IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-914

Filed: 5 November 2019

Mecklenburg County, No. 14 CVD 21633

MICHELE ANN HART, Plaintiff,

v.

PAUL BRADLEY HART, Defendant.

Appeal by plaintiff from order entered 3 April 2018 by Judge Jena P. Culler in Mecklenburg County District Court. Heard in the Court of Appeals 14 February 2019.

Moen Legal Counsel, by Lynna P. Moen, for plaintiff-appellant.

James, McElroy & Diehl, P.A., by Caroline T. Mitchell, for defendant-appellee.

ZACHARY, Judge.

Michele Ann Hart ("Plaintiff-Mother") appeals from an order modifying the child support obligation of Paul Bradley Hart ("Defendant-Father"). Plaintiff-Mother argues that the trial court (1) lacked jurisdiction to modify a child support order entered by a Washington court, (2) modified the order without evidence of a substantial change in circumstances, and (3) erred in determining the appropriate amount of Defendant-Father's child support obligation. Upon review, we affirm the trial court's order.

I. Background

Plaintiff-Mother and Defendant-Father, while citizens of Washington, married in September 1999, separated in May 2011, and divorced in May 2013. They have three minor children. Between 2011 and 2013, a Washington trial court entered two separate orders relating to custody and child support: a Parenting Plan Final Order ("2011 Custody Order"), and an Order of Child Support ("Support Order"). Because of an error in the Support Order, the Washington court entered a Corrected Order of Child Support ("Corrected Order") obligating Defendant-Father to pay Plaintiff-Mother $1,839.95 per month in child support.

In August 2013, Plaintiff-Mother and the children relocated to North Carolina. As a result, a second parenting plan order was entered by the Washington court the following year ("2014 Custody Order"). The 2014 Custody Order modified the custody arrangement to account for the fact that the parties now lived across the country from one another. At the same time, the trial court entered an order correcting a typographical error in the Corrected Order concerning Defendant-Father's obligation to pay a portion of the children's uninsured medical expenses ("Correction of Scrivener's Error").

In December 2014, Defendant-Father moved to North Carolina. Plaintiff-Mother then filed a motion in Mecklenburg County District Court, requesting that the North Carolina court assume jurisdiction and modify Washington's 2014 Custody

Order. The Washington court subsequently entered an order transferring jurisdiction over "all parenting-related issues in this case" to North Carolina.

On 2 June 2015, Plaintiff-Mother filed a Notice of Registration of Foreign Support Order seeking enforcement of Defendant-Father's child support obligation in North Carolina. Defendant-Father accepted service of the Notice of Registration of Foreign Support Order on 4 January 2016, and did not contest registration. Although Plaintiff-Mother's registration packet included the initial Support Order and the Correction of Scrivener's Error, she omitted the Corrected Order.

On 6 January 2016, the parties consented to a modification of the custodial arrangement. The North Carolina trial court entered a consent order reflecting the parties' agreement concerning custody of the children ("Child Custody Consent Order").

On 26 February 2016, Defendant-Father filed a Motion for Modification of Child Support, properly attaching all three parts of the controlling order: (1) the initial Support Order, (2) the Corrected Order, and (3) the Correction of Scrivener's Error. The trial court heard Defendant-Father's motion to modify on 11 October 2017. At the hearing, Plaintiff-Mother moved to dismiss Defendant-Father's motion for lack of subject-matter jurisdiction, which was denied in open court. When a second hearing was held on 30 November 2017 before the Honorable Jena P. Culler, Plaintiff-Mother once again moved to dismiss the case for lack of subject-matter

jurisdiction. After hearing arguments from both parties, Judge Culler denied the motion.

At the conclusion of the hearing, the trial court found that "there ha[d] been several material and substantial changes in circumstances" since the Support Order's entry in May 2013. By order entered 3 April 2018, the trial court granted Defendant-Father's motion to modify his child support obligation. The trial court ordered Defendant-Father to pay $569.09 per month in child support, effective 26 February 2016, the date on which he filed his motion to modify. Ultimately, the trial court's modification entitled Defendant-Father to a $26,676.30 credit. Plaintiff-Mother timely appealed.

