IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA19-404

Filed: 7 July 2020

Pitt County, No. 17 CVD 2305

KATELYN MARIE FOY, Plaintiff,

v.

ROBERT ASHLY KITE, Defendant.

Appeal by defendant from order entered 19 November 2018 by Judge Wendy S. Hazelton in Pitt County District Court. Heard in the Court of Appeals 12 November 2020.

Plaintiff did not file a brief with this Court.

The Duke Law Firm, by W. Gregory Duke, for defendant-appellant.

BRYANT, Judge.

Where the record provides sufficient evidence to support the trial court's findings of fact as to defendant Robert Ashly Kite's income, we uphold the trial court's findings of fact. Where the trial court directed defendant to reimburse plaintiff Katelyn Marie Foy for both past health insurance premium expenses and work-related childcare expenses and then directed defendant to again reimburse past

health insurance premium expenses and work-related childcare expenses as a component of child support arrearages, we reverse and remand the matter to the trial court to amend the order so that the reimbursements to plaintiff for past health insurance premium expenses and work-related childcare expenses are not duplicative. Where the trial court failed to make findings of fact as to defendant's ability to provide child support during the period for which plaintiff sought retroactive child support and the reasonability of the expenses for which plaintiff seeks reimbursement, we remand the matter for further findings of fact.

Plaintiff filed her complaint against defendant on 14 September 2017 in Pitt County District Court. Plaintiff requested that the trial court enter an order requiring defendant to pay, *inter alia*, the medical expenses incident to her pregnancy and the birth of their minor child, retroactive child support, ongoing temporary and permanent child support, and a share of the reasonable uninsured health care costs for the minor child. On 2 November 2017, defendant filed an answer and a counterclaim seeking primary care, custody, and control of the minor child.

The matter was heard during the 23 October 2018 term of Pitt County Family Court before the Honorable Wendy S. Hazelton, Judge presiding. The trial court entered its order on 19 November 2018. Per the court's findings of fact, the parties never married but lived together from December 2012 until July 2016 and produced one minor child born in April 2015.

At the time of the 23 October 2018 hearing, plaintiff had three jobs earning a gross monthly income of $4,589.36. Plaintiff was providing health and dental insurance for the minor child at a rate of $336.58 per month. From 1 July 2016 through 31 December 2018, plaintiff had paid $10,391.48 in premiums for the minor child's health and dental insurance. Although the parties had agreed to split the cost of insurance for the minor child, as of the hearing date, defendant had failed to pay plaintiff his share of the cost of the insurance premiums. The trial court found that defendant's one-half portion of the insurance paid for the minor child amounted to $5,195.74.

Plaintiff had enrolled the minor child at Trinity Christian School for work-related childcare. Defendant acknowledged that the minor child was doing well at Trinity. The tuition rate was $722.33 per month. Over sixteen months in 2017 and 2018, plaintiff had paid a total of $11,557.28 in childcare expenses. One-half of the $11,557.28 childcare expense was $5,778.64. From the beginning of July 2016 through July 2017 (thirteen months), defendant paid his mother $400.00 per month for childcare, amounting to $5,200.00. The court found that $5,200.00 deducted from $5,778.64 left a balance of $578.64 defendant owed plaintiff for childcare expenses.

Plaintiff's out-of-pocket medical expenses totaled $576.56. Of that, defendant had paid $38.36. The court found that defendant owed plaintiff $249.42.

During the birth of the minor child, plaintiff incurred debt from Vidant Medical Center in the amount of $4,197.35. The court concluded that the parties should equally share the expense.

With the exception of the $400.00 in monthly payments to defendant's mother for childcare from July 2016 through July 2017 and the $38.86 paid for uninsured medical expenses, defendant had failed to provide plaintiff with any child support between 2 July 2016 and the date of the hearing, 23 October 2018.

