

SUPREME COURT OF LOUISIANA

No. 99-C-2132

LISA SMITH MUNN GUILLOT

Versus

MARION PATRICK MUNN, JR.

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FIRST CIRCUIT, FAMILY COURT FOR THE
PARISH OF EAST BATON ROUGE

JOHNSON, J., dissenting

With child support and child custody issues, the time factor is the most crucial element. Here, in the year 2000, we are still trying to determine a support amount in a Rule to Reduce Child Support that was filed in 1994. Six years is too long to litigate the amount of child support due for the support of minor children.

Louisiana established child support guidelines as mandated by the federal government so that children would have some immediacy and consistency in a monthly support amount. We defeat that purpose if judges try to achieve mathematical certainty throughout a child's minority.

This is why we must give deference to the trial judge, absent manifest error. La. R.S. 9:315.12.1 makes it clear:

Deviations by the trial court from the guidelines set forth in this Part shall not be disturbed absent a finding of manifest error.

Courts have found that deviations by a trial court from child support guidelines are not to be disturbed absent a finding of manifest error; however, in order to deviate from the child support guidelines, the record must contain oral or written reasons for the deviation, which are supported by the record. *Montou v. Montou*, 96-1463 (La.App. 3 Cir. 4/2/97), 962 So.2d 705; *McDaniel v. McDaniel*, 95-1314 (La.App.

3 Cir. 3/6/96), 670 So.2d 767.

The record supports the trial court's decision to deviate from the child support guidelines granting the reduction in support. LSA-R.S. 9:315.1 provides, in pertinent part:

C. In determining whether to deviate from the guidelines, the court's consideration may include:

(2) The legal obligation of a party to support dependents who are not the subject of the action before the court and who are in that party's household.

In support of his motion to reduce child support, the father presented evidence that he and his current wife have had another child since the original judgment awarding child support. Apparently, the new child lives in the father's household, and without question, the father is legally obligated to support the child. Furthermore, the record supports the father's allegation that child care costs for the two sons he had with Mrs. Guillot have significantly decreased since the original award, from \$300.00 per month to \$90.00 per month. Therefore, it does not appear that the trial court was manifestly erroneous or clearly wrong in reducing the child support award.

Accordingly, I would affirm the child support award of Four Hundred Seventy-four dollars (\$474.00) per month, give the trial court discretion on how to calculate the amount in arrears, determine whether legal interest is due on the arrearages, and affirm the trial court's decision that each party is to bear his/her own costs.

For all of the above reasons, I respectfully dissent.

