

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES BLOMGREN,
Appellant,
vs.
TERESA SZABO A/K/A TERESA
BLOMGREN,
Respondent.

No. 41860

FILED
MAY 04 2004

MAY 04 2004

ANITA H. L. GUN
CLERK OF THE SUPREME COURT
BY *J. Blomgren*
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING

This is an appeal from a district court order denying a motion to increase respondent's child support obligation and for arrears.

Appellant James Blomgren contends that the district court abused its discretion by failing to award child support arrears. An entry of judgment for support arrears is a matter within the discretion of the district court.¹ We conclude that appellant failed to make a sufficient showing to support his claim for arrears from respondent Teresa Szabo a/k/a Teresa Blomgren. Accordingly, the district court did not abuse its discretion by failing to award child support arrears and attorney fees pursuant to NRS 125B.140(2)(c)(2).

Next, appellant argues that the district court abused its discretion by failing to set respondent's child support obligation pursuant to NRS 125B.070. Under NRS 125B.070(1)(b)(2), a noncustodial parent's monthly child support obligation for two children is set at 25% of the parent's gross monthly income, subject to a maximum cap, in this case, of \$1000.00 for both children.² A court has limited discretion in deviating

¹Parkinson v. Parkinson, 106 Nev. 481, 482, 796 P.2d 229, 230 (1990).

²See NRS 125B.070(2).

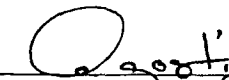
from the statutory guidelines.³ All deviations must be supported by specific findings of fact and based on the factors listed in NRS 125B.080(9).


The district court enforced the child support provision in the parties' 1991 divorce decree. However, the divorce decree was based on the parties sharing equal time with the children, not on appellant assuming full-time physical custody, as the district court ordered here. Accordingly, we conclude that the district court abused its discretion by deviating from the statutory formula without making specific findings of fact.

We therefore reverse that portion of the district court's order pertaining to child support and remand this issue to the district court to set respondent's support obligation in accordance with NRS 125B.070 or to make specific findings of fact for a deviation from the statutory amount pursuant to NRS 125B.080(9). We affirm the remainder of the district court's order.

It is so ORDERED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

³Westgate v. Westgate, 110 Nev. 1377, 1379, 887 P.2d 737, 738 (1994).

cc: Hon. William O. Voy, District Judge, Family Court Division
Law Offices of Bradley J. Hofland
Teresa Szabo
Clark County Clerk