CRYSTAL OVIDE	NO. 25-CA-150
VERSUS	FIFTH CIRCUIT
DERRICK ALONZO CHRISTIAN, SR.	COURT OF APPEAL
	STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 852-876, DIVISION "E"
HONORABLE FRANK A. BRINDISI, JUDGE PRESIDING

June 18, 2025

FREDERICKA HOMBERG WICKER
JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Jude G. Gravois, and Timothy S. Marcel

JUDGMENT VACATED; MATTER REMANDED; MOTIONS DENIED

FHW
JGG
TSM

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS
Jalisa Walker
Deputy, Clerk of Court

COUNSEL FOR DEFENDANT/APPELLANT,
DERRICK ALONZO CHRISTIAN, SR.

Cynthia D. Samuel
William H. Daume

WICKER, J.

In this appeal, defendant-appellant, Derrick Alonzo Christian, Sr. ("Mr. Christian") seeks review of the district court's judgment ordering him to pay child support in the amount of $950.00 per month to plaintiff-appellee, Crystal Ovide ("Ms. Ovide") and to pay her $1,900.00 in child support arrears, for the parties' two minor children. For the reasons set forth below, we vacate the district court's judgment and remand the matter for further proceedings consistent with this opinion.

RELEVANT FACTS AND STATEMENT OF THE CASE

Mr. Christian and Ms. Ovide are the parents of two minor children who, at the time of trial, were six and three years old (the "Ovide Children"). Mr. Christian and Ms. Ovide were never married to each other. Mr. Christian also has two minor children with another woman, Samantha Jackson. Those children (the "Jackson Children") were also six and three years old at the time of trial. As of the date of the trial, Mr. Christian and Ms. Jackson had also never been married to each other. Mr. Christian was previously married, but his wife is deceased. He has two minor children from his marriage who live with him full-time. At the time of trial, these children (the "Christian Children") were thirteen and twelve years old.

Prior to the custody and support judgment rendered by the district court in open court on November 25, 2024 (with written Judgments being entered on February 13 and 20, 2025), Mr. Christian and Ms. Ovide had no child support order in place relative to the Ovide Children.[1] At the time of the Ovide custody and support trial (the "Trial") on November 25, 2024, Ms. Jackson had already obtained an order from the juvenile court in Jefferson Parish ordering Mr. Christian to pay $943.00 in monthly child support for the Jackson Children. Ms. Jackson,

[1] There was an Interim Judgment in place as to custody of the Ovide children that had been entered on September 4, 2024.

however, testified at Trial that Mr. Christian was in arrears on his child support obligations to her. Mr. Christian testified that he had filed a motion for a reduction in his child support obligation relative to the Jackson Children.[2]

Mr. Christian had been simultaneously romantically involved in "on and off" relationships with Ms. Ovide and Ms. Jackson. He became engaged to Ms. Ovide at some point; however, they broke off their engagement, after which Mr. Christian began seeing Ms. Jackson again. At the time of Trial, Mr. Christian was no longer in any relationship with Ms. Ovide, but was in an on-going dating relationship with Ms. Jackson. Once the relationship between Mr. Christian and Ms. Ovide soured, she apparently began restricting his access to the Ovide Children.

On April 19, 2024, Mr. Christian filed a Rule for Custody as to the Ovide Children seeking shared custody of them. On July 30, 2024, Ms. Ovide filed a Motion to Establish Child Support as to the Ovide Children. On September 4, 2024, the district court issued an Interim Judgment granting Mr. Christian physical custody of the Ovide Children every weekend from the time they were released from school on Friday afternoon through the time when they returned to school on Monday morning (except for Labor Day weekend when they would be returned to school on Tuesday morning).

At the November 25, 2024 Trial, the district court indicated that it would first take up the custody rule and then move to the support rule. Mr. Christian initially testified as to custody issues. On cross-examination, Ms. Ovide's counsel requested and was granted permission to question Mr. Christian on both custody and child support issues. Custody is not at issue in this appeal; therefore, we discuss Mr. Christian's testimony on cross-examination only as it related to child support issues.

