

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 1999-CA-002529-MR

DANIEL BAKER, SR.

APPELLANT

v. APPEAL FROM LOGAN CIRCUIT COURT  
HONORABLE TYLER GILL, JUDGE  
ACTION NO. 94-CI-00159

REBECCA ANN BAKER

APPELLEE

OPINION

VACATING AND REMANDING

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BEFORE: DYCHE AND KNOFF, JUDGES; AND HUDDLESTON<sup>1</sup> SENIOR JUDGE.  
DYCHE, JUDGE. Daniel and Rebecca Baker were married in 1976  
and divorced in 1994. They entered into a separation agreement  
at the time of the dissolution of their marriage. That  
agreement was later amended by further agreement of the parties  
in 1996.

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<sup>1</sup> Senior Judge Joseph R. Huddleston sitting as Special Judge by  
Assignment of the Chief Justice pursuant to Section 110(5)(b) of  
the Kentucky Constitution and KRS 21.580.

In 1999 Rebecca moved the Logan Circuit Court for child support for the parties' adult son who in April 1997 was adjudicated disabled. The special domestic relations commissioner recommended that Daniel pay child support of \$560 per month and that he be responsible for arrearages dating from the child's nineteenth birthday, which was when, according to the parties' amended agreement, Daniel ceased making payments. The circuit court adopted the commissioner's findings and entered a wage assignment order versus Daniel. Daniel appeals.

Daniel argues, and we agree, that the trial court erred in failing to consider the child support guidelines in Kentucky Revised Statute (KRS) 403.212. Also, the trial court failed to take into account the \$494.00 per month the emancipated son was receiving in supplemental security income (SSI). See Barker v. Hill, Ky. App., 949 S.W.2d 896 (1997), and KRS 403.211(3)(d). We further agree with Daniel that the trial court erred regarding the beginning date of his accrual of arrearages. See KRS 403.213(1); and Berry v. Cabinet for Families and Children, ex rel. Howard, Ky., 998 S.W.2d 464 (1999). Rebecca is limited to relief subsequent to the filing of her motion for modification.

This matter is vacated and remanded for proceedings consistent with this opinion.

ALL CONCUR.

BRIEF FOR APPELLANT:

J. Stewart Wheeler  
Wheeler & Wheeler  
Russellville, Kentucky

BRIEF FOR APPELLEE:

Jason Kelly Petrie  
Dillingham, Ritchie & Petrie  
Elkton, Kentucky