

Circuit Court for Baltimore County  
Case No. 03-C-18-008725

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1149

September Term, 2024

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CHARLES HAMMANN, III

v.

EMILY J. HAMMANN

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Nazarian,  
Beachley,  
Harrell, Glenn T., Jr.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Beachley, J.

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Filed: September 23, 2025

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In this child support case from the Circuit Court for Baltimore County, the parties, Charles Hammann, III (appellant) and Emily J. Hammann (appellee), have been involved in highly contentious custody and child support litigation for nearly seven years. The original child support award memorialized in the January 20, 2020 Judgment of Absolute Divorce has been modified twice. This appeal arises from the May 31, 2024 Order which reduced Mr. Hammann’s child support obligation to \$496 per month. Still dissatisfied, Mr. Hammann appeals and presents one question for our consideration:

Did the [circuit] court abuse its discretion in calculating the amount of child support by not determining [Ms. Hammann’s] current, actual income to be the amount she currently earns, as reflected in the affidavit from her employer?

Because we hold that the circuit court erroneously relied on Ms. Hammann’s 2023 W-2 rather than her employer’s affidavit stating her current actual income, we reverse the May 31, 2024 child support award and remand for further proceedings.

### **FACTUAL AND PROCEDURAL BACKGROUND**

The facts in this case are largely uncontroverted. Mr. and Ms. Hammann have two minor children as a result of their marriage, T.H., born in 2008, and W.H., born in 2011. The litigation between the parties commenced in August 2018 when Ms. Hammann filed for a limited divorce. On January 22, 2020, after a contested merits hearing, the circuit court entered a Judgment of Absolute Divorce. Relevant here, the court ordered Mr. Hammann to pay child support in the amount of \$1,539 per month to Ms. Hammann. On May 12, 2021, Ms. Hammann filed a Motion to Modify Child Support, alleging that Mr. Hammann had changed jobs and was earning a substantially higher salary. Following a

two-day hearing, the court modified Mr. Hammann’s child support obligation by an Order entered on November 4, 2022. Under this Order, Mr. Hammann was required to pay \$2,537 per month for the period of May 12, 2021, through December 13, 2021, and then \$1,187 per month beginning January 1, 2022. The Order required the parties “to notify the other in writing within thirty (30) days of obtaining new employment, and provide information regarding their compensation.” The Order further required the parties “to exchange their W-2 statements on or before January 31 every year.” Mr. Hammann’s Motion to Alter or Amend the November 4, 2022 Order was ultimately denied.

On April 14, 2023, Mr. Hammann filed a Complaint for Modification of Child Support in which he alleged a material change in circumstances based on Ms. Hammann’s substantial increase in income. The parties appeared in court on November 28, 2023, for a hearing on Mr. Hammann’s motion to modify. After hearing argument, the trial court continued the matter to February 7, 2024, to await receipt of the parties’ 2023 W-2 forms. On February 7, 2024, the parties again appeared in the circuit court. Because there was missing or incomplete financial information, the court stayed Mr. Hammann’s child support obligation and continued the matter to May 14, 2024.

On May 14, 2024, the court conducted a half-day hearing on the merits. The court issued a Memorandum Opinion and Order on May 31, 2024, again modifying Mr. Hammann’s child support obligation by reducing it to \$496 per month, retroactive to January 1, 2024. In determining “actual income” for child support purposes, the court used the parties’ 2023 W-2 statements. Because Mr. Hammann earned \$215,668.04 in 2023,

the court found his average monthly income to be \$17,972. Similarly, because Ms. Hammann earned \$206,503.26 in 2023, the court determined her average monthly income to be \$17,209. Thus, the court rejected Mr. Hammann’s contention that Ms. Hammann’s actual income should be based on her employer’s affidavit verifying her base salary of \$250,000 per year. Mr. Hammann filed a Motion to Alter or Amend on June 10, 2024, and a Supplemental Motion to Alter or Amend on June 28, 2024, alleging that the court erred in calculating Ms. Hammann’s actual income when it relied on her 2023 W-2 rather than the affidavit signed by her employer on February 2, 2024. On July 25, 2024, the circuit court denied Mr. Hammann’s post-trial motions. This appeal ensued.