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[2] Ms. Jackson testified that, although he was behind on his child support obligation, Mr. Christian did regularly provide her with some money for the children…$200-$300 at a time.

At the time of Trial, discovery as to the parties' income and expenses had not been completed. Mr. Christian testified specifically that he had not completed the verified income statement required under La. R.S. 9:315.2(A);[3] however, he testified that he had provided Ms. Ovide with a copy of his 2023 federal income tax return. Mr. Christian had only provided the one tax return because he had not filed tax returns for several years prior to filing his 2023 return. Mr. Christian testified that his sources of income consisted of rental income received from owning and managing several rental properties and income earned from a separate contracting/handyman business. He stated that he did not know the amount of his total monthly gross income. Mr. Christian did recall rental amounts for three of the rental properties owned by him, which totaled $3,632 per month[4] and testified that he had recently made $2,300 from his contracting/handyman business. Mr. Christian's 2023 tax return showed that in that year, he made approximately $33,000 in profit from his contracting/handyman business,[5] but no profit from his

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[3] La. R.S. 9:315.2(A) provides:

> Each party shall provide to the court a verified income statement showing gross income and adjusted gross income, together with documentation of current and past earnings. … Suitable documentation of current earnings shall include but not be limited to pay stubs or employer statements. The documentation shall include a copy of the party's most recent federal tax return. A copy of the statement and documentation shall be provided to the other party. When an obligor has an ownership interest in a business, suitable documentation shall include but is not limited to the last three personal and business state and federal income tax returns, including all attachments and all schedules, specifically Schedule K-1 and W-2 forms, 1099 forms, and amendments, the most recent profit and loss statements, balance sheets, financial statements, quarterly sales tax reports, personal and business bank account statements, receipts, and expenses. A copy of all statements and documentation shall be provided to the other party.

[4] This amount consisted of $1,600.00 per month received from a home located at Rue Louis Phillippe, $1,100.00 per month received from a home located at 1570 Kings Row and $932.00 received from a home located at 5640 Tullis Drive. Mr. Christian did not recall how much he received in rent from rental properties located on Sauvage Avenue and Segnette Drive. (Mr. Christian owned two properties on Sauvage Avenue, one of which was his residence. The other home was rental property.) Ms. Ovide testified that Mr. Christian actually received $1,800.00 for Rue Louis Phillippe after she moved out and $1,200.00 for Tullis Drive.

[5] Mr. Christian testified that he had not been able to work regularly as a contractor/handyman since his wife died and he became the primary caregiver for the Christian Children.

residential rental business. His 2023 tax return showed that his total gross income for that year was approximately $40,000. As to his expenses, Mr. Christian guesstimated that his monthly expenses were in excess of $6,500 per month, not including mortgages on the rental properties owned by a separate company and his monthly child support obligation to Ms. Jackson ($943.00).

Ms. Ovide was called to testify relative to her motion for child support. Shortly after her testimony commenced, Ms. Ovide's counsel turned to her knowledge of the rental income being received by Mr. Christian. At that point, Mr. Christian's counsel objected and a bench conference was held. At the conclusion of the bench conference, before further testimony was elicited from Ms. Ovide or any other witness, the court called a recess and the parties and their counsel retired to the judge's chambers where the court conducted an off-the-record conference. At the time the proceedings went off-record, no evidence of Ms. Ovide's income and expenses or the expenses of the Ovide Children had been introduced.

When the parties returned to the courtroom and went back on the record, the district court asked who wanted to "put it on the record." Ms. Ovide's counsel volunteered and stated for the record:

> Judge, the parties agree to shared custody, well, joint custody with a shared custody schedule…and this schedule is commonly referred to as the "two-two-three schedule".
>
> ***
>
> And the parties agree that Mr. Christian will pay child support in the amount of nine hundred and fifty dollars per month to Ms. Crystal Ovide for the two minor children in question … Judge, and we need this to be retroactive to the date of filing.

The court then instructed counsel to approach the bench and an off-the-record bench conference was conducted. Following the bench conference, Mr. Christian asked the court: "What about the payments I gave her? Prior to her filing, I still made payments to her. Are we going to account for that?" Mr.