Defendant operated Moss Bend Retrievers (hereinafter "MBR"), a business which trained dogs for obedience, trained gun dogs, trained competition dogs, bred dogs, and sold dogs. The dogs trained by MBR participated in numerous competitions, including advanced competitions. The court found that defendant was once featured in Gun Dog Magazine, which, per defendant's Facebook page, was an elite publication. Defendant operated MBR in Grimesland on 23.25 acres; defendant's residence was also located there. Defendant paid no rent or mortgage. Defendant's mother owned 49% of MBR, and all vehicles were titled in her name. Still, defendant received all compensation from the business.

In regard to the current matter, defendant had failed to respond to plaintiff's discovery requests to provide proper records. In March 2018 (six months after plaintiff filed her complaint), defendant filed his income tax returns for both 2016 and 2017. A 26 April 2018 court order compelled defendant to answer plaintiff's

discovery request and pay plaintiff's attorney's fees. During the 23 October 2018 hearing, defendant referred to his income tax returns as evidence of his income. Plaintiff's gross receipts, as reflected on the Schedule C of his 2017 tax return, totaled $32,741.00, and his adjusted gross income was $12,408.00. Per defendant's 2016 income tax return, plaintiff's gross receipts were $14,831.00, and his adjusted gross income was $5,458.00.

The court concluded that defendant kept poor records, had been deceptive and untruthful in his discovery response, production of documents, and testimony to avoid or minimize paying the required amount of child support. The court concluded that defendant's child support obligation would be calculated upon defendant's "income potential."[1]

During plaintiff and defendant's time together as a couple, plaintiff worked for MBR; plaintiff "essentially managed MBR." Plaintiff kept payroll records, created a website and business cards, and paid expenses. Plaintiff knew the cost for MBR's services. Based on plaintiff's knowledge of MBR during the time she worked for the business (from December 2012 until July 2016) and records of dogs defendant handled at competitions in 2018, the court found that defendant made at least $80,000.00 per year. The court concluded that defendant "has, and has had, an income of at least $80,000 per year (which is $6,667.67 per month) from MBR."

[1] While the court uses the phrase "income potential," a reading of the order indicates that the court merely made findings of fact and conclusions regarding defendant's actual income.

Moreover, defendant had actual compensation in the amount of $550.00 per month as a result of the market value of his rent-free residence. The court assigned no compensation income based on the vehicles of which defendant had beneficial ownership or the rent-free land he used to operate MBR. The court found defendant's total income to be $86,600.00 per year ($7,216.67 per month). Using the Child Support Obligation Worksheet, form AOC-CV-628, Rev. 1/15, in accordance with our Child Support Guidelines, the court calculated defendant's monthly child support obligation to be $968.67.

The trial court directed plaintiff to continue providing dental and health insurance for the minor child (for which she would be given credit in calculating child-support payments), as well as payment for work-related childcare expenses (for which she would be given credit in calculating child-support payments). Defendant was ordered to reimburse plaintiff for one-half of past insurance premium payments amounting to $5,195.74 and for past work-related childcare expenses in the amount of $578.64. For child support, defendant was directed to pay plaintiff $968.67 per month beginning 1 December 2018. For child support arrearages—monthly child support payments due for the months between the filing of the complaint until the filing of the court's order (here, September 2017 until December 2018)—defendant was directed to pay plaintiff $14,530.05. For out-of-pocket uninsured medical expenses plaintiff paid on behalf of the minor child through 23 October 2018,

defendant was directed to pay plaintiff $249.42. Defendant was directed to pay one-half of the outstanding $4,197.35 debt owed to Vidant Medical Center, which was incurred as a result of the minor child's birth. Defendant appeals.

On appeal, defendant raises two questions: (I) whether the trial court erred in its calculation of his child support obligation and (II) whether the trial court erred by ordering defendant to pay retroactive child support.