II. UIFSA

Plaintiff-Mother first challenges the trial court's authority to modify Defendant-Father's child support obligation. Specifically, Plaintiff-Mother asserts that the trial court lacked subject-matter jurisdiction over the matter. We disagree.

The instant case is governed by the Uniform Interstate Family Support Act ("UIFSA"), codified in Chapter 52C of our General Statutes. *See generally* N.C. Gen. Stat. §§ 52C-1-100 to -9-902. "UIFSA governs the proceedings concerning the enforceability of any foreign support order that is registered in North Carolina after 1 January 1996." *Uhrig v. Madaras*, 174 N.C. App. 357, 359, 620 S.E.2d 730, 732 (2005) (citation omitted), *disc. review denied*, 360 N.C. 367, 630 S.E.2d 455 (2006).

UIFSA is a federally mandated uniform model act that was enacted "as a mechanism to reduce the multiple, conflicting child support orders existing in numerous states[.]" *New Hanover Cty. v. Kilbourne*, 157 N.C. App. 239, 243, 578 S.E.2d 610, 613-14 (2003). Designed to remedy flaws and inconsistencies that existed under previous interstate legislation, *see id.* at 241-43, 578 S.E.2d at 612-13, UIFSA allows for "only . . . one controlling support order at any given time." *Uhrig,* 174 N.C. App. at 360, 620 S.E.2d at 732. Under UIFSA's "one order" system, all states "are required to recognize and enforce the same obligation consistently." *Kilbourne*, 157 N.C. App. at 243, 578 S.E.2d at 614.

The concept of "continuing, exclusive jurisdiction" is crucial to determining whether North Carolina has jurisdiction to modify, or merely enforce, a child support order issued by another state. "Any [child support order] issued by a court of another state may be registered in North Carolina for enforcement" by following the procedures set forth under N.C. Gen. Stat. § 52C-6-602. *Twaddell v. Anderson*, 136 N.C. App. 56, 60, 523 S.E.2d 710, 714 (1999), *disc. review denied*, 351 N.C. 480, 543 S.E.2d 510 (2000). A support order issued in another state is registered and enforceable in North Carolina upon filing. N.C. Gen. Stat. § 52C-6-603(a)-(b); *see also id.* § 52C-1-101(14) (" 'Register' means to file in a tribunal of this State a support order or judgment determining parentage of a child issued in another state or a foreign country.").

Registering a sister state's child support order for enforcement, however, does not automatically vest North Carolina courts with authority to modify the order. *See id.* § 52C-6-603(c) ("Except as otherwise provided . . . a tribunal of this State shall recognize and enforce, but may not modify, a registered . . . order if the issuing tribunal had jurisdiction."). Indeed, "[o]nce a foreign child support order has been registered in North Carolina, it can be modified by a North Carolina court only if the issuing state has lost continuing, exclusive jurisdiction over the order." *Lombardi v. Lombardi*, 157 N.C. App. 540, 543, 579 S.E.2d 419, 420 (2003).

The issuing state loses continuing, exclusive jurisdiction "in two situations: (1) if neither the child nor any of the parties continue to reside in the state; or (2) if each of the parties consented to the assumption of jurisdiction by another state." *Uhrig,* 174 N.C. App. at 360, 620 S.E.2d at 732 (citation omitted). The foreign support order remains enforceable even after the issuing state has lost continuing, exclusive jurisdiction; however, a North Carolina court lacks authority to modify the order unless the requirements of N.C. Gen. Stat. §§ 52C-6-611 or 52C-6-613 are met. *See* N.C. Gen. Stat. § 52C-6-610. If no other state has continuing, exclusive jurisdiction over the order *and* all of the individual parties currently reside in North Carolina, "a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order." *Id.* § 52C-6-613(a).

"Whether the trial court complied with the registration procedures set out in UIFSA is a question of law reviewed *de novo* on appeal." *Crenshaw v. Williams*, 211 N.C. App. 136, 139-40, 710 S.E.2d 227, 230 (2011).