Christian was informed by his counsel and the court that there would be no accounting for that. The district court then asked Mr. Christian whether he had an objection to $950.00 per month child support award and Mr. Christian stated that he could not afford it. The district court then instructed Mr. Christian to "go get another job then. That's what you need to do." Mr. Christian asked if the custody schedule could be changed to a week on and a week off and the court asked whether, in that instance, Mr. Christian would still have a problem with the $950.00 per month child support payment, to which Mr. Christian replied that he did. At that point, an off-the-record conversation occurred, after which, the district court stated:

> This is what I'm going to do, I'm going to order that, from August 1st until now, almost four months, I'm ordering that you [Mr. Christian] pay nineteen hundred dollars. I'm not going to order four months of payments, I'm going to order that you just make two months of payments. And I'm going to order that it's nine hundred and fifty dollars a month as of today…And it's going to be two hundred dollars a month on the arrears.

Following the rendition of the arrears portion of its ruling, the following exchange occurred:

> THE COURT: All right.
> Mr. Christian, I don't know what to tell you, you know? I mean, we're here because of you and we're here because of Ms. Ovide, so you got to pay for your kids.
>
> MR. CHRISTIAN: I do pay for my kids, your Honor.
>
> THE COURT: All right, well, you got to keep doing it then.
>
> MR. CHRSTIAN: But, I mean, on a week-to-week basis, I have them, she have (sic) them –
>
> THE COURT: Listen, Listen, Listen.
>
> MR. CHRISTIAN: Now I'm supposed to take care of them when she have (sic) them.
>
> THE COURT: Listen. This is not about you. I know. This isn't about you, okay? … So, you need to start making child support

payments in the amount of nine hundred and fifty dollars for your two kids, okay?

And you got arrears, nineteen hundred dollars in arrears, I'm going to order that you make an extra two hundred dollar payment each month.

After the foregoing colloquy between the court and Mr. Christian, counsel for Ms. Ovide stated that she would prepare the judgment. According to appellant's brief, Ms. Ovide's counsel sent her a proposed Consent Judgment on December 10, 2024, based on the parties' purported consent to monthly child support of $950.00 per month and to the arrears. Counsel for Mr. Christian objected to the proposed Consent Judgment in writing, representing that Mr. Christian had not consented to the child support award; rather, that child support and the arrearage were ordered by the district court.

The district court was notified of Mr. Christian's objections to the proposed Consent Judgment when, on December 30, 2024, Mr. Christian's counsel circulated her own proposed Judgment reflecting that the Judgment was, in part, a consent judgment and, in part, a judgment of the district court. On February 13, 2025, the district court signed the proposed "Consent Judgment" that had been circulated by Ms. Ovide's counsel, but struck through the word "Consent" in the title of the judgment and struck through some language that apparently did not belong in the judgment. The February 13, 2025 Judgment was signed by Ms. Ovide's counsel, but not Mr. Christian's. Notice of the signing of the February 13, 2025 Judgment was mailed to the parties on February 18, 2025. Then, on February 20, 2025, the district court signed another judgment, entitled "Final Judgment" which contains decretal language that was lacking in the February 13, 2025 judgment, but does not contain any substantive changes from the February 13, 2025 judgment. The "Final Judgment" erroneously states that the matter came on for hearing on February 20, 2025. It does not contain any language vacating the

February 13, 2025 Judgment. Notice of the signing of the Final Judgment was mailed by the Clerk on February 21, 2025.

On March 13, 2025, Mr. Christian filed a Motion for a Devolutive Appeal, which was granted by the district court the following day. This appeal timely followed.

