



SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY  
**COURT OF APPEALS**  
10,005 E. OSBORN RD. SCOTTSDALE, AZ 85256 (480)362.6315

In the Matter of:  
Victor Gonzales,

Appellant,

v.

Joyce F. Miles,

Appellee.

Case No.: APC-19-0004

(Case below CF-05-0222)

**DECISION and ORDER**

This matter is before the Court pursuant to a Notice of Appeal filed by Victor Gonzales on March 22, 2019. The trial court decision from which Mr. Gonzales appeals, entered on March 14, 2019, requires him to reimburse Ms. Miles for child support paid by her between January 2018 and January 2019, for the parties' son M.G. During the period of time referenced, M.G. was 18 years old but was still attending high school and was in his father's primary custody.

This appeal was timely filed and appellant filed his Principal Brief *pro se* on April 19, 2019. In conjunction with the Principal Brief, a request was made for oral argument. Appellee has not filed a brief and the time within which to do so has lapsed, pursuant to Rule 12 (a) of the Salt River Rules of Civil Appellate Procedure. The Court has considered the record below as well as the pleadings filed on appeal in reaching its Decision and Order in this case.

**REQUEST FOR ORAL ARGUMENT**

The caption of Appellant's Principal Brief contains in parentheses the language, "Oral Argument Requested". Nowhere else in the brief is oral argument addressed. Rule 13(a) of the Rules of Civil Appellate Procedure states that, "The court of appeals may

consider the appeal without oral argument if the court ... finds that the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral arguments." This is a straightforward single-issue appeal in which only one of the parties has filed a brief. The Court of Appeals believes that the facts and arguments are sufficiently clear from the trial court record and Appellant's Principal Brief, and declines to set oral argument, as it will not significantly aid in the decision-making process.

#### STANDARD OF REVIEW

The standard of review to be applied in this case is *de novo*. The error being asserted by Appellant is requiring Appellant to reimburse child support payments to the non-custodial parent in contradiction of the Salt River Pima-Maricopa Indian Community ordinances.

#### FACTS AND PROCEEDINGS

The parties to this appeal have two children together, A.G., born September 27, 1997 and M.G., born January 18, 2000. Victor Gonzalez is the primary physical custodian of the children. The original child support order establishing Ms. Miles obligation was entered by the trial court on October 18, 2005; she was directed to pay \$300 per child per month, to be paid from tribal per capita payments she received quarterly.

After A.G. turned 18, Ms. Miles filed a motion seeking to terminate the child support obligation for her. The trial court held a hearing on that motion in February of 2016 and entered an order on February 11 (Document 1, Record on Appeal). The order acknowledged that A.G. was no longer under 18, but found that, "pursuant to Salt River

Pima Maricopa Indian Community Code §10-53(i), child support is to continue while the minor is attending high school". A.G. was not due to graduate from high school until May 2016. Based on these findings the court entered its order that child support continue for A.G. until she did in fact graduate, and further held:

3. That Joyce Miles shall pay \$300 in child support for Alaya Gonzales to Victor Gonzales from the July 2016 per capita payout after which time the child support obligation for Alaya Gonzales shall cease, but that Joyce Miles shall continue to pay the child support obligation for Manuel Gonzales to Victor Gonzales in the amount of \$900 until said minor reaches the age of majority.

On October 18, 2018, Ms. Miles again filed a motion with respect to her child support obligation, this time requesting that payments for M.G. cease, as he had reached the age of 18 on January 18, 2018. She sought reimbursement for payments made beginning in February 2018 and requested that no further payments be made to Victor Gonzalez from her per capita distributions. She referenced the trial court's February 2016 Order in support of her motion.

The trial court granted Ms. Miles' request, first entering a brief order halting any future payments from her per capita for child support (Document 6, Trial Court Record). At the same time, the trial court entered a longer order declaring that Ms. Miles' obligation to pay child support for M.G. had ceased pursuant to the February 2016 order, and setting an evidentiary hearing to address the issue of reimbursement for payments previously made (Document 7, Trial Court Record). Ms. Miles failed to attend the first evidentiary hearing, resulting in a denial and re-filing. (Document 8, Trial Court Record) Ultimately, a hearing occurred on March 14, 2019 to address the reimbursement issue. Both parties attended that hearing and the trial court entered its written order the same day.

The March 14 Order determined that, the February 2016-trial court order was controlling and that Ms. Miles' support obligation for M.G. ended on his 18<sup>th</sup> birthday. Because sums had been taken from her per capita distributions after that date and paid to Mr. Gonzalez as child support, he was ordered to reimburse those payments, in the total amount of \$2,700. Mr. Gonzalez was directed to complete that reimbursement at the rate of \$100 per month, starting April 2019. It is from this Order that Mr. Gonzalez files the current appeal.

### DISCUSSION

There is no question that the February 11, 2016 Order in this case specifically states that child support payments for M.G. shall cease on his 18<sup>th</sup> birthday. There is also no question that the Salt River Pima Maricopa Indian Tribe Code of Ordinances, §10-53(1) contains the provision that support shall continue up to age 19 for a child who is "actually attending high school." On their face, these two items are irreconcilable. A way must be found to harmonize them or determine which controls in reaching the decision in this case.

Appellant to support his appeal of the reimbursement order advances essentially two arguments: First, Section 10-53(l) of the tribal code mandates that support continue until high school graduation, and, second, the February 2016 order continued the child support for A.G. until she graduated from high school, thereby implying that the same would occur with respect to M.G. Thus, it was entirely proper that M.G.'s child support payments should continue to have been taken from Ms. Miles' per capita payments until he graduated from high school or turned 19, Mr. Gonzales argues.

The Court does not necessarily reach the same conclusion as Appellant, however. Whatever the February 2016 order said about support for A.G., it clearly stated that child

support for M.G. would terminate when he turned 18. If Appellant disagreed with that holding, the time to appeal would have been following entry of the 2016 order. However, Mr. Gonzalez did not file an appeal until the reimbursement order was entered almost three years later. Though it is framed otherwise in his pleadings, Mr. Gonzalez's current appeal is from the holding of the 2016 order as it related to M.G. The time for such an appeal has long since lapsed.

#### CONCLUSION

For the reasons outlined above, the appeal filed by Victor Gonzales is denied and the reimbursement order at the rate of \$100/month entered by the trial court on March 14, 2019, is affirmed.

**ISSUED** this 7th day of August, 2019.

Electronically approved August 7, 2019.

/s/

Robert N. Clinton, **Justice**

S E A L

Electronically approved August 7, 2019.

/s/

Judith M. Dworkin, **Justice**

Electronically approved August 7, 2019.

/s/

Mary E. Guss, **Justice**