In the instant case, Plaintiff-Mother, Defendant-Father, and their three children were living in Washington when a court of that state entered the initial Support Order in May 2013. Thus, Washington retained continuing, exclusive jurisdiction to modify its support order until the parties moved or consented to another state's exercise of jurisdiction. Plaintiff-Mother and the children moved to North Carolina in August 2013; Defendant-Father followed soon thereafter, establishing residence in North Carolina in December 2014. Plaintiff-Mother registered the Support Order and the Correction of Scrivener's Error—but not the Corrected Order—in Mecklenburg County in June 2015. Defendant-Father filed his motion to modify his child support obligation on 26 February 2016. At that time, both parties and all of their children were North Carolina residents. No state possessed continuing, exclusive jurisdiction over the controlling order, nor did the parties consent to the exercise of jurisdiction by Washington or any other state. Therefore, pursuant to N.C. Gen. Stat. § 52C-6-613(a), the trial court had jurisdiction to enforce and modify the Washington support order.

Nevertheless, as she unsuccessfully argued at two separate hearings before the trial court, Plaintiff-Mother contends that the trial court lacked subject-matter

jurisdiction to modify the Corrected Order, because it was never registered in North Carolina. However, registration is a *procedural* requirement, not a *jurisdictional* one. *See* N.C. Gen. Stat. § 52C-6-601 cmt. (providing that "registration is a process, and the failure to register does not deprive an otherwise appropriate forum of subject matter jurisdiction"). And as this Court has recognized, a party is not required to strictly adhere to § 52C-6-602's procedural requirements in order to register a support order issued by another state; rather, "substantial compliance" is sufficient "to accomplish registration of the foreign order." *Twaddell*, 136 N.C. App. at 60, 523 S.E.2d at 714 (holding that "the trial court erred in finding that [the] plaintiff had not met the registration requirements of UIFSA" where, notwithstanding the plaintiff's omission of certain required documentation, the registration packet substantially complied with N.C. Gen. Stat. § 52C-6-602). Although this Court is not bound by case law from other jurisdictions, *see State v. J.C.*, 372 N.C. 203, 210, 827 S.E.2d 280, 285 (2019), we note that the *Twaddell* Court's interpretation of UIFSA's registration requirements is consistent with that reached by courts of other jurisdictions.[1]

In the case at bar, the controlling order is composed of three parts: (1) the initial Support Order, (2) the Corrected Order, and (3) the Correction of Scrivener's

[1] *See, e.g.*, *Kendall v. Kendall*, 340 S.W.3d 483, 499 (Tex. App. 2011); *In re Marriage of Owen*, 108 P.3d 824, 829 (Wash. Ct. App.), *disc. review denied*, 126 P.3d 1279 (Wash. 2005); *Lamb v. Lamb*, 707 N.W.2d 423, 435 (Neb. Ct. App. 2005).

Error. Stated another way, there is one controlling order, which was corrected twice by the issuing court in Washington. When Plaintiff-Mother registered the order for enforcement in North Carolina, she included in her UIFSA registration packet the Support Order and the Correction of Scrivener's Error, but she failed to include the Corrected Order. Nevertheless, Plaintiff-Mother's inadvertent omission was not a fatal error in this case.

Plaintiff-Mother substantially complied with N.C. Gen. Stat. § 52C-6-602 by registering two of the three parts of the controlling order. As for the third portion of the controlling order, Plaintiff-Mother referred to the omitted Corrected Order in several filings before the trial court. Indeed, on the same day that Plaintiff-Mother registered the controlling order for enforcement in North Carolina, she also filed a motion *in the same court* seeking to have Defendant-Father held in contempt of court in North Carolina for his alleged failure to comply with specific terms of the Corrected Order that she failed to include in her UIFSA registration packet. Plaintiff-Mother also referred to the Corrected Order in her *second motion* to have Defendant-Father held in contempt of court in North Carolina based on the same grounds. The trial court's order denying both of Plaintiff-Mother's motions specifically references terms of the Corrected Order. Defendant-Father also attached copies of the initial Support Order and the two corrections to his motion to modify. Accordingly, neither Plaintiff-

Mother nor Defendant-Father were prejudiced by Plaintiff-Mother's failure to strictly comply with all of the statutory registration procedures.

Finally, under the provisions of UIFSA, the trial court had jurisdiction to modify Defendant-Father's child support obligation. The official comment to § 52C-6-609, "Procedure to register child support order of another state for modification," provides, in pertinent part:

> If the tribunal has the requisite personal jurisdiction over the parties and may assume subject matter jurisdiction as provided in Sections 611 or 613, modification may be sought independently, in conjunction with registration and enforcement, or at a later date after the order has been registered and enforced if circumstances have changed.