Counsel for Ms. Ovide failed to timely file an appellee brief or to file an appellee brief prior to the submission date for this appeal. Instead, on May 28, 2025, Ms. Ovide's counsel filed a Motion to Dismiss the Appeal. On the submission date for this appeal, Ms. Ovide's counsel also filed a Motion to Strike, seeking to have this Court strike appellant's brief; and a Motion for Sanctions or Alternatively Contempt of Court seeking to have us sanction or hold Mr. Christian's counsel in contempt on various grounds. These filings prompted Mr. Christian's counsel to file -- also on the date of submission of this appeal -- a Motion for Leave to File Opposition to the Motion for Sanctions and a Motion to Designate Additional Portion of Record Transcript of 2/13/2025. Based on our disposition of this appeal after our own thorough review of the record, we deny all of the foregoing Motions filed by counsel for Ms. Ovide and counsel for Mr. Christian.

DISCUSSION

In this appeal, Mr. Christian assigns four errors, all of which are related, and all of which complain of the manner in which the trial court conducted the trial, including the lack of opportunity for both complete direct or any cross-examination of Ms. Ovide, the dearth of documentary evidence reflective of either Ms. Ovide's or Mr. Christian's income and expenses, and Mr. Christian's separate court ordered and non-court ordered child support obligations. First, Mr. Christian contends that the trial court erred in "failing to complete the statutorily mandated child support 'Worksheet B,' used in 'shared custody' matters." Related to this

contention is Mr. Christian's assertion that the trial court erred when it failed to reduce Mr. Christian's income by the amount of child support paid for his other children under a preexisting court order, as required by Worksheet B and Louisiana law. Mr. Christian's third assignment of error relates to the recess of the proceedings called by the trial court during the direct examination of Ms. Ovide and the subsequent conduct of an off-the-record conference in chambers, at the conclusion of which -- with no opportunity for further evidence or argument[6] -- the trial court ruled on the issue of child support. Mr. Christian asserts that this out-of-court conference, after which the trial court immediately ruled, prevented him from eliciting any evidence relative to Ms. Ovide's income and expenses or the expenses of the children. Mr. Christian also claims that the trial court's actions were contrary to the Louisiana Child Support Guidelines. Finally, Mr. Christian asserts that all of the foregoing errors caused the court to err in ordering Mr. Christian to make monthly child support payments in the amount of $950.00.

A. Child Support Guidelines; Standard of Review

The Louisiana Child Support Guidelines (the "Guidelines") are set forth at La. R.S. 9:315, *et seq.* The premise of the guidelines is that "child support is a continuous obligation of both parents, children are entitled to share in the current income of both parents, and children should not be the economic victims of divorce or out-of-wedlock birth." Louisiana employs the "Income Shares" approach to calculating child support obligations. La. R.S. 9:315(B)(2) instructs that, in intact families, "the income of both parents is pooled and spent for the benefit of all household members, including the children. Each parent's contribution to the combined income of the family represents his relative sharing

[6] After the recess and in-chambers conference, Ms. Ovide's counsel read the purported consent agreement as to child custody and support into the record. The district court did not question Ms. Ovide or Mr. Christian as to their understanding of the provisions read into the record by Ms. Ovide's counsel or whether either of them was freely and voluntarily agreeing to the provisions as recited by Ms. Ovide's counsel.

of household expenses. This same income sharing principle is used to determine how the parents will share a child support award."

The amount of child support obtained by application of the Guidelines is presumed to be the proper amount of child support, although the presumption may be rebutted. La. R.S. 9:315.1(A). The court may deviate from the Guidelines if their application is not in the best interest of the children or would be inequitable to the parties. One of the factors to be considered in determining whether to deviate from the Guidelines is "the legal obligation of a party to support dependents who are not the subject of the action before the court and who are in that party's household." La. R.S. 9:315.1(B) and (C)(1). In a case where there are multiple families with children, such as is the case here, the court "may use its discretion in setting the amount of the basic child support obligation." La. R.S. 9:315.1(C)(2). If the court deviates from the presumptively correct calculation under the Guidelines, it must place into the record "specific oral or written reasons for the deviation, including a finding as to the amount of support that would have been required under a mechanical application of the guidelines, and the particular facts and circumstances that warranted a deviation from the guidelines." La. R.S. 9:315.1(B).

