

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT

CHARLES E. PERRY,

JULY TERM A.D., 2004

**

Appellant,

**

vs.

**

STATE OF FLORIDA, DEPARTMENT OF
REVENUE, OFFICE OF CHILD SUPPORT
ENFORCEMENT, etc., et al.,

** CASE NO. 3D03-1609

**

Appellee.

** LOWER TRIBUNAL
CASE NO. 93-20954

Opinion filed September 29, 2004.

An appeal from the Circuit Court of Miami-Dade County, Jack Block, Senior Judge.

Brinkley, Henrys & Lewis and Tanya J. Brinkley, for appellant.

Charles J. Crist, Jr., Attorney General, and Toni C. Bernstein and William H. Branch, Assistant Attorneys General, for appellee.

Before SCHWARTZ, C.J. and COPE and FLETCHER, JJ.

PER CURIAM.

Charles E. Perry appeals from an order of the trial court, relating to child support. We reverse, and remand for the trial court to recalculate retroactive child support from the child's birth on November 1, 1985 until the issuance of the first

temporary child support order dated July 25, 1994 (commencing July 15, 1994). However, the recalculation shall exclude the periods of time previously covered by the temporary child support orders, and shall use the best available financial records of Perry dating from November 1985 to July 1994. If such records are unavailable, the trial court shall impute relevant minimum wage to Perry for that time period. Because the record below contains no allegations or findings of fraud on Perry's part, we decline to entertain the State's claim raised for the first time on appeal.

We remand as well for the trial court to determine whether Perry was the residential custodian of the minor child at any time dating from the child's birth on November 1, 1987 to the issuance of the first temporary child support order dated July 25, 1994, and to revise and recalculate retroactive support for that period of time accordingly.

Reversed and remanded.