant's child support obligation for one minor child at 18 percent of \$5,000 is \$900. The district court, without explanation, set appellant's child support obligation at \$664, and on appeal, appellant contends that his child support obligation should actually be lower than \$664 a month. Because the district court deviated from the child support formula, it was required to consider the factors outlined in NRS 125B.080(9) in making its determination. The district court, however, failed to make specific findings of fact regarding the basis for its deviation and did not set forth the child support amount absent the deviation. See NRS 125B.080(6). Thus, the district court abused its discretion in calculating appellant's child support obligation. Rivero v. Rivero, 125 Nev. \_\_\_, \_\_\_, 216 P.3d 213, 232 (2009); Jackson, 111 Nev. at 1553, 907 P.2d at 992; NRS 125B.080(6) and (9).


Accordingly, we reverse the portion of the district court's order calculating child support and arrears, and we remand this matter to the

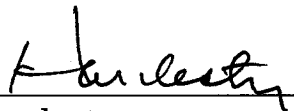
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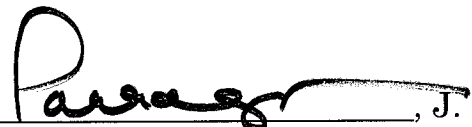
<sup>1</sup>We note that the district court record does not support its finding regarding appellant's gross monthly income, and this lack of substantial evidence would constitute an independent basis for reversal. Gepford v. Gepford, 116 Nev. 1033, 1036, 13 P.3d 47, 49 (2000) (explaining that a district court's factual findings will be upheld if supported by substantial evidence in the record). Appellant's financial disclosure form, filed August 17, 2009, indicates his gross monthly income is \$3,750.

district court for either written factual findings that justify its deviation from the child support formula, which includes identifying appellant's support obligation under the statutory formula, or for a redetermination of appellant's child support obligation under the applicable statutes. Jackson, 111 Nev. at 1553, 907 P.2d at 992; NRS 125B.070; NRS 125B.080.

It is so ORDERED.

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. William G. Henderson, District Judge, Family Court Division  
Louis Scheff  
Wendy Scheff  
Eighth District Court Clerk