The procedure for calculation of the basic child support obligation is set forth in La. R.S. 9:315.2, which provides in pertinent part:

> (A) Each party shall provide to the court a verified income statement showing gross income and adjusted gross income, together with documentation of current and past earnings. … Suitable documentation of current earnings shall include but not be limited to pay stubs or employer statements. The documentation shall include a copy of the party's most recent federal tax return. … When an obligor has an ownership interest in a business, suitable documentation shall include but is not limited to the last three personal and business state and federal income tax returns, including all attachments and all schedules, specifically Schedule K-1 and W-2 forms, 1099 forms, and amendments, the most recent profit and loss statements, balance sheets, financial statements, quarterly sales tax reports, personal and business bank account statements, receipts and expenses.…

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> (C) The parties shall combine the amounts of their adjusted gross incomes. Each party shall then determine by percentage his or her proportionate share of the combined amount. The amount obtained for each party is his or her percentage share of the combined adjusted gross income.
>
> (D) The court shall determine the basic child support obligation amount from the schedule in R.S. 9:315.19 by using the combined adjusted gross income of the parties and the number of children involved in the proceeding, but in no event shall the lowest basic amount of child support in the schedule be construed as a limitation of the court's authority to deviate under R.S. 9:315.1(C).

Certain costs and expenses are then added to the basic child support obligation (*e.g.,* child care costs (R.S. 9:315.3), health insurance premiums (R.S. 9:315.4), extraordinary medical expenses (R.S. 9:315.5)[7] and other extraordinary expenses (R.S. 9:315.6)[8]) and deductions are made for the income of the child, if applicable (R.S. 9:315.7)). The total child support award is the sum of the basic obligation, the net child care costs, the cost of health insurance premiums, extraordinary medical expenses, and other extraordinary expenses, less the income of the child, if any. "Each party's share of the total child support obligation shall then be determined by multiplying his or her percentage share of the combined adjusted gross income times the total child support obligation." La. R.S. 9:315.8.

For purposes of calculating child support, "adjusted gross income" is defined as gross income minus (a) amounts for pre-existing child support or spousal support obligations owed under an order of support to another who is not a party to the proceedings; and (b) at the court's discretion, amounts paid on behalf of a party's minor child who is not the subject of the action of the court. La. R.S. 9:315(C)(1). In this case, Mr. Christian owed $943.00 per month under an order of child support for the Jackson children and this amount was required to be deducted

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[7] These are unreimbursed medical expenses in excess of $250.00 per calendar year.

[8] Such expenses include private school tuition, books and supplies, transportation expenses and extracurricular activities.

from Mr. Christian's gross income for purposes of calculating child support for the Ovide Children. Mr. Christian is also supporting the Christian Children. Because the Christian Children are part of Mr. Christian's household and he is not under any court order to support them, it was within the discretion of the district court as to whether to make any deduction for any amounts that Mr. Christian was paying to support them.

In this case, the February 13, 2025 Judgment and the Final Judgment stated that the parties would have a shared custody arrangement with each exercising custody for an "approximately equal time." The Guidelines provide that, in a shared custody arrangement, "the basic child support obligation shall first be multiplied by one and one-half and then divided between the parents in proportion to their respective adjusted gross incomes." Each parent shall then multiply his/her theoretical child support obligation by the actual percentage of time the child spends with the other party to determine the basic support obligation of each party.[9] To that amount is added each parent's proportionate share of the added expenses, less each parent's proportionate share of any direct payments ordered to be made on behalf of the child for any of the added expenses. "The parent owing the greater amount of child support shall owe to the other parent the difference between the two amounts as a child support obligation. The amount owed shall not be higher than the amount which that parent would have owed if he or she were a domiciliary parent." La. R.S. 9:315.9. Section 315.9(F) expressly provides that "Worksheet B reproduced in R.S. 9:315.20, or a substantially similar form adopted by local court rule, **shall be used to determine child support in accordance with this subsection.**" (Emphasis added).

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[9] In this case, the multiplier would be 50% for each of Ms. Ovide and Mr. Christian.

