

2015 WL 5714623

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION HAS NOT BEEN
RELEASED FOR PUBLICATION IN THE
PERMANENT LAW REPORTS. UNTIL RELEASED,
IT IS SUBJECT TO REVISION OR WITHDRAWAL.

District Court of Appeal of Florida,
First District.

Arthur WELLS, Appellant,
v.

Tarshicka Maranda WHITFIELD, Appellee.

No. 1D15-326. | Sept. 30, 2015.

Synopsis

Background: Father appealed from decision of the Circuit Court, Duval County, E. McRae Mathis, J., establishing his child support obligation at \$1,650 per month.

[Holding:] The District Court of Appeal held that, absent specific findings by trial court, appellate court was unable to meaningfully review the child support obligation established by the trial court to determine whether it was within the guidelines.

Reversed and remanded with directions.

West Headnotes (2)

[1] **Child Support**



Trial court's findings did not adequately justify the \$1,650 per month child support obligation established by the trial court, and absent specific findings, appellate court was unable to meaningfully review the child support obligation established by the trial court to determine whether it was within the guidelines or whether it was a legally permissible deviation from the guidelines; although father failed to establish

that all of the retained earnings of the S-corporation for which he was the sole shareholder should be excluded from his gross income for child support purposes, trial court's judgment did not include any findings specifying what portion of the retained earnings were included by the court in determining the father's gross income.

Cases that cite this headnote

[2] **Corporations and Business Organizations**



"Retained earnings," or undistributed profits, are a corporation's accumulated income after dividends have been distributed. West's F.S.A. § 61.30(2)(a).

Cases that cite this headnote

An appeal from the Circuit Court for Duval County. E. McRae Mathis, Judge.

Attorneys and Law Firms

Seth Schwartz, and Eric Lawson, The Schwartz Law Group, P.A., Jacksonville, for Appellant.

Valarie Linnen, Atlantic Beach, for Appellee.

Opinion

PER CURIAM.

*1 [1] Appellant, the father, seeks review of the amended final judgment establishing his child support obligation at \$1,650 per month. We reject the father's argument that the trial court abused its discretion by refusing to allow him to present additional evidence on rehearing, but we agree with the father that the findings in the amended final judgment do not adequately justify the child support obligation established by the trial court.

[2] Although the record supports the trial court's finding

that the father failed to establish that all of the retained earnings¹ of the S-corporation for which he is the sole shareholder should be excluded from his gross income for child support purposes, the amended final judgment does not include any findings specifying what portion of the retained earnings were included by the court in determining the father's gross income. Absent such findings, we are unable to meaningfully review the child support obligation established by the trial court to determine whether it is within the guidelines or whether it is a legally permissible deviation from the guidelines.² See *Valdes v. Valdes*, 6 So.3d 731, 732 (Fla. 1st DCA 2009); *Karimi v. Karimi*, 867 So.2d 471, 473–74 (Fla. 5th DCA 2004).

Accordingly, we reverse the amended final judgment and

Footnotes

- 1 Retained earnings, or undistributed profits, are a corporation's "accumulated income after dividends have been distributed." *Kusterer v. Kusterer*, 933 So.2d 542, 547 (Fla. 1st DCA 2006) (quoting *Black's Law Dictionary* 548 (8th ed.2004)); see also § 61.30(2)(a), Fla. Stat. (providing that gross income for child support purposes includes "[b]usiness income from sources such as ... close corporations").
- 2 The \$1,650 per month obligation is likely a greater than five-percent upward deviation from the guidelines because the child support worksheet attached to the original final judgment provided a guideline amount of approximately \$1,400 per month and that amount was based on all (rather than only a portion) of the S-corporation's retained earnings being included in the father's gross income. However, we cannot say for sure because the amended final judgment does not include any findings regarding the amount of the father's gross income and the trial court did not attach a child support worksheet attached to the amended final judgment.

remand for the trial court to make specific findings indicating how it arrived at the amount of the father's child support obligation.

REVERSED and REMANDED with directions.

THOMAS, WETHERELL, and RAY, JJ., concur.

All Citations

--- So.3d ----, 2015 WL 5714623