Standard of Review

> Child support orders entered by a trial court are accorded substantial deference by appellate courts and our review is limited to a determination of whether there was a clear abuse of discretion. *White v. White*, 312 N.C. 770, 777, 324 S.E.2d 829, 833 (1985). Under this standard of review, the trial court's ruling "will be upset only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision." *Id.* In a case for child support, the trial court must make specific findings and conclusions. *Dishmon v. Dishmon*, 57 N.C. App. 657, 660, 292 S.E.2d 293, 295 (1982).

Leary v. Leary, 152 N.C. App. 438, 441–42, 567 S.E.2d 834, 837 (2002).

I

Defendant first argues that the trial court erred in its calculation of defendant's child support obligation. Defendant contends that the trial court erred (A) by imputing income to defendant and (B) otherwise challenges the trial court's findings of fact as unsupported by the evidence. We disagree.

A

Defendant contends the trial court erred by imputing income to him. In his brief submitted to this Court, defendant argues that

> [t]he trial court did not make either the determination required before imputing income, i.e., (1) that Defendant's actual income was less than his potential income, and (2) that the difference between Defendant's actual and potential income is the result of his bad faith that reflects a deliberate disregard of the parent's financial responsibility to support his child.

Defendant attempts to frame the issue as one of imputing income, but it is not. The more pertinent issue is whether plaintiff's testimony, standing alone, is sufficient to establish defendant's business practices, revenue, and costs. The trial court found plaintiff to be credible and defendant to be deceptive and untruthful. Moreover, by making findings of fact predicated on plaintiff's testimony as to defendant's business practices, revenue, and costs, the court implicitly found that plaintiff met her burden of proof, and defendant failed to rebut it.

"It is well established that child support obligations are ordinarily determined by a party's actual income[2] at the time the order is made or modified." *State ex rel.*

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[2] Pursuant to our Child Support Guidelines, "Income" means a parent's actual gross income from any source, including but not limited to income from employment or self-employment (salaries, wages, commissions, bonuses, dividends, severance pay, etc.), ownership or operation of a business . . . . When income is received on an irregular, non-recurring, or one-time basis, the court may average or prorate the income over a specified period of time . . . .

Guidelines, 2019 Ann. R. N.C. 53.

Midgett v. Midgett, 199 N.C. App. 202, 207, 680 S.E.2d 876, 879 (2009) (quoting *Ellis v. Ellis*, 126 N.C. App. 362, 364, 485 S.E.2d 82, 83 (1997)). "Additionally, a party's capacity to earn income may become the basis of an award if it is found that the party deliberately depressed its income or otherwise acted in deliberate disregard of the obligation to provide reasonable support for the child." *Askew v. Askew*, 119 N.C. App. 242, 244–45, 458 S.E.2d 217, 219 (1995) (citation omitted). "[W]ithout a showing of deliberate depression of income or other bad faith, the trial court is without power to impute income, and must determine the party's child support obligation based on the party's actual income." *Ellis*, 126 N.C. App. at 365, 485 S.E.2d at 83 (citation omitted); *see also Loosvelt v. Brown*, 235 N.C. App. 88, 104, 760 S.E.2d 351, 361 (2014) ("[F]indings as to the incomes of the parties are stated in monetary amounts of dollars per month or year. Although these numbers might even be averages or approximations, particularly when a parent does not receive a set monthly paycheck, a finding of an actual monetary amount of income will permit this Court to review the findings based upon the evidence.").

On this issue, we note the following findings of fact.

> 39. . . . The court finds the Plaintiff's testimony credible, and hereby finds that the Defendant has, and has had, an income of at least $80,000 per year (which is $6,666.67 per month) from MBR.
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> 40. The Defendant's continued concealment of his income is the result of his deliberate and direct suppression of income to avoid or minimize his child support obligation.

> Therefore, child support will be calculated based on his potential, rather than actual income from MBR.
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> 41. Although the Defendant keeps poor records, he has also been deceptive and untruthful in his testimony, discovery, and including his production of documents. The Defendant has done this in an effort to avoid paying the required amount of child support for the minor child in question.