A trial court's child support award is entitled to great weight on appeal. The standard of review in a child support case is manifest error and the district court's award of child support will not be disturbed on appeal absent an abuse of discretion or manifest error. *Dugué v. Dugué*, 20-292 (La. App. 5 Cir. 3/24/21), 316 So.3d 170, 173-74; *Discua v. Discua*, 21-0210 (La. App. 4th Cir. 11/10//21), 331 So.3d 992, 1001; *Dep't of Child. & Fam. Servs., Child Support Enf't in Int. of Reed v. Ralph*, 24-0233 (La. App. 1 Cir. 11/22/24), 404 So.3d 668, 672–73; *State v. Reed*, 44,119 (La. App. 2 Cir. 1/14/09), 5 So.3d 269, 271–72, *writ denied*, 09-0379 (La. 4/3/09), 6 So.3d 777.

A trial court's failure to even consider the Louisiana Child Support Guidelines in setting a child support award is an error of law, requiring *de novo* review. *Discua*, 331 So.3d at 1001. See also, *Stogner v. Stogner*, 98-3044 (La. 7/7/99), 739 So.2d 762, 767 ("[T]he guidelines must be used in ***any proceeding*** to establish or modify child support" (quotation marks omitted; emphasis in original).) In a case where one or more legal errors interdict the fact-finding process, but the record is otherwise complete, the appellate court should make its own independent *de novo* review of the record to determine a preponderance of the evidence and set child support in accordance with the guidelines. *Clarke v. Clarke*, 16-669 (La. App. 5 Cir. 4/12/17), 219 So.3d 1228, 1231. Additionally, "[a]lthough the amount of non-court-ordered support required by other domiciliary children is not automatically deducted from monthly gross income, it would be an abuse of discretion to automatically fail to even consider it." *Pratt v. Wells*, 02-1032 (La. App. 4 Cir. 2/26/03), 840 So.2d 1230, 1235.

If, after conducting an independent review of the record, the appellate court is unable to determine a preponderance of the evidence, it may remand the matter to the district court for the introduction of additional evidence to prevent a miscarriage of justice. See La. C.C.P. art. 2164; 19 LACIVL § 2.10. "[W]hen the

record is so incomplete that the court is unable to pronounce definitely on presented issues or where parties have failed, for whatever reason, to produce available evidence material to a proper decision," an appellate court can remand an action for proper consideration. *Dangerfield v. Harris*, 484 So.2d 838, 840 (La. App. 1 Cir. 1986), citing *Crews v. Crews*, 432 So.2d 377 (La. App. 1 Cir. 1983); *Whetstone v. Dixon*, 616 So.2d 764, 774 (La. App. 1 Cir. 1993), as corrected (Apr. 28, 1993), *writ denied*, 623 So.2d 1333 (La. 1993), and *writ denied*, 623 So.2d 1333 (La. 1993); *Succession of McLean*, 26,566 (La. App. 2 Cir. 3/1/95), 651 So. 2d 920, 929; La. C.C.P. art. 2164.

B. Discussion of Assignments of Error

Mr. Christian's assignments of error are interrelated and will be discussed together. First, however, we will determine whether Mr. Christian preserved his appeal rights in the district court.

1. Preservation of Errors

Following an out-of-court conference held during a recess called during Ms. Ovide's testimony, counsel for Ms. Ovide indicated that the parties had entered into an agreement and she then recited into the record the consent agreement, stating that the parties had consented to joint custody with a shared custody schedule. Ms. Ovide's counsel then recited into the record that the parties had agreed to child support of $950.00 per month, to be paid by Mr. Christian to Ms. Ovide. Although Ms. Ovide's counsel attempted to place the child support obligation into the record as a consent,[10] it is clear from the transcript of the Trial that Mr. Christian did not consent to a child support award of $950.00 per month.

