

# SUPREME COURT OF GEORGIA

## Larizza v. Larizza

286 Ga. 461 (2010) · Decided February 1, 2010

### SUMMARY

The Georgia Supreme Court affirmed a child-support award in a divorce case involving a parent who received supplemental security income and asserted disabilities preventing employment. The court held that the trial court properly excluded SSI from its calculations but could impute other income based on family assistance and potential part-time employment. In the absence of a transcript, the appellate court presumed that evidence supported the trial court's findings and concluded that no abuse of discretion was shown.

### CASE DETAILS

|                       |                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Hunstein, Chief Justice; All the Justices                                                                                                                                                                                |
| JURISDICTION          | Georgia                                                                                                                                                                                                                  |
| DECIDED               | February 1, 2010                                                                                                                                                                                                         |
| DISPOSITION           | affirmed                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Appeal from a final judgment of divorce challenging the sufficiency of the evidence supporting a monthly child-support award.                                                                                            |
| STANDARD OF REVIEW    | The child-support award was reviewed for abuse of discretion. In the absence of a transcript, the appellate court presumed that the evidence supported the trial court's findings and that the proceedings were regular. |
| PRECEDENTIAL VALUE    | Published and precedential                                                                                                                                                                                               |
| PARTIES               | Frank Larizza v. Amanda Larizza                                                                                                                                                                                          |

### TOPICS

[child support](#) [family law procedure](#) [appellate procedure](#) [standard of review](#) [presumptions](#)

### PRACTICE AREAS

[family law](#) [child support](#) [appellate procedure](#) [evidence](#)

## QUESTIONS PRESENTED

1. Whether the trial court improperly included Frank Larizza's SSI benefits in calculating child support.
2. Whether the trial court erred by imputing income or other financial resources to Frank Larizza without expressly applying particular provisions of OCGA § 19-6-15 (f)(4).
3. Whether the trial court could determine Frank Larizza's employability and reject an admission concerning his inability to work when the bench-trial proceedings were not transcribed.

## HOLDINGS

1. The challenge to the inclusion of SSI benefits was meritless because the trial court expressly excluded those benefits from its final child-support calculations.
2. The trial court did not err in imputing financial resources because its order and attached schedules made the specific written findings required by OCGA § 19-6-15.
3. Frank failed to establish an abuse of discretion because, without a transcript, the appellate court presumed that conflicting evidence was admitted, that the trial proceedings were regular, and that evidence supported the trial court's findings.

## KEY QUOTATIONS

*“Appellant has failed to establish that the trial court abused its discretion in awarding child support to appellee.”* (at 463)

## FACTUAL BACKGROUND

Frank Larizza, who asserted that he was disabled and received SSI, challenged the monthly child-support award entered for the parties' four-year-old child. The trial court excluded SSI from its calculations but found that Frank could obtain funds through family assistance and could perform part-time minimum-wage work, imputing monthly resources of \$1,100. Frank had represented himself at the bench trial, was capable of driving, and received substantial unsupervised visitation with the child.

## PROCEDURAL HISTORY

After a bench trial that was not transcribed, the trial court entered a final divorce decree awarding Amanda Larizza monthly child support. At a hearing on Frank Larizza's motion for reconsideration, the court excluded his SSI benefits from the child-support calculation but imputed monthly resources of \$1,100 based on family assistance and potential part-time minimum-wage employment. The Supreme Court of Georgia affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Carroll v. Finova Capital Corp., 265 Ga. App. 517 (594 SE2d 720) (2004)
- Evans v. Evans, 285 Ga. 319 (676 SE2d 180) (2009)

- Popham v. Yancey, 284 Ga. 467 (667 SE2d 353) (2008)
- Walker v. Jack Eckerd Corp., 209 Ga. App. 517, 519-520 (1) (434 SE2d 63) (1993)
- Bodne v. Bodne, 277 Ga. 445 (588 SE2d 728) (2003)
- Blue v. Blue, 279 Ga. 550 (1) (615 SE2d 540) (2005)
- Banciu v. Banciu, 282 Ga. 616 (1) (652 SE2d 552) (2007)
- Grant v. Rivers, 182 Ga. App. 631 (356 SE2d 560) (1987)
- Lewis v. Callahan, 125 F3d 1436 (11th Cir. 1997)
- Flynn v. Heckler, 768 F2d 1273 (11th Cir. 1985)
- In the Interest of K. N. C., 276 SW3d 624, 627 (Tex. App. 2008)