While the trial court's findings of fact state that defendant suppressed his income to avoid or minimize his child support payment, a fuller reading of the order provides that defendant sought to conceal and deceive the court and plaintiff about his income. Consistent with the order's findings of fact as a whole, defendant was "deceptive and untruthful in his testimony, discovery and including his production of documents . . . in an effort to avoid paying the required amount of child support." Defendant does not challenge this finding of fact. Furthermore, defendant does not challenge the following finding of fact:

> 31. The Defendant has refused to provide proper records although some documents were finally produced. On March 18, 2018, the Plaintiff filed a motion to compel discovery responses and Rule 37 sanctions/fees. The Court entered an order on April 26, 2018, requiring the Defendant to answer and respond to the discovery and to pay attorney's fees.

Defendant's incomplete records indicate that MBR received $14,350.00 in the first six months of 2018 (averaging $2,391.67 per month). Defendant filed his tax returns for 2016 and 2017 on 20 March 2018, well after plaintiff filed her complaint on 14

September 2017. "The 2017 tax return indicates that the tax preparer 'did not rely on docs noted in [the] file.' " Per defendant's tax returns, his adjusted gross income in 2017 was $12,408.00, and as reported on his Schedule C, his gross receipts for that year were $32,741.00. In 2016, his adjusted gross income was $5,458.00, and his gross receipts were $14,831.00.

Plaintiff testified that while they resided together, defendant supported her. "The Plaintiff was only financially responsible for groceries . . . ." "When the parties were together and based on Plaintiff's work with, involvement in and knowledge of working of MBR, the Defendant earned at least $80,000.00 per year." The trial court further found that defendant "pays cash for almost everything, he has no credit cards and carries no debt." Defendant's mother owns 49% of MBR and all vehicles are titled in her name, but defendant received all compensation paid by the business. Defendant does not pay rent or mortgage for his residence or the 23 acres on which he operates his business.

During a June 2018 deposition, defendant produced "incomplete documents" which showed that defendant was paid $14,350.00 from 1 January to 12 June 2018 ($14,350.00 ÷ 6 months = $2,391.67 per month). However, online dog competition records reflected that defendant worked with at least seven competition dogs in 2018 that were not included in MBR's records produced before the trial court. The court found that for this work, MBR would have received payment or value in the amount

of $4,200.00 per month. The trial court further attributed to defendant's income the rental value of his residence at $550.00 per month. In aggregate, monthly values for which the trial court made findings of fact amounted to $7,141.67 per month, ($2,391.67 + $4,200.00 + $550.00). Annualized, this amounted to $85,700.04. In approximating MBR's monthly revenue and defendant's income from rental value, the trial court determined defendant's actual income. *See Loosvelt*, 235 N.C. App. at 104, 760 S.E.2d at 361.

We agree that the trial court's order, on the whole, does not support the conclusion that defendant depressed his income such that the court was authorized to use defendant's earning capacity as a basis for determining defendant's child support obligation. *See Ellis*, 126 N.C. App. at 365, 485 S.E.2d at 83; *Askew*, 119 N.C. App. at 244–45, 458 S.E.2d at 219. However, consistent with the authority of our case precedent and North Carolina Child Support Guidelines, the trial court's findings of fact establish that the court sought to utilize defendant's actual income as a basis for determining defendant's child support obligation. *See Loosvelt*, 235 N.C. App. at 104, 760 S.E.2d at 361; *Midgett*, 199 N.C. App. at 207, 680 S.E.2d at 879; Guidelines, 2019 Ann. R. N.C. 53. Accordingly, defendant's argument is overruled.

B

Next, defendant challenges five findings of fact which support the trial court's conclusion as to defendant's 2018 gross income. However, after we exclude the

challenges to imputed income, as discussed in subpart A, only three findings of fact impact the determination of defendant's gross income.

Defendant challenges findings of fact 38, 42, and 43.

