

FLORIDA THIRD DISTRICT COURT OF APPEAL

State of Florida, Department of Revenue, Child Support Program v.
Jean Fucien

No. 3D25-1308 · No. No. 3D25-1308 · Decided February 18, 2026

SUMMARY

The Third District Court of Appeal of Florida reversed an order granting Jean Fucien a hypothetical credit against child support arrears based on social security disability benefits that the child did not receive. The court held that child support obligations may be modified retroactively only to the date a modification petition is filed, and that credits are available only for dependent benefits actually received by the child or caregiver. The case was remanded for recalculation of the credit and its application to the arrearage in accordance with the child support guidelines.

CASE DETAILS

COURT	Florida Third District Court of Appeal
WRITING FOR THE COURT	Gordo, J.; Fernandez, J.; Gooden, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	February 18, 2026
DOCKET	No. 3D25-1308
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Florida Department of Revenue appealed the circuit court's final order approving a hearing officer's recommended order that modified child support and awarded a hypothetical credit against child support arrears based on social security disability benefits the child could have received but did not receive.
STANDARD OF REVIEW	A decision regarding whether to modify child support is generally reviewed for abuse of discretion; application of law is reviewed de novo.
PRECEDENTIAL VALUE	Published
PARTIES	State of Florida, Department of Revenue, Child Support Program, et al. v. Jean Fucien

TOPICS

child support

family law procedure

appellate procedure

standard of review

PRACTICE AREAS

family law

child support

appellate procedure

QUESTIONS PRESENTED

1. Whether child support obligations may be modified retroactively to a date earlier than the filing of a petition for modification.
2. Whether a parent may receive a credit against child support arrears for social security derivative benefits that the child could have received but did not actually receive.
3. Whether the trial court properly calculated and applied the credit for derivative social security disability benefits actually received by the child.

HOLDINGS

1. A child support obligation may be modified retroactively only to the date the petition or supplemental action for modification is filed, subject to statutory exceptions; the obligation may not be modified for periods preceding the filing.
2. A parent is entitled to a credit against child support obligations only for social security benefits actually paid directly to the child or the child's caregiver because of the parent's disability, not for benefits that could have been obtained but were never received.
3. Fucien was entitled to credit only for the five months of derivative benefits actually received by the child, from April through August 2023, and the credit must be applied to the obligation incurred simultaneously with receipt of those benefits.

KEY QUOTATIONS

“Credits are only available for benefits actually received by the child, not for benefits that could have been obtained but were not pursued.” (6)

“Because dependent benefit credits are to be applied to meet the obligation incurred simultaneously with their receipt, Fucien was entitled to credit solely for the benefits the child received from April through August 2023.” (7)

FACTUAL BACKGROUND

Fucien was ordered to pay child support in 2006 and accrued substantial arrears through nonpayment. In 2023, shortly before the child emancipated, he sought modification based on unemployment and social security disability benefits. The child received five months of derivative social security benefits beginning in April 2023, but no derivative benefits were received for the earlier period for which Fucien sought a credit. The hearing officer nevertheless awarded a hypothetical credit by extrapolating the later monthly benefit backward, and the circuit court approved that order.

PROCEDURAL HISTORY

Fucien petitioned for modification of child support shortly before the child emancipated, citing unemployment and receipt of social security disability benefits. The hearing officer recalculated support through emancipation and later awarded a \$40,817.17 hypothetical credit against arrears for benefits that were not actually received. The circuit court denied the Department's motion to vacate the recommended order, and the Department appealed. The Third District Court of Appeal reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Recalculate the credit and apply it to the arrearage in accordance with the child support guidelines, limiting the credit to the derivative benefits actually received by the child from April through August 2023.

CASES CITED

- A.G.W. v. C.L.C., 355 So. 3d 1062, 1065 (Fla. 2d DCA 2023)
- Dep't of Revenue ex rel. Shirer v. Shirer, 197 So. 3d 1260, 1262 (Fla. 2d DCA 2016)
- State, Dep't of Revenue, Child Support Enf't v. Segrera, 661 So. 2d 922, 923 (Fla. 3d DCA 1995)
- Puglia v. Puglia, 600 So. 2d 484, 485 (Fla. 3d DCA 1992)
- Spano v. Bruce, 62 So. 3d 2, 5-6 (Fla. 3d DCA 2011)
- Kirwan v. Kirwan, 606 So. 2d 771, 772-73 (Fla. 5th DCA 1992)
- Wallace v. Dep't of Revenue ex rel. Cutter, 774 So. 2d 804, 807-08 (Fla. 2d DCA 2000)