N.C. Gen. Stat. § 52C-6-609 cmt. Despite her procedural error, Plaintiff-Mother registered the controlling support order in North Carolina. As explained above, Washington lost—and North Carolina gained—continuing, exclusive jurisdiction to modify that order, because all parties resided in North Carolina when Defendant-Father filed his motion to modify.

In sum, the controlling order is composed of three parts: (1) the initial Support Order, (2) the Corrected Order, and (3) the Correction of Scrivener's Error. That Plaintiff-Mother inadvertently omitted the Corrected Order from her UIFSA registration packet did not deprive our courts of subject-matter jurisdiction to modify Defendant-Father's child support obligation.

III. Modification of Child Support

Pursuant to N.C. Gen. Stat. § 50-13.7(b), "when an order for support of a minor child has been entered by a court of another state, a court of this State may, upon gaining jurisdiction, and upon a showing of changed circumstances, enter a new order for support which modifies or supersedes such order for support."

Plaintiff-Mother next argues that the trial court erroneously modified Defendant-Father's child support obligation absent any evidence of a substantial change in circumstances. We disagree.

A. Standard of Review

On appeal, "[c]hild support orders entered by a trial court are accorded substantial deference . . . and our review is limited to a determination of whether there was a clear abuse of discretion." *Ferguson v. Ferguson*, 238 N.C. App. 257, 260, 768 S.E.2d 30, 33 (2014). Under this standard of review, the trial court's order will be upheld unless its "actions were manifestly unsupported by reason." *Head v. Mosier*, 197 N.C. App. 328, 332, 677 S.E.2d 191, 195 (2009) (citation omitted).

B. Substantial Change in Circumstances

A child support order is modifiable at any time upon motion in the cause, *id.* at 333, 677 S.E.2d at 195, and is "subject to alteration upon a change of circumstances affecting the welfare of the child or children." *Bishop v. Bishop*, 245 N.C. 573, 576, 96 S.E.2d 721, 724 (1957). "The moving party has the burden of showing a substantial

change of circumstances affecting the welfare of the child." *Ebron v. Ebron*, 40 N.C. App. 270, 271, 252 S.E.2d 235, 236 (1979).

Modifying a child support order is a two-step process. *Head*, 197 N.C. App. at 333, 677 S.E.2d at 195. "First, a court must determine whether there has been a substantial change in circumstances since the date the existing child support order was entered." *Id.* "Upon finding a substantial change in circumstances, the second step is for the court to enter a new child support order that modifies and supersedes the existing child support order." *Id.* at 334, 677 S.E.2d at 196.

A substantial change in circumstances may be shown in several ways, including evidence of

> a substantial increase or decrease in the child's needs . . . ; a substantial and involuntary decrease in the income of the non-custodial parent even though the child's needs are unchanged . . . ; a voluntary decrease in income of either supporting parent, absent bad faith, upon a showing of changed circumstances relating to child oriented expenses . . . ; and, for support orders that are at least three years old, proof of a disparity of fifteen (15) percent or more between the amount of support payable under the original order and the amount owed under North Carolina's Child Support Guidelines based upon the parties' current income and expenses.

Wiggs v. Wiggs, 128 N.C. App. 512, 515, 495 S.E.2d 401, 403 (1998), *overruled on other grounds by Pulliam v. Smith*, 348 N.C. 616, 501 S.E.2d 898 (1998). Although multiple factors may contribute, this Court has held that a substantial change in circumstances can also arise from a single, dispositive factor. *See, e.g.*, *Kowalick v.*

Kowalick, 129 N.C. App. 781, 787, 501 S.E.2d 671, 675 (1998) (determining that a change in custody was sufficient to constitute a substantial change in circumstances).

C. The Trial Court's Findings of Fact

In the instant case, the record is replete with evidence supporting a determination that there had been a substantial change in circumstances since the entry of the previous order. In particular, there was a significant difference in the amount of time that the children were able to spend with Defendant-Father once they had all moved to North Carolina.