> 38. Additionally, there were at least seven (7) competition dogs that the Defendant did not include[] in his payment records. However, those seven (7) dogs appear on the list of Entry Express, an online record of dog competitions. These seven (7) dogs would easily generate an additional $4,200.00 per month ($50,400.00 per year). . . . The court finds the Plaintiff's testimony credible . . . .
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> . . . .
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> 42. The Defendant's potential income from his ownership and operation of MBR is $80,000.00 per year ($6,666.67 per month).
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> 43. The Defendant's total income is $7,216.67 per month ($86,000.00 per year), which includes his potential income from MBR ($6,666.67 per month) and the actual income for his rent free residence ($550.00).

Defendant argues that the evidence does not support the trial court's findings of fact. On appeal, defendant does not challenge plaintiff's testimony regarding the number of dogs MBR worked with during her tenure with the company between 2013 and 2016 but in contrast, points to plaintiff's acknowledgment that she did not know MBR's business expenses or how MBR clients compensated the company for services. In short, defendant argues that while the trial court made findings of fact as to MBR's gross income, the court failed to make findings of fact as to MBR's net profit.

As to evidence of MBR's gross income or revenue, during the court's 23 October 2018 hearing, plaintiff testified that she worked for defendant as an employee of MBR beginning in 2013 through July 2016.

> I would help keep up with the payment trackers or client contracts. We had to keep information sheets on the dogs. . . . I designed the website that is still operational today, though, some modifications have been made, I built the initial one. Did a lot with the fund raising or bene—advertising benefits going to—or setting up and arranging for us to go to Ducks Unlimited events to advertise the business. Things of that nature. Facebook messages with clients checking on dogs. . . . Really, more of the -- the kind of bookkeeping that side of things. I like spreadsheets and computers.
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> . . . .
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> I would say when he got really busy in 2014. . . . The spring of 2014 is when he went full time. So, I would say when the kennel started picking up that was the easiest way for me to help out was with the paperwork.

Plaintiff testified about the process of contracting with a dog owner for MBR's services and the services which MBR offered dog owners. Basic household obedience training was "generally a six-week program" which defendant would limit to only one or two dogs a month. Whelping was a breeding service whereby defendant offered to find a stud for a female, keep the female healthy, aid in the delivery of the pups, and maintained a whelping house for the mother and her litter. Defendant would take the pups to a veterinarian for removal of their "dew claws," and then raised the pups until they were six-to-eight weeks old. For MBR's whelping service, defendant

charged either his pick of the puppy litter or the market price for a pup, between $1,500.00 and $3,500.00. MBR also trained "gun dogs" for hunting companion or competition. For gun dog competitions, defendant transported and handled dogs for a fee. Plaintiff testified that MBR's rate for competitive gun dog training was $600.00 a month, and defendant's fee for handling dogs during a gun dog competition was $100.00 per dog.

In the summer of 2018, MBR advertised puppies from multiple litters. The advertised cost ranged from $2,500.00 to $3,500.00. MBR's Facebook page reflected comments on how much MBR had grown in 2016 and was looking forward to a successful 2017. In 2016, MBR trained gun dogs earned 57 Master Passes, a hunting test certification. Per plaintiff, a dog can earn at most two Master Passes during a weekend competition. In the fall of 2018, MBR trained gun dogs accumulated twenty-eight Master Passes.

> [T]these dogs don't just come in and leave and never come back. They're competed through the years of their athletic ability in their prime years where they can -- you know, they may go home for the hunting season, so their owners can actually hunt them and enjoy them. But, then, they come back and compete and again. So, it's not just a run and done. You do build up a long-time clientele. And, people that come back and buy dogs from you -- once this one's, you know, gotten too old and he's going to hang out at the house and eat table scraps, they come back and get their next hunting companion.

Competition records indicated that in March 2018, seven MBR trained dogs competed in two gun-dog competitions. Defendant charges $600.00 a month for competitive gun-dog training. "So, here you're looking at, at least $4,200 . . . ."

