

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

On Remand From Supreme Court of Tennessee May 27, 2003

TROY ALLEN THOMPSON v. ELISA CONNELL HULBERT

An Appeal from the Juvenile Court for Shelby County
No. L8261 A. V. McDowell, Judge

No. W2003-01275-COA-RM-CV - Filed August 28, 2003

This case involves a constitutional challenge to the Tennessee Child Support Guidelines, Tenn. Comp. R. & Regs. 1240-2-4. In our initial Opinion in this case, we held that the challenged guidelines were unconstitutional because that they were violative of the equal protection guarantees of the federal and state constitutions. The Supreme Court of Tennessee granted certiorari and remanded the case to this Court for reconsideration in light of the Supreme Court's recent decision in *Gallaher v. Elam*, 104 S.W.3d 455 (Tenn. 2003). In light of *Gallaher*, we must conclude that there is no constitutional defect in the challenged child support guideline provisions. Consequently, we affirm the child support award ordered by the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court is Affirmed

HOLLY M. KIRBY, J., delivered the opinion of the court, in which W. FRANK CRAWFORD, P.J., W.S., and DAVID R. FARMER, J., joined.

David A. McLaughlin and Gail R. Sevier, Memphis, Tennessee, for the appellant, Troy Allen Thompson.

Paul G. Summers, Attorney General and Reporter, and Kim Beals, Assistant Attorney General, Nashville, Tennessee, for the appellee, State of Tennessee.

OPINION

The Petitioner/Appellant Troy Thompson filed the original appeal in this action, claiming that the Tennessee Child Support Guidelines, specifically Tenn. Comp. R. & Regs. 1240-2-4, were unconstitutional. In our initial Opinion in this case, we agreed with the Appellant and held that the challenged guidelines were unconstitutional because they were violative of the equal protection guarantees of the federal and state constitutions. *Thompson v. Hulbert*, No. W2000-02675-COA-R3-JV, 2002 WL 1838131 (Tenn. Ct. App. Aug. 9, 2002). The Supreme Court of Tennessee granted certiorari and remanded the case to this Court for reconsideration in light of the Supreme Court's recent decision in *Gallaher v. Elam*, 104 S.W.3d 455 (Tenn. 2003).

In *Gallaher*, the Tennessee Supreme Court held that the same guideline provisions at issue in the instant case were constitutional, and that the challenged classifications had a reasonable relationship to a legitimate state interest. *Gallaher*, 104 S.W.3d at 461-62. In light of that holding, we must conclude that the trial court's award of child support was appropriate, and we adopt its determination as the Opinion of this Court. *See Whiton v. Whiton*, No. E2003-01279-COA-RM-CV, 2003 WL 21516221 (Tenn. Ct. App. June 27, 2003).

The decision of the juvenile court is affirmed. Costs are to be taxed to the appellant, Troy Allen Thompson, and his surety, for which execution may issue, if necessary.

HOLLY M. KIRBY, JUDGE