### STANDARD OF REVIEW

“The trial court’s decision as to the appropriate amount of child support involves the exercise of the court’s discretion. A court can abuse its discretion when it makes a decision based on an incorrect legal premise or upon factual conclusions that are clearly erroneous.” *Guidash v. Tome*, 211 Md. App. 725, 735 (2013). “In an ‘above guidelines case,’ considered to be one in which the parties’ combined adjusted income exceeds \$15,000 per month<sup>[1]</sup>—the highest level of income specified in the child support guidelines . . . —the trial court enjoys significant discretion in determining the amount of the basic child support award.” *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2018) (citing *Karanikas v. Cartwright*, 209 Md. App. 571, 596 (2013)). “[T]he trial court need not use

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<sup>1</sup> The General Assembly subsequently increased the combined income table to \$30,000 per month. *See* 2020 Md. Laws, Ch. 384.

a strict extrapolation method to determine support[,]” but “may employ any ‘rational method that promotes the general objectives of the child support Guidelines and considers the particular facts of the case before it.’” *Id.* (quoting *Malin v. Mininberg*, 153 Md. App. 358, 410 (2003)).

## DISCUSSION

### A. The Parties’ Contentions

Mr. Hammann argues that the trial court erred when it based its modified child support order on Ms. Hammann’s 2023 W-2 form establishing that she earned \$206,503 in 2023. According to Mr. Hammann, the court should have relied on the affidavit provided by Ms. Hammann’s employer that detailed her salary and compensation plan, effective October 2, 2023. The affidavit confirmed that Ms. Hammann’s base salary increased to \$250,000 per year (plus other possible bonuses and profit-sharing contributions to be determined in her employer’s sole discretion). Had the court properly used “at least” \$250,000 per year, or \$20,833 per month, for Ms. Hammann’s actual income, Mr. Hammann contends that his child support obligation would have been further reduced.

Ms. Hammann counters that the court correctly used her 2023 W-2 to determine her actual income to establish child support. In her view, the court did not abuse its discretion by electing “to rely on the parties’ **earned** income, rather than speculating as to their **potential** income.” (Emphasis in original). Ms. Hammann further points out that in “above-guidelines” cases, the court may employ any rational method consistent with the objectives of Maryland’s child support guidelines.

**B. The Circuit Court Erred in Its Calculation of Ms. Hammann’s Income**

Under Md. Code (1984, 2019 Repl. Vol.), § 12-104(a) of the Family Law Article (“FL”), “[t]he court may modify a child support award subsequent to the filing of a motion for modification and upon a showing of a material change of circumstance.” In determining a party’s child support obligation, the court must consider each party’s actual income. FL § 12-201(i). FL § 12-201(b) defines “actual income” as income from any source, including (i) salaries; (ii) wages; (iii) commissions; (iv) bonuses; (v) dividend income; (vi) pension income; (vii) interest income; (viii) trust income; (ix) annuity income; (x) Social Security benefits; (xi) worker’s compensation benefits; (xii) unemployment insurance benefits; (xiii) disability insurance benefits; (xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor’s disability, retirement, or other compensable claim; (xv) alimony or maintenance received; and (xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent that the reimbursements or payments reduce the parent’s personal living expenses.

When the parents’ combined adjusted incomes total an amount greater than \$30,000 per month, the child support guidelines no longer apply. FL § 12-204. Our Court has recognized “[s]everal factors [that] are relevant in setting child support in an above [g]uidelines case. They include the parties’ financial circumstances, the reasonable expenses of the child, and the parties’ station in life, their age and physical condition, and expenses in educating the child[.]” *Reichert v. Hornbeck*, 210 Md. App. 282, 316 (2013)

(alterations in original) (internal quotations omitted) (quoting *Smith v. Freeman*, 149 Md. App. 1, 20 (2002). “When the statute and case law speak of the inapplicability of the Guidelines to cases involving monthly parental income of more than [\$30,000], it is clear that they mean that the numerical component of the Guidelines does not apply. We underscore that, even in an above Guidelines case, ‘[t]he conceptual underpinning’ of the Guidelines applies.” *Malin*, 153 Md. App. at 411 (second alteration in original) (quoting *Smith*, 149 Md. App. at 19).