As to business expenses or overhead, plaintiff testified that MBR's premises consists of about an acre of cleared land on which sits defendant's residence, a concrete dog kennel with 14 dog runs, a fenced in yard for the dogs to play and use the bathroom, and a couple of barns used for storage and whelping. Plaintiff did not testify as to ongoing expenses or overhead.

When she left the company, plaintiff transferred the title to the residence (a single-wide trailer) in which she and defendant had resided on the property, title to two vehicles, and a Honda four-wheeler. Defendant paid plaintiff $8,500.00 for the residence. Defendant does not challenge the following findings of fact: that he makes no "vehicle payment," that he pays no rent or mortgage for his residence or the 23.25 acres property on which he operates MBR, and that though his mother owns 49% of MBR, defendant "has full beneficial ownership of the business and receives all compensation paid by the business." Moreover, we note defendant's testimony during the 23 October 2018 hearing during which defendant discussed MBR's ongoing business expenses. Defendant contested plaintiff's recitation of his deposition testimony in which he stated that his outgoing business expenses were around $100.00 per month. Defendant argued that his monthly ongoing business expense

amounted to $2,342: a figure he believes he received from the person that does MBR's taxes.

The record provides sufficient evidence to support finding of fact 38, that seven competition dogs trained and handled in early 2018 would generate MBR $4,200.00 per month. The additional average $2,391.67 per month was the amount that MBR received for the dogs defendant reported to plaintiff in deposition proceedings—exclusive of the seven competition dogs. Plus, defendant received $550.00 per month in value from residing rent/mortgage free. In total, these amounts generated MBR and/or defendant $7,141.67 per month ($4,200.00 + $2,391.67 + $550.00). Annualized, this amounts to $85,700.04 ($7,141.67 x 12). In finding of fact 43, the trial court found defendant's annual income was $86,600.00 per year ($7,216.67 per month). As an approximation of defendant's actual income, we cannot say that the trial court's finding of fact as to defendant's annual income was without basis. *See Loosvelt*, 235 N.C. App. at 104, 760 S.E.2d at 361 ("[findings of fact as to the income of a party stated in monetary amounts of dollars per month or year] might even be averages or approximations, particularly when a parent does not receive a set monthly paycheck"). Accordingly, defendant's arguments are overruled.

II

Next, defendant argues that the trial court erred by ordering defendant to pay retroactive child support. (A) Defendant contends the trial court's retroactive child

support award was erroneous as the award included expenses incurred after the child support claim was filed. Moreover, defendant argues that the court's order to pay retroactive child support was erroneous, where the court made no findings of fact relating to the expenses being reasonably necessary or defendant's ability to pay those expenses during the time when the expenses incurred. We agree in part.

"Child support awarded *prior* to the time a party files a complaint is properly classified as retroactive child support. . . . Child support awarded, however, from the time a party files a complaint for child support to the date of trial is . . . [termed] prospective child support . . . ." *Carson v. Carson*, 199 N.C. App. 101, 105, 680 S.E.2d 885, 888 (2009) (alterations in original) (citation omitted). "However, retroactive child support payments are only recoverable for amounts actually expended on the child's behalf during the relevant period. Therefore, a party seeking retroactive child support must present sufficient evidence of past expenditures made on behalf of the child, and evidence that such expenditures were reasonably necessary." *Loosvelt*, 235 N.C. App. at 93, 760 S.E.2d at 355 (citation omitted).

A

Defendant argues that the trial court erred by ordering retroactive child support to reimburse plaintiff for expenses incurred after she filed the child support claim. Specifically, defendant contends the trial court incorrectly considered the health insurance premiums and work-related child care expenses incurred after the

child support complaint, in effect directing defendant to pay for expenditures twice. We agree.