[10] A consent judgment is a bilateral contract in which parties adjust their differences by mutual consent, thereby putting an end to a lawsuit with each party balancing hope of gain against fear of loss. La. C.C. art. 3071; *Peeler v. Dural*, 06-936 (La. App. 5 Cir. 4/11/07), 958 So.2d 31, 35. A consent judgment has attributes both of contracts and judicial decree. *Peeler,* 958 So.2d at 35. This contract must be either reduced into writing or recited in open court and capable of being transcribed from the record of the proceeding. *Matchmaker Int'l of New Orleans, Inc. v. Osborne*, 94-920 (La. App. 5 Cir. 3/15/95), 653 So.2d 686, 689. A consent judgment has binding force from

The district court did not question Mr. Christian or Ms. Ovide as to their understanding of the terms of the "Consent Judgment" recited into the record by Ms. Ovide's counsel or as to whether they freely and voluntarily agreed to them; however, the transcript reveals that once the "Consent Judgment" containing the $950.00 per month child support award had been recited into the record, Mr. Christian immediately indicated his objections to the trial court. The trial court then entered into a colloquy with Mr. Christian relative to the child support award. As discussed above, the district court asked Mr. Christian whether he had a problem with the $950.00 per month, to which Mr. Christian replied that he could not afford to pay that much. The district court then told Mr. Christian to "get another job." When Mr. Christian inquired as to whether his child support would be less if the parties shared custody on an alternating weeks' schedule, the district court asked if Mr. Christian would still have a problem with the $950.00 per month if the schedule were changed, as Mr. Christian suggested. Mr. Christian replied that the amount would still be too high.

Thereafter, the district court announced that it was ordering Mr. Christian to pay $1,900.00 in arrears and $950.00 per month in child support. Mr. Christian continued to complain that because the parties had shared custody, he should not be required to pay for the children during Ms. Ovide's custodial periods. The trial court responded by informing Mr. Christian that he needed to start paying child support of $950.00 per month. Although Mr. Christian's counsel failed to urge Mr. Christian's objections to the trial court, we find, under the circumstances, that Mr. Christian's comments and objections during his colloquy with the trial court were sufficient to preserve his right to challenge the child support award on appeal.

2. Merits of Appeal

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the presumed voluntary acquiescence of the parties and not from adjudication by the trial court. *Peeler,* 958 So.2d at 35, citing *Martin Forest Products v. Grantadams,* 616 So.2d 251, 253 (La. App. 2 Cir. 1993), *writ denied,* 619 So.2d 580 (La. 1993).

Turning to the merits of Mr. Christian's appeal, we initially observe that the designated record before us does not contain any evidence that the trial court either considered or failed to consider the Guidelines in setting the child support award; nor is there any indication in the designated record before us that the trial court utilized Worksheet B, which is required when there is shared custody, in making its award. Finally, no Worksheet B is even contained in the designated record. Further, there is no indication in the record before us that the trial court deducted the amount that Mr. Christian was paying under the child support order relative to the Jackson Children or that the trial court considered that Mr. Christian is also supporting the Christian Children.

La. R.S. 9:315.1(A) mandates that the Guidelines be considered in determining child support. Section 315(C)(1) mandates that the amount of court-ordered child support to children not the subject of the proceeding be deducted from gross income, and section 315.9(B) mandates that Worksheet B be used to calculate the child support obligations when there is a shared custody arrangement. We find that the trial court committed legal error when it apparently failed to consider the Guidelines, including deducting Mr. Christian's court-ordered child support obligation to the Jackson Children in determining his adjusted gross income and when it failed to use Worksheet B to calculate Mr. Christian's child support obligation.[11] These errors require us to vacate the child support award of $950.00 per month against Mr. Christian and in favor of Ms. Ovide. Because the arrears assessed against Mr. Christian were calculated based on the $950.00 per month child support obligation, we also vacate the award of arrears in the amount of $1,900.00.

[11] Additionally, there is scant evidence of Ms. Ovide's income and expenses, nor of the expenses she claimed on behalf of the children, or any consideration of those factors given by the trial court.

At this point, we would normally conduct a *de novo* review of the record to ascertain the preponderance of the evidence and calculate the child support award in accordance with the Guidelines; however, there is simply not enough information in the record to allow us to make a Guidelines' calculation in this case. Here, child support was litigated prior to the completion of discovery. Mr. Christian admitted that he did not prepare and submit a verified income statement. He provided one tax return for the 2023 tax year. He admitted that he had not prepared or filed any tax returns for several years prior to the 2023 tax filing. It is not clear whether he submitted any bank statements. Mr. Christian did not submit any financial information for his businesses other than the information contained in the schedules to his 2023 tax return. Mr. Christian was questioned about his expenses, but for the most part, the numbers to which he testified were guesstimates.