The trial court made the following findings of fact regarding the change in the parties' custodial arrangement:

> 54. Since the entry of the [initial] Support Order, the parties have modified the custodial schedule so that Defendant/Father is spending more time with the minor children.
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> 55. Per the parties' Child Custody Consent Order, the parties share legal and physical custody of the minor children. Defendant/Father has parenting time with the minor children on alternating weeks from the time school recesses on Friday through the start of school on Monday morning. In addition, Defendant/Father has parenting time with the children every Tuesday from the time school recesses through the start of school on Wednesday morning.
>
> 56. Now, the minor children stay with Defendant/Father at his home in North Carolina as opposed to staying in a hotel with Defendant/Father when he traveled from Washington to North Carolina.

> 57. Now, Defendant/Father has six of the ten weeks of summer vacation with the minor children as opposed to only two weeks of vacation in the summer as previously provided in the Washington [Custody Orders].
>
> 58. . . . Defendant/Father now has significantly more time with the minor children per the Child Custody Consent Order.

Plaintiff-Mother contends that the trial court erred in finding that Defendant-Father has more parenting time with the children now than he had at the time of the entry of the 2014 Custody Order. However, competent evidence supports the trial court's findings that, under the provisions of the parties' Child Custody Consent Order, Defendant-Father was spending substantially more time with the children than he was at the time that the 2014 Custody Order was entered by the Washington court.

While the trial court found "several material and substantial changes in circumstances," the significant change in the parties' custodial arrangement alone was sufficient to warrant modification of the existing support order. Accordingly, the trial court did not err in modifying Defendant-Father's child support obligation.

IV. Child Support Obligation

Finally, Plaintiff-Mother argues that the trial court "abused its discretion in calculating child support off guideline from February 2016 through August 2017," in that the parties' combined monthly gross income did not exceed the $25,000

maximum monthly gross income to which the child support schedule of the Guidelines is applicable. Plaintiff-Mother is mistaken.

A. Standard of Review

As previously noted, "[i]n reviewing child support orders, our review is limited to a determination whether the trial court abused its discretion. Under this standard of review, the trial court's ruling will be overturned only upon a showing that it was so arbitrary that it could not have been the result of a reasoned decision." *Spicer v. Spicer*, 168 N.C. App. 283, 287, 607 S.E.2d 678, 682 (2005). However, it is well established that the trial court "must . . . make sufficient findings of fact and conclusions of law to allow the reviewing court to determine whether a judgment, and the legal conclusions that underlie it, represent a correct application of the law." *Id.* We have reviewed myriad financial issues relating to child support under an abuse of discretion standard. *See, e.g.*, *Hinshaw v. Kuntz*, 234 N.C. App. 502, 505, 760 S.E.2d 296, 299 (2014) (reviewing the trial court's exclusion of parties' bonus income); *Ludlam v. Miller*, 225 N.C. App. 350, 355, 739 S.E.2d 555, 558 (2013) (reviewing the trial court's failure to consider non-recurring income); *Midgett v. Midgett*, 199 N.C. App. 202, 206, 680 S.E.2d 876, 879-80 (2009) (reviewing the trial court's calculation of father's gross income and thus his child support obligation).

B. Child Support Obligation

After determining that there has been a substantial change in circumstances warranting a modification of child support, the trial court must next calculate the appropriate amount of support and enter a new order. *Head*, 197 N.C. App. at 334, 677 S.E.2d at 196. The "trial court has the discretion to make a modification of a child support order effective from the date a petition to modify is filed as to support obligations that accrue after such date." *Mackins v. Mackins*, 114 N.C. App. 538, 546-47, 442 S.E.2d 352, 357, *disc. review denied*, 337 N.C. 694, 448 S.E.2d 527 (1994).

"The court shall determine the amount of child support payments by applying the presumptive guidelines[.]" N.C. Gen. Stat. § 50-13.4(c) (2017). The Guidelines "apply as a rebuttable presumption in all legal proceedings involving the child support obligation of a parent." *N.C. Child Support Guidelines*, Annotated Rules 51 (2019).