Here, the minor child was born on 21 April 2015. Plaintiff filed her complaint seeking child support on 14 September 2017. In calculating defendant's prospective child support payments, the trial court used the Child Support Obligation Worksheet in accordance with our Child Support Guidelines. Under "Adjustments," the court included plaintiff's monthly payment for work-related childcare cost ($722.33) and health insurance premiums ($336.58) to determine defendant's monthly child support obligation of $968.67.

The trial court ordered defendant to commence monthly child support payments of $968.67 beginning 1 December 2018 and to pay child support arrearages in the sum of $14,530.05, for prospective child support payments accrued between the filing of the complaint (September 2017) and the entry of the order (November 2018). The court also ordered defendant to pay $5,195.74 for one-half of the minor child's medical insurance premiums plaintiff paid from 1 July 2016 through 1 November 2018 and $578.64 for outstanding work-related childcare both parties paid through 30 November 2018.

Therefore, defendant was ordered to reimburse plaintiff for past insurance premiums paid between the filing of the complaint (September 2017) and the entry of the court order (November 2018)—as a component of his monthly child support

obligation ($968.67)—and again as a component of the award for one-half of past insurance premiums amounting to $5,195.74 for plaintiff's payments made from July 2016 until November 2018.

As to past childcare, the determination of defendant's monthly child support obligation factored a monthly work-related childcare cost of $722.33 for the period between the filing of the complaint (September 2017) and the entry of the court order (November 2018). The court also ordered defendant to reimburse plaintiff for past work-related childcare in the amount of $578.64, for work-related childcare cost incurred from August 2017 through November 2018. Therefore, defendant was ordered to reimburse plaintiff two times for work-related childcare for the period between the filing of the complaint (September 2017) and the entry of the court order (November 2018). Accordingly, we reverse the trial court's decretal award on these points and remand the matter for entry of a new award.

B

Defendant next contends that the trial court erred by ordering defendant to pay retroactive child support where the court made no findings of fact as to whether the expenses to be reimbursed were reasonably necessary or as to defendant's ability to pay expenses during the time period during which the expenses were incurred.

This Court has previously held that with regard to retroactive child support, "the trial court must make findings as to the obligor's ability to pay during the time

period of the retroactive support sought[.]" *Loosvelt*, 235 N.C. App. at 96, 760 S.E.2d at 357 (citing *Savani v. Savani*, 102 N.C. App. 496, 502, 403 S.E.2d 900, 903 (1991); *Hicks v. Hicks*, 34 N.C. App. 128, 130, 237 S.E.2d 307, 309 (1977)). *See also id.* at 97, 760 S.E.2d at 357 ("Yet the trial court failed to make findings of fact as to plaintiff's ability to pay for the time period for which reimbursement was sought, specifically, from the pre-birth medical expenses incurred until the filing of the complaint, the relevant time period for retroactive child support."). "[A] party seeking retroactive child support must present sufficient evidence of past expenditures made on behalf of the child, and evidence that such expenditures were reasonably necessary." *Id.* at 93, 760 S.E.2d at 355 (citing *Robinson v. Robinson*, 210 N.C. App. 319, 333, 707 S.E.2d 785, 795 (2011)).

Regarding defendant's ability to pay child support during the period that plaintiff sought retroactive child support, we note that the minor child was born 21 April 2015. In its findings of fact, the court found that "[d]efendant has, and has had, an income of at least $80,000 per year (which is $6,666.67 per month) from MBR."

As to evidence that plaintiff's past expenditures for which she sought reimbursement were reasonably necessary, we note that a significant portion of the court order directing that defendant reimburse plaintiff for past expenditures is predicated on past expenditures for health and dental insurance premiums, work-related childcare tuition, and outstanding medical expenses either incurred for the

child or as a result of childbirth. Nevertheless, on remand, we direct the trial court to make appropriate findings as to whether plaintiff's expenditures during the period were reasonable.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.

Chief Judge McGEE concurs.

Judge BERGER concurs in result only as to issue I and concurs as to issue II.

Report per Rule 30(e).