

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Paderno v. Shvetsova

2015 NY Slip Op 02485 (Supreme Court of the State of New York Appellate Division Second Judicial
Department 2015) · No. 2013-10691 · Decided March 25, 2015

SUMMARY

The Appellate Division, Second Department, affirmed an order denying the father's objection to a child-support obligation of \$25 per month. The court held that the statutory minimum applied because the father's income was below the poverty guidelines and the circumstances did not warrant departing from that minimum, despite the mother's substantially higher income.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Randall T. Eng, P.J.; Mark C. Dillon, J.; Cheryl E. Chambers, J.; Betsy Barros, J.
JURISDICTION	New York
DECIDED	March 25, 2015
DOCKET	2013-10691
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from a Family Court order denying his objection to a Support Magistrate's child-support determination.
STANDARD OF REVIEW	Whether the Family Court providently exercised its discretion in declining to depart from the statutory minimum child-support obligation.
PRECEDENTIAL VALUE	published opinion
PARTIES	Konstantin Paderno v. Julia Shvetsova

TOPICS

- child support
- statutory interpretation
- family law procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a noncustodial parent with no income and receiving public assistance should be required to pay the statutory minimum child-support obligation of \$25 per month when the obligation would otherwise reduce income below the poverty guidelines.
2. Whether the Family Court abused its discretion by declining to find that the \$25 monthly obligation was unjust or inappropriate based on the disparity in the parents' incomes.

HOLDINGS

1. When the annual basic child-support obligation would reduce the noncustodial parent's income below the poverty-income-guidelines amount, the basic child-support obligation is \$25 per month unless the court finds, based on the statutory factors, that the obligation would be unjust or inappropriate.
2. Family Court providently exercised its discretion by refusing to eliminate the \$25 monthly child-support obligation.

KEY QUOTATIONS

"Where, as here, 'the annual amount of the basic child support obligation would reduce the non-custodial parent's income below the poverty income guidelines amount . . . the basic child support obligation shall be twenty-five dollars per month,' (Family Ct Act § 413[1][d]), unless the court finds that such basic child support obligation 'is unjust or inappropriate, which finding shall be based upon considerations of [the factors set forth in Family Ct Act § 413(1)(f)]' (Family Ct Act § 413[1][f])." (126 A.D.3d at 982)

FACTUAL BACKGROUND

The parties had one child who lived with the mother. The father was unemployed, living rent-free with his mother, receiving public assistance, and had no income; the mother was employed and earned \$134,806.77 annually. On the mother's consent, the Support Magistrate reduced the father's child-support obligation to the statutory minimum of \$25 per month.

PROCEDURAL HISTORY

The father petitioned for a downward modification of his child-support obligation after his unemployment benefits expired. The Support Magistrate reduced the obligation to \$25 per month, with the mother's consent. Family Court denied the father's objection seeking elimination of the obligation, and the Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- Aregano v. Aregano, 289 A.D.2d 1081
- Matter of Monroe County Dept. of Human Servs. v. Michael C., 12 Misc. 3d 1166(A) (Fam. Ct., Monroe County)

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