The gross income of the parents is used to calculate the presumptive child support obligation. *Fink v. Fink*, 120 N.C. App. 412, 424, 462 S.E.2d 844, 853 (1995), *disc. review denied*, 342 N.C. 654, 467 S.E.2d 710 (1996). "Income" is broadly defined under the Guidelines as

> 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, partnership, or corporation, rental of property, retirement or pensions, interest, trusts, annuities, capital gains, Social Security benefits, workers compensation benefits, unemployment insurance benefits, disability pay

> and insurance benefits, gifts, prizes and alimony or maintenance received from persons other than the parties to the instant action.

Guidelines, at 53.

A trial court will generally determine a parent's actual income at the time that the child support obligation is established. *Frey v. Best*, 189 N.C. App. 622, 631, 659 S.E.2d 60, 68 (2008). When a parent receives income "on an irregular, non-recurring, or one-time basis, the court may average or prorate the income over a specified period of time or require an obligor to pay as child support a percentage of [the] non-recurring income . . . equivalent to the percentage of [the] recurring income paid for child support." *Guidelines*, at 53.

Currently, the child support schedule provided with the Guidelines does not provide a support obligation when the parties' combined monthly gross income is greater than $30,000. *Id.* at 52. At the time that the judgment was entered in the instant case, however, the Guidelines provided that the child support schedule was inapplicable if the parties' monthly gross income exceeded $25,000. *Guidelines*, at 52 (2018). Under such circumstances, the trial court must determine the appropriate amount of child support on a case-by-case basis. *Id.*

Here, the trial court found that Plaintiff-Mother's monthly gross income was $13,856.21, and that Defendant-Father's monthly gross income totaled $13,515.68; thus, the parties' combined monthly gross income exceeded the $25,000 maximum monthly gross income to which the child support schedule of the Guidelines applied.

The trial court made the following findings of fact relevant to its determination of the parties' monthly gross income, which Plaintiff-Mother challenges on appeal as not supported by competent evidence:

> 65. Per Plaintiff/Mother's [Financial Affidavit], Plaintiff/Mother's gross income is $9,563.48. This total includes Plaintiff/Mother's salary, ordinary dividends, pension income, negative rental income, and capital gains and losses.
>
> 66. Plaintiff/Mother's [Financial Affidavit] does not include her recent raise, annual bonus, stock income, Stay Fit award, or reasonable rental income as monthly gross income.
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> 67. In September of 2017, Plaintiff/Mother received a pay raise. Plaintiff/Mother's new base bay is $9,580.32 per month.
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> 68. In September of 2017, Plaintiff/Mother received an annual bonus in the amount of $18,700.00. This Court finds that Plaintiff/Mother receives additional bonus income in the amount of $1,558.00 each month.
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> 69. In September of 2017, Plaintiff/Mother received annual stock income in the amount of $24,376.68. This Court finds that Plaintiff/Mother received additional stock income in the amount of $2,031.39 each month.
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> 70. Plaintiff/Mother receives $800.00 per year for enrolling in the Microsoft Stay Fit Plan. This Court finds that Plaintiff/Mother receives additional income in the amount of $66.67 each month.
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> . . . .
>
> 75. This Court finds that Plaintiff/Mother's total gross monthly income is $13,856.21.

. . . .

80. This Court finds that Defendant/Father's total gross monthly income is $13,515.68.

81. The parties' total gross annual income exceeds $300,000.00 so the North Carolina Child Support Guidelines are not applicable in this matter.

82. Plaintiff/Mother's income represents 51% of the parties' total gross annual income and Defendant/Father's income represents 49% of the parties' total gross annual income.

. . . .

98. Per the parties' respective income percentages, Plaintiff/Mother's prorated portion of the total expenses for the children each month is $4,326.73 and Defendant/Father's prorated portion is $4,220.38.

. . . .

101. This Court calculated child support by subtracting the amounts paid by each party toward the total expenses for the children each month in his or her household from the parties' respective prorated portions. A chart outlining this Court's child support calculation is attached hereto as Exhibit 2 and hereby incorporated by reference.

102. Considering the income and expenses of the parties and the reasonable needs and expenses of the minor children, Defendant/Father's child support obligation to Plaintiff/Mother should be $569.09 per month.

103. Defendant/Father's child support obligation should be modified effective February 26, 2016.

. . . .

> 105. As such, as of December 1, 2017, Defendant/Father has a child support credit in the amount of $26,676.30. A chart outlining this Court's child support credit calculation is attached hereto as Exhibit 3 and hereby incorporated by reference.

