IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LYKA GRACE ANDRES PERALTA,
Appellant,
vs.
CHYRON LEE TALLEY,
Respondent.

No. 89288-COA

FILED
NOV 20 2025
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Lyka Grace Andres Peralta appeals from the district court's amended final divorce decree. Eighth Judicial District Court, Clark County; Mari D. Parlade, Judge.

In December 2021, Peralta and respondent Chyron Lee Talley married in St. George, Utah. They conceived a child together but separated in October 2023, while Peralta was pregnant. In November 2023, Talley initiated his complaint for divorce against Peralta. Peralta answered and counterclaimed in March 2024, and Talley replied.

Both parties filed general financial disclosures as required, and Talley submitted additional financial information due to the compensation he received for serving as an active-duty member of the military. Following the birth of their child, C.P., the parties mediated their custody dispute and resolved most of the issues attendant to their divorce. Notably, Talley conceded sole physical custody of C.P. to Peralta.

The district court then held a hearing in July 2024 to resolve outstanding issues, including the amount of child support owed by Talley to Peralta. The court calculated Talley's income but expressly excluded the approximately $2,407.25 per month in "basic allowance for housing" (or BAH) payments Talley received from the military. During the hearing, the

issue of Talley's BAH payments and the gross income calculation was broached by Peralta, as observed in the following exchange:

> PERALTA: Your Honor, I do have a quick question.
>
> THE COURT: Yeah.
>
> PERALTA: The $490 is from his monthly income?
>
> THE COURT: Yes, that's correct.
>
> PERALTA: Okay. Okay. Because the last time we were in court from his financial thing, it was 5,000 a month.
>
> . . .
>
> PERALTA: Because he makes about 5400 the last time I checked.
>
> . . .
>
> THE COURT: Here you go. Let's go ahead and look at that. His reports, I'm sorry, it's thirty, sixty-six is what he reported and that's what I use for the computation. Thirty, sixty-six?
>
> TALLEY: Yes, Your Honor, because that excludes BAH, correct.
>
> THE COURT: Correct, that's the income?
>
> TALLEY: Yes, Your Honor.
>
> THE COURT: BAH is your housing, which goes towards your housing in the military.
>
> TALLEY: Right, and it's already taken out.
>
> THE COURT: It's not income that you receive?
>
> TALLEY: Right, Your Honor.

THE COURT: It's a benefit.

TALLEY: Right.

THE COURT: Okay. Yes, so that—I did use yours, thirty, sixty-six and that does say that's your base pay—

TALLEY: Yes, Your Honor.

THE COURT: $3,066. The fifty-four, seventy-three includes your BAH, but that's housing, that's not actually income?

TALLEY: Right, it's not—I don't see that every month.

THE COURT: Correct. That pays for your housing?

TALLEY: Yes, Your Honor.

THE COURT: Okay. All right. So while I'm using 3,066, which is as reflected on your earning statement, your base pay?

TALLEY: Yes, Your Honor.

The divorce decree was issued after this hearing in July 2024, reflecting the child support awarded to Peralta in the amount of $490 per month, derived from the district court's determination of Talley's gross income of $3,066. An amended divorce decree followed shortly thereafter, in August 2024, maintaining an identical child support award to Peralta. She now appeals from the amended decree, challenging only the award of child support. On appeal, Peralta contends that the district court undercalculated the child support award owed to her under Nevada's

statutory framework based on the court's failure to include Talley's BAH housing allowance as income. Talley did not respond.[1]

In Nevada, "[m]atters of custody and support of minor children of parties to a divorce action rest in the sound discretion of the trial court, the exercise of which will not be disturbed on appeal unless clearly abused." *Flynn v. Flynn*, 120 Nev. 436, 440, 92 P.3d 1224, 1227 (2004) (quoting *Culbertson v. Culbertson*, 91 Nev. 230, 233, 533 P.2d 768, 770 (1975)). The district court abuses its discretion when "no reasonable judge could reach a similar conclusion under the same circumstances." *Leavitt v. Siems*, 130 Nev. 503, 509, 330 P.3d 1, 5 (2014). But this court "conducts a de novo review of the district court's conclusions of law." *Blaich v. Blaich*, 114 Nev. 1446, 1447-48, 971 P.2d 822, 823 (1998).

The Nevada Legislature has limited the discretion of the district courts regarding child support. *Anastassatos v. Anastassatos*, 112 Nev. 317, 320, 913 P.2d 652, 654 (1996) ("Although this court has recognized the importance of discretionary rulings by the district courts in the area of child support, it is clear that the limits of such discretion have been set within the specifications of the statutes."). And the statutory scheme is clear: a district court "*shall apply the guidelines* . . . to . . . [d]etermine the required support in any case involving the support of children;

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[1]Talley failed to respond to multiple requests for information to determine his eligibility for pro bono counsel on appeal and is therefore proceeding pro se. While oral argument would ordinarily have occurred as a result of Peralta's pro bono representation, because Talley is proceeding pro se and has not filed an answering brief despite being ordered to do so, this court determined that this matter will be decided on appellant's opening brief and the record without argument. *See Peralta v. Talley*, Docket No. 89288-COA (Order Regarding Oral Argument, October 1, 2025).

or . . . [c]hange the amount of the required support of children." NRS 125B.080 (emphasis added).