In this case, both Mr. and Ms. Hammann are salaried, W-2 employees who are eligible for discretionary bonuses from their respective employers. The trial court found that each party has “the potential of earning substantial bonuses” and “[t]heir income changes from year to year.” Mr. Hammann testified at the May 14, 2024 hearing that he earns an annual base salary of \$150,000, but he also typically receives performance-based bonuses near the end of the year that can increase his annual earnings to well over \$200,000. Neither party objects to the court’s use of Mr. Hammann’s 2023 W-2 to assess his actual annual income at \$215,668.04, or \$17,972 per month.<sup>2</sup>

The sole issue on appeal is the proper assessment of Ms. Hammann’s actual income for 2024. Although Ms. Hammann is correct that the circuit court had previously used the parties’ W-2 incomes to establish child support, we are not bound by that methodology. Here, the court was charged with setting child support as of January 1, 2024. In

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<sup>2</sup> At trial, Mr. Hammann asserted that his “actual income” should be determined by averaging his 2022 and 2023 W-2 statements. He makes no such argument on appeal.

determining Ms. Hammann’s 2024 actual income, it was illogical for the court to use the 2023 W-2 form evidencing income of \$206,503.26 for 2023 in light of the uncontroverted evidence that Ms. Hammann would earn a *minimum* of \$250,000 in 2024. The court’s determination not to use the higher \$250,000 actual income undermines the well-established principle that “the right to child support is a right held by the minor child,” *Matter of Marriage of Houser*, 490 Md. 592, 607 (2025), and that children are “entitled to a standard of living that corresponds to the economic position of the parents[.]” *Johnson v. Johnson*, 152 Md. App. 609, 620 (2003) (quoting *Smith*, 149 Md. App. at 23).

In cases where the parents’ incomes fall above the state child support guidelines, as they do here, the court has “significant” discretion to set the amount of child support. *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2018). Nevertheless, in calculating each parent’s child support obligation, “the central factual issue is the ‘actual adjusted income’ of each party[.]” *Reichert*, 210 Md. App. at 316 (2013) (quoting *Johnson*, 152 Md. App. at 615). Therefore, “even in a case in which the statutory schedule of basic child support obligations does not apply, the trial court must ascertain each parent’s ‘actual income.’” *Id.* (quoting *Walker*, 170 Md. App. 255, 267 (2006). Indeed, in *Johnson* we reiterated that “child support should be calculated based on the parent’s *current* income” and “currently existing circumstances[.]” 152 Md. App. at 621-22. In our view, the best evidence of Ms. Hammann’s 2024 actual current income is her employer’s affidavit that verified that she had received a raise as of October 2, 2023, that increased her annual salary to \$250,000. We therefore hold that the trial court abused its discretion by relying on Ms. Hammann’s

2023 W-2 that reflected her 2023 income instead of the affidavit provided by Ms. Hammann’s employer that verified that she would earn a minimum of \$250,000 in 2024.<sup>3</sup> We therefore shall reverse and remand this matter to allow the circuit court to recalculate child support consistent with this opinion.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY REVERSED.  
CASE REMANDED FOR FURTHER  
PROCEEDINGS CONSISTENT WITH  
THIS OPINION. COSTS TO BE PAID BY  
APPELLEE.**

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<sup>3</sup> At the hearing before the circuit court, Ms. Hammann’s counsel suggested on two separate occasions that the court could simply “charge the parties generally” as to child support because the parties’ incomes “appear to be relatively similar now for 2024.” We express no opinion whether “charging the parties generally” would be appropriate in this case, but merely note Ms. Hammann’s change in position on appeal.