

COURT OF APPEALS OF NORTH CAROLINA

Flores v. Gutierrez

No. COA25-457 · No. COA25-457 · Decided February 4, 2026

SUMMARY

The North Carolina Court of Appeals held that prior temporary child support orders did not become permanent merely because the case was administratively removed from the active docket. The trial court erred by setting the permanent support obligation to begin in May 2024 without findings supporting deviation from the presumptive filing date, but it did not abuse its discretion in relying on the defendant’s 2023 tax return to determine business expenses. The court vacated and remanded in part and affirmed in part.

CASE DETAILS

COURT	Court of Appeals of North Carolina
WRITING FOR THE COURT	Allegra Collins; Zachary; Carpenter
JURISDICTION	North Carolina Court of Appeals
DECIDED	February 4, 2026
DOCKET	COA25-457
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff appealed from a North Carolina district court order establishing child support.
STANDARD OF REVIEW	Whether an order is temporary or permanent is reviewed de novo. Child support orders and the trial court's factual determinations concerning income are reviewed for abuse of discretion, with findings reviewed for support by competent evidence.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Sandra Flores v. Oscar Gutierrez

TOPICS

- child support
- family law procedure
- appellate procedure
- standard of review
- equitable distribution

PRACTICE AREAS

- Family law
- Child support
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by treating the 4 August 2022 temporary child support order as a permanent order because the case had been administratively removed from the active docket or because of the passage of time.
2. Whether the trial court erred by beginning the permanent child support obligation on 1 May 2024 rather than on 6 January 2020, the date Flores filed her child support claim, without findings supporting a deviation from the presumptive start date.
3. Whether the trial court abused its discretion by imputing business expenses to Gutierrez based on his 2023 tax return when he failed to provide current supporting financial documentation.

HOLDINGS

1. The 4 August 2022 child support order remained temporary and did not become permanent either through the passage of time or through the trial court's administrative removal of the case from the active docket.
2. The trial court erred by beginning the permanent child support obligation on 1 May 2024 without making written findings supporting a deviation from the presumptive 6 January 2020 start date.
3. The trial court did not abuse its discretion by relying on Gutierrez's 2023 tax return and imputing business expenses because it was the most recent verified financial information available after Gutierrez failed to provide updated business records.

KEY QUOTATIONS

“removing the case “from the trial docket of active cases, and plac[ing] as an inactive file” does not permanently “close” the case.” (7)

“Any deviation—whether changing the amount owed between filing and hearing or altering the start date of the obligation—requires written findings addressing why deviation from the Guidelines is appropriate.” (9)

“VACATED AND REMANDED IN PART; AFFIRMED IN PART.” (11)

FACTUAL BACKGROUND

Flores and Gutierrez married in 2013, separated in 2018, and share one minor child. Flores filed a complaint seeking custody, child support, and equitable distribution on 6 January 2020. The parties entered temporary child support orders in 2022 and 2024 while repeatedly continuing the matter and exchanging financial information. In January 2025, the trial court ordered monthly support of \$779, declined to relate the obligation back to the 2020 filing date, and relied on Gutierrez's 2023 tax information to account for business expenses.

PROCEDURAL HISTORY

Sandra Flores filed claims for custody, child support, and equitable distribution in Franklin County District Court. The parties entered temporary child support orders, and the case was repeatedly continued and administratively removed from the active docket. The district court ultimately entered a child support order

requiring Oscar Gutierrez to pay \$779 monthly beginning 1 January 2025, with arrears based on the temporary amount, and Flores appealed.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court must enter an order consistent with the Child Support Guidelines or make findings of fact supporting a deviation from the Guidelines and enter an order consistent with those findings. The order was vacated and remanded in part and affirmed in part.

CASES CITED

- Smith v. Barbour, 195 N.C. App. 244, 249 (2009)
- Senner v. Senner, 161 N.C. App. 78, 81 (2003)
- Woodring v. Woodring, 227 N.C. App. 638, 643-44 (2013)
- Sarno v. Sarno, 235 N.C. App. 597, 600 (2014)
- Lawrence v. Lawrence, 294 N.C. App. 355, 362 (2024)
- LaValley v. LaValley, 151 N.C. App. 290, 292-93 (2002)
- Penn-Am. Ins. Co. v. Mapp, 521 F.3d 290, 295 (2008)
- Greenshields, Inc. v. Travelers Prop. Cas. Co. of Am., 245 N.C. App. 25, 27, 34 (2016)
- State ex rel. Fisher v. Lukinoff, 131 N.C. App. 642, 646-47 (1998)
- Cole v. Cole, 149 N.C. App. 427, 433-34 (2002)
- Sain v. Sain, 134 N.C. App. 460, 466 (1999)
- Simms v. Bolger, 264 N.C. App. 442, 453 (2019)
- Leary v. Leary, 152 N.C. App. 438, 441 (2002)