

**ARKANSAS COURT OF APPEALS**DIVISION I  
No. CA12-410

LUKE SZABO

APPELLANT

V.

LESLI RUTLAND WOMACK

APPELLEE

Opinion Delivered March 27, 2013

APPEAL FROM THE BENTON  
COUNTY CIRCUIT COURT  
[NO. DR-2008-1386-5]HONORABLE XOLLIE DUNCAN,  
JUDGEAFFIRMED IN PART; REVERSED IN  
PART; AND REMANDED**JOHN MAUZY PITTMAN, Judge**

This is an appeal after remand in a child-support case involving credit for Social Security disability benefits paid to appellant for the benefit of the parties' minor child. In *Szabo v. Womack*, 2011 Ark. App. 664, we reversed a child-support order and directed the trial court, *inter alia*, to give appellant credit against his child-support obligation for Social Security disability benefits paid to the child based on appellant's disability. Appellant argues that the trial court on remand failed to give him credit for the Social Security disability benefits as required by our mandate; erred in finding him in contempt of court for failing to disclose his receipt of a lump-sum Social Security disability benefit check in the amount of \$7,980; and erred in awarding attorney's fees to appellee. We affirm in part, reverse in part, and remand.

Appellant correctly asserts that the trial court erred in failing to give him credit for \$7,980 in Social Security disability benefits. The trial court attempted to comply with our mandate to give appellant credit for overpayment based on Defendant's Exhibit 1, which the court accepted as correct. However, the court mistakenly credited only the \$340.24 that appellant cited as overpayment, failing to recognize that the figures in Defendant's Exhibit 1 included repayment of the Social Security disability check by computing benefits payable from January 2009 to August 2010 at the proper amount of \$627 per month, rather than at the rate of \$487 per month that was required by the order in effect during that period. Furthermore, although the Social Security disability payments to the child are legally counted as income to the payor of child support, *Arkansas Office of Child Support Enforcement v. Hearst*, 2009 Ark. 599, those benefits are also credited against the amount payable in child support, *Cash v. Cash*, 234 Ark. 603, 353 S.W.2d 348 (1962), the net effect being simply to raise the amount on which the payor's income is computed. Because the only effect of the Social Security disability payments was to raise appellant's income for child-support calculations, and because appellant included the amount of those payments in the corrected monthly payment figures submitted to the court, he was in effect charged twice for the \$7,980. We therefore reverse and direct that appellant be credited in this amount.

Appellant next contends that the trial court erred in finding him in contempt for being dishonest with the court regarding the payments he had received. We need not reach this particular issue because there was no consequence or penalty attached to the circuit court's

bare finding of contempt, and the propriety of the finding is therefore moot. *Dixon v. Dixon*, 2012 Ark. App. 384.

Finally, appellant argues that the trial court erred in failing to adequately set forth its reasoning regarding the award of attorney's fees to appellee as required by our mandate. Based on our review of the record, we conclude that the trial court complied with our mandate and did not abuse its discretion in setting attorney's fees. *See Delgado v. Delgado*, 2012 Ark. App. 100.

Affirmed in part; reversed in part; and remanded.

GRUBER and WHITEAKER, JJ., agree.

*Evans & Evans Law Firm*, by: *James E. Evans, Jr.*, for appellant.

*Elizabeth Tonti*, Legal Aid of Arkansas, for appellee.