Those *guidelines* are promulgated under NAC Chapter 425. *See Matkulak v. Davis*, 138 Nev. 647, 649, 516 P.3d 667, 670 (2022) ("Pursuant to NRS 425.620, the Administrator of the Division of Welfare and Supportive Services of the Nevada Department of Health and Human Services has adopted various regulations in NAC Chapter 425 pertaining to the support of dependent children."); *see also* NRS 125B.145(2)(b) ("[T]he court shall enter an order modifying or adjusting the previous order for support in accordance with the guidelines established by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.620.").

In calculating the amount of a child support award, a district court is first tasked to determine whether a single parent has sole or primary physical custody or whether the parties share joint physical custody over the child. *See* NAC 425.115(2) ("If a party has primary physical custody of a child, he or she is deemed to be the obligee and the other party is deemed to be the obligor, and the child support obligation of the obligor must be determined . . . ."). It is undisputed that Peralta is the custodian of the minor child, as the parties agreed in the underlying proceedings that she would retain sole physical custody and that the child would continue to reside with Peralta. Thus, in the determination of a child support award under NAC Chapter 425 in this matter, Peralta was properly the obligee and Talley was the obligor.

Next, to determine the monthly gross income of the obligor, a district court must consider "all financial or other information relevant to the earning capacity of the obligor." NAC 425.120(1)(b). The applicable

subpart, NAC 425.025(1)(i), expressly notes that "'[g]ross income' includes, *without limitation*[,]" the noncustodial parent's "[m]ilitary allowances and veterans' benefits." (Emphasis added.) And no form of military housing allowance is expressly exempted from that calculation. *See generally* NAC 425.025. Here, the district court calculated Talley's gross income at $3,066 and it explicitly excluded the BAH contribution in arriving at that figure. Exclusion was posed as a question by the court to the pro se parties, and answered by Talley in the affirmative and accepted by the court. The representation by Talley that BAH should not contribute to the gross income calculation was erroneous.

The district court should have determined that Talley's gross income includes, *without limitation*, the BAH contribution—an amount of approximately $2,407.25 per month that the military paid for Talley's housing. But the court instead calculated Talley's gross income as reflected on Talley's earning statement, or his base pay, without explanation. This calculation was not supported by statute or legal principles, but by the acceptance of Talley's representation that his military allowances for housing could not contribute to his gross monthly income simply because it is not directly paid to him as a part of his monthly base-pay.

Thus, the district court erred when it did not apply the plain text of the administrative code that controls the calculation of child support payments. The BAH contribution to Talley's gross income must be considered when determining the amount of child support to award to Peralta under NAC Chapter 425, as the controlling provision requires inclusion, *without limitation*, of military benefits and allowances provided to a child-support obligor in calculating the obligor's gross income. *See* NAC 425.025(1)(i).

Peralta further argues that the district court must determine arrearages in this case. Arrearages in the context of family law and child support awards in Nevada refers to *past due payments* that a parent obligated to pay child support has failed to make, including unpaid amounts from ongoing child support obligations as well as court-ordered payments for previously accrued arrears. *See generally* NRS 425.560 ("Determination that person is in arrears in payments for support; satisfaction of arrearage"); *see also* NRS 125B.140(1)(a) ("If an order issued by a court provides for payment for the support of a child, that order is a judgment by operation of law *on or after the date a payment is due*." (emphasis added)). This understanding remains consistent with universal notions of an arrearage. *See Arrear*, *Black's Law Dictionary* (12th ed. 2024) ("An unpaid or overdue debt."); *see also In Arrears*, *Black's Law Dictionary* (12th ed. 2024) ("Behind in the discharging of a debt or other obligation" or, alternatively, "[a]t the end of a term or period instead of the beginning."). In Nevada, arrearages may be collected with enforcement mechanisms such as wage garnishment and income withholding. *See generally* NRS 31A.025 ("Initiation of procedure for withholding income; exceptions").

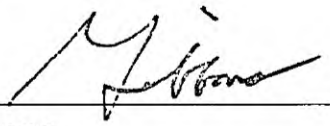
Here, although there will necessarily be a monetary sum that Talley will owe Peralta upon the district court's recalculation and correction of the child support award, that amount has yet to be determined and thus, an arrearage does not yet exist. Therefore, we leave this issue to the district court as the factfinder. *See Ryan's Express Transp. Servs., Inc. v. Amador Stage Lines, Inc.*, 128 Nev. 289, 299, 279 P.3d 166, 172 (2012) ("An appellate court is not particularly well-suited to make factual determinations in the first instance.").

For these reasons, the amended decree of divorce is reversed as to the child support award and remanded for proceedings consistent with this order. The balance of the amended decree remains in place.

IT IS SO ORDERED.[2]



_____, C.J.
Bulla



_____, J.
Gibbons



_____, J.
Westbrook

cc: Hon. Mari D. Parlade, District Judge
Snell & Wilmer, LLP/Las Vegas
Chyron Lee Talley
Eighth District Court Clerk

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[2]As to any arguments not specifically addressed in this order, we have considered the same and conclude that they either do not warrant further relief or need not be addressed at this time.