Plaintiff-Mother also challenges conclusions of law numbers 5, 7, 8, 9, and 10:

> 5. Defendant/Father's Motion to Modify should be granted.
>
> . . . .
>
> 7. The North Carolina Child Support Guidelines do not apply in this matter as the combined monthly gross income of the parties exceeds $25,000.00 per month.
>
> 8. Considering the income and expenses of the parties and the reasonable needs and expenses of the minor children, Defendant/Father's child support obligation to Plaintiff/Mother should be $569.09 per month.
>
> 9. The amount of child support is reasonable and entry of this Order is in the bests [sic] interests of the minor children.
>
> 10. Any finding of fact which would be an appropriate Conclusion of Law is incorporated herein by reference.

Finally, Plaintiff-Mother asserts that decretal paragraphs 1 and 2 are not supported by competent evidence, and constitute errors of law and an abuse of discretion:

> 1. Defendant/Father's Motion to Modify is granted.
>
> 2. Child Support Obligation: Defendant/Father's child support obligation to Plaintiff/Mother is $569.09 per month. Defendant/Father's modified child support obligation is effective February 26, 2016. Since March 1,

> 2016, Defendant/Father has paid child support to Plaintiff/Mother in the amount of $1,839.39 each month. As such, as of December 1, 2017, Defendant/Father has a child support credit in the amount of $26,676.30. Beginning December 1, 2017, Defendant/Father shall not pay a child support obligation to Plaintiff/Mother each month but shall subtract said amount owed each month from the child support credit until said credit is fully depleted. Upon depletion of the child support credit, Defendant/Father shall pay to Plaintiff/Mother child support in the amount of $569.09 per month on the first day of each month thereafter.

In challenging these portions of the trial court's order, Plaintiff-Mother contends that the trial court erred in determining Defendant-Father's child support obligation based on the parties' current income, but making the modification effective on 26 February 2016, the date on which Defendant-Father filed his motion to modify. Plaintiff-Mother asserts that, in doing so, the trial court improperly "applied the decreased child support amount from February 2016 through October 2017" while assigning Plaintiff-Mother "three large income changes that occurred in September 2017." We disagree.

The method by which the trial court determines a party's child support obligation is manifest. As explained above, although a party's ability to pay is generally determined by the party's actual income at the time the existing order is modified, *Frey*, 189 N.C. App. at 631, 659 S.E.2d at 68, the decision of whether "to make a modification . . . effective from the date a petition to modify is filed" is within the trial court's discretion, *Mackins*, 114 N.C. App. at 547, 442 S.E.2d at 357.

Plaintiff-Mother's testimony revealed each source of income. However, this Court has held that a trial court cannot merely restate a witness's testimony as a finding of fact in its order. *See Moore v. Moore*, 160 N.C. App. 569, 571-72, 587 S.E.2d 74, 75 (2003) ("Recitations of the testimony of each witness do not constitute findings of fact by the trial judge, because they do not reflect a conscious choice between the conflicting versions of the incident in question which emerged from all the evidence presented." (quotation marks omitted)). Nonetheless, Plaintiff-Mother's testimony was verified by the paystubs that she submitted to the court as evidence. Her September 2017 paystubs plainly disclosed her pay raise, bonus, and stock award. These paystubs supported Plaintiff-Mother's testimony, and ultimately allowed the trial court to make sufficient findings to resolve the issue of Plaintiff-Mother's monthly gross income. *Cf. In re Green*, 67 N.C. App. 501, 505 n.1, 313 S.E.2d 193, 195 n.1 (1984) ("The purported 'findings' in the order under discussion do not even come close to resolving the disputed factual contentions of the parties . . . .").

In that the trial court's findings of fact regarding the parties' monthly gross income are supported by the evidence at trial, the trial court did not abuse its discretion in its determination of the appropriate child support obligation.

V. Conclusion

We conclude that the trial court properly exercised jurisdiction to modify the controlling Washington child support order. Moreover, the trial court did not abuse

its discretion in determining that there had been a substantial change in circumstances warranting modification of the existing support order, or in determining the appropriate amount of child support in this matter. Therefore, we affirm the trial court's order.

AFFIRMED.

Judges BERGER and HAMPSON concur.