It is unclear from the record whether Ms. Ovide completed and submitted a verified income statement or whether she submitted any tax returns, bank records, or any other evidence of her income and expenses. The district court called a recess and conducted an in-chambers conference before Ms. Ovide was ever questioned about her income and expenses. Following the in-chambers conference, Ms. Ovide's counsel recited a purported stipulated judgment into the record. As stated above, while the parties, in fact, stipulated to custody, Mr. Christian did not stipulate to the amount of child support. In order for us to calculate child support under the Guidelines, it would be necessary for us to have before us evidence as to the income and expenses of both Mr. Christian and Ms. Ovide, as well as evidence of the Ovide Children's expenses that is lacking in this record.

This case is similar of *Clarke*, *supra*, a case involving child support in a shared custody situation. There, at the hearing on the child support issue, the parents

testified, but the only documents that were introduced into evidence by either of them were a single pay statement for each parent and a photograph of a vehicle. After taking the matter under advisement, the district court rendered judgment pursuant to which, among other rulings, the parties were awarded shared custody of the children on a week-to-week basis and child support was established. On appeal, the mother challenged the child support award, contending that the district court had imputed an incorrect gross income amount to the father and had failed to make the award of child support retroactive to the date of filing.

We found that the trial court had committed legal error in calculating and rendering the child support award and vacated the award. After reviewing the Guidelines, in particular, the provisions relative to child support awards in shared custody cases, we stated:

> [I]n this record, there is no documentation to support [the] award. La. R.S. 9:315.2 requires, at the very least, verified income statements showing gross income and adjusted gross income, with documentation of current and past earnings for the parties, and both party's most recent federal tax return. … Moreover, there is no indication that the trial judge used Worksheet B to calculate the final child support award in this case as required by La. R.S. 9:315.9(B).
>
> In setting child support, the statutory requirements ensure that the trial judge has the appropriate information before him and eliminate guessing by an appellate court; noncompliance with them renders the figures reached almost meaningless. … Based on the foregoing, we find that the trial judge erred in rendering a child support award in this case, where the parties failed to introduce the statutorily required evidence.

219 So.3d at 1232. (Internal citations omitted).

As in *Clarke*, the parties did not comply with the Guidelines by introducing the required documentation and it appears that the trial court did not consider the Guidelines or use Worksheet B in rendering its award of child support. There is insufficient evidence in the record to permit this Court to review the award or to make our own determination of the appropriate award under the Guidelines.

Accordingly, we find that, in the interest of justice, it is appropriate to remand the matter to the district court. See La. C.C.P. art. 2164.

DECREE

For the reasons stated above, the portions of the trial court's Judgment of February 13, 2025, as amended by the Final Judgment of February 20, 2025, that ordered Derrick Alonzo Christian, Sr. to pay monthly child support in the amount of $950.00 to Crystal Ovide and to pay $1,900.00 in child support arrears are hereby **VACATED** and the matter is **REMANDED** to the district court for the purpose of conducting a child support hearing and establishing child support in accordance with the Louisiana Child Support Guidelines.

Additionally, as a result of our disposition of this appeal on the merits, it is ordered that the Motion to Dismiss, Motion to Strike, and Motion for Sanctions or Alternatively Contempt of Court filed herein on behalf of appellee, Crystal Ovide, are **DENIED.** The Motion for Leave to File Opposition to the Motion for Sanctions and Motion to Designate Additional Portion of Record Transcript of 2/13/2025, filed herein on behalf of Derrick Alonzo Christian, Sr., are also **DENIED** for the same reasons.

JUDGMENT VACATED; MATTER REMANDED; MOTIONS DENIED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISON, JR.
SCOTT U. SCHLEGEL
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **JUNE 18, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

25-CA-150

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HONORABLE FRANK A. BRINDISI (DISTRICT JUDGE)
CYNTHIA D. SAMUEL (APPELLANT)
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