FILED
SEP 29 1992
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-234 / 91-1362

STATE OF IOWA, ex rel. **TORI ANTOINE RICKS** and **SETORIA CHANEE RICKS**, Minor Children,

Appellant,

vs.

DECHARMUS A. GROVER,

Appellee.

Appeal from the Iowa District Court for Black Hawk County, Robert E. Mahan, Judge.

The State appeals a district court order setting Grover's child support obligation. **AFFIRMED.**

Bonnie J. Campbell, Attorney General; John Parmeter, Special Assistant Attorney General; Kay Delafield, Assistant Attorney General; and James A. Lally, Assistant County Attorney, for appellant.

Kevin Engels of Correll & Sheerer, Cedar Falls, for appellee.

Considered by Donielson, P.J., and Sackett and Habhab, JJ.

PER CURIAM

FACTS

On May 8, 1991, the State filed a petition to establish paternity and child support. The petition alleged Decharmus Grover was the father of two children: Setoria Ricks, born October 16, 1988; and Tori Ricks, born October 22, 1985. On May 30, 1991, Grover voluntarily signed a stipulation admitting paternity and scheduling a hearing to determine the proper level of support.

On July 1, 1991, a hearing was held to determine the child support obligation. Grover appeared pro se. The judge determined application of the guidelines would result in a support obligation of $375 per month. However, it ordered a second hearing because of concerns as to whether Grover had been given sufficient opportunity to explain his second-family situation and present the court with evidence to support a variance from the support guidelines. It ordered Grover to prepare information as to his current family obligation.

On August 5, 1991, a second hearing was held to determine Grover's child support obligation. All parties agreed the level of the support obligation would be $375 per month using the guidelines and financial information provided.

Grover testified he and his current wife, Shelley, have a seven-month-old daughter, NaShay. In addition, Shelley has two other children from a prior relationship: Tiffany,

age five; and Timothy, age four. Tiffany and Timothy live with Grover and Shelley, and Grover is their primary means of support. These children receive no support from their natural father, and Shelley only works part-time at a minimum-wage job. Grover works between thirty-two and thirty-six hours a week at Monfort Packing in Marshalltown, Iowa.

The district court ordered Grover to pay $275 per month in child support. It concluded adherence to the child support guidelines would cause hardships. The State appeals contending Grover failed to present sufficient evidence to overcome the presumption the child support guidelines are appropriate.

SCOPE OF REVIEW

Our review in cases such as these is de novo. Iowa R. App. P. 4. We give weight to the fact findings of the trial court, especially when considering the credibility of witnesses. Iowa R. App. P. 14(f)(7). We are not bound by these determinations, however. Id. Prior cases have little precedential value, and we must base our decision primarily on the particular circumstances of the parties presently before us. In re Marriage of Weidner, 338 N.W.2d 351, 356 (Iowa 1983).

ANALYSIS

The State argues Grover failed to present sufficient evidence to overcome the presumption the child support guidelines are appropriate. It also contends the district

court's order failed to present clear findings to support variance from the child support guidelines. We agree.

It is well established that parents have a legal obligation to support their children. In re Marriage of Fleener, 247 N.W.2d 219, 221 (Iowa 1976). The obligation to support should be apportioned according to the ability of each parent to contribute. In re Marriage of Bornstein, 359 N.W.2d 500, 504 (Iowa App. 1984). Each parent's ability to contribute must be determined using the child support guidelines adopted by the Iowa Supreme Court. See In re Marriage of Powell, 474 N.W.2d 531, 533 (Iowa 1991).

The Iowa Supreme Court adopted the current child support guidelines effective December 31, 1990. These guidelines apply to all new child support orders entered on or after that date. There is a rebuttable presumption the amount of child support that would result from the application of the guidelines is the correct amount of child support to be awarded. See In re Marriage of Bergfeld, 465 N.W.2d 865, 869 (1991); Iowa Code § 598.21(4)(a) (1991). The guidelines give discretion to the district court in setting child support to adjust the amounts provided by the guidelines upward or downward if the court finds, and rules in writing, such adjustment is necessary to provide for the needs of the children and to do justice between the parties under the special circumstances of the case. See In re Marriage of Lalone, 469 N.W.2d 695, 697 (1991).

Iowa Code section 598.21(4)(a) provides in pertinent part:

> [T]here shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

Iowa Code § 598.21(4)(a) (1991).

The district court determined application of the guidelines to Grover's net income would result in a support obligation of $375 per month. It stated adherence to the guidelines would cause hardships and ordered Grover to pay $275 per month in child support. We agree and affirm.

Costs of this appeal are taxed to the appellant.

AFFIRMED.