

**Commonwealth Of Kentucky**  
**Court of Appeals**

NO. 2005-CA-000115-MR

DARRELL G. BENNETT

APPELLANT

v.

APPEAL FROM CHRISTIAN FAMILY COURT  
HONORABLE JUDY A. HALL, JUDGE  
ACTION NO. 90-CI-00745

DEANNA F. BENNETT (NOW BROOKS)

APPELLEE

OPINION  
AFFIRMING

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BEFORE: COMBS, CHIEF JUDGE; DYCHE AND HENRY, JUDGES.

DYCHE, JUDGE: Darrell and Deanna Bennett were married in March 1986. They had two children, a daughter and a son, born in 1986 and 1988, respectively. Deanna petitioned for dissolution in 1990. Because each party received custody of one child (Deanna the daughter, Darrell the son), and their incomes were nearly equal, neither was ordered to pay child support.

However, in 2003 Darrell sought child support for the son. The family court, after reviewing the parties' incomes,

ordered Deanna to pay \$131 per month with an additional \$10 per month to go towards a \$262 arrearage.

In June 2004 Darrell moved the family court to increase the amount of child support Deanna paid for their son, claiming that Deanna's income had increased more than the statutory 15%. KRS 403.213(2). A hearing was held the following November, after which the family court found Deanna's monthly contribution to be \$245. However, the court offset, according to the parties' contributions, that amount by 68% (\$75) of the monthly Social Security benefits (\$110) received by the minor, for a total of \$170 to be paid by Deanna.

Darrell appeals, arguing that the family court erred in crediting Deanna, the nondisabled parent, for a benefit the child receives because of Darrell's (the disabled, custodial parent's) disability. No Kentucky case addresses this specific fact situation. KRS 403.211(14) states thus:

A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

The sticking point for appellant is that Deanna, the nondisabled obligor parent, is profiting from Darrell's disability.

However, as the monthly benefit paid directly to the child is considered that child's independent source of income, and "not to be counted as income to either parent when calculating a child support obligation," the trial court did not incorrectly allow a credit against Deanna's monthly obligation.

Nor do we agree with Darrell that the family court was required to make written, specific findings of fact for deviating from the child support guidelines. There was no deviation; therefore, specific findings were not required (and, we note, not requested by Darrell).

The judgment of the Christian Family Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Robert L. Fears  
Hopkinsville, KY

BRIEF FOR APPELLEE:

Carol W. Johnson  
Hopkinsville, KY