

Rel: October 9, 2026

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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2026-2027

CL-2026-0088

Miranda M. Allen

v.

James B. Allen, Jr.

**Appeal from Marengo Circuit Court
(DR-11-47.01)**

HANSON, Judge.

Miranda M. Allen ("the mother") appeals from a judgment entered by the Marengo Circuit Court ("the trial court") finding James B. Allen, Jr. ("the father"), in contempt and awarding the mother past-due child support. For the reasons stated herein, we affirm in part and reverse in

part the trial court's judgment.

Procedural History and Facts

In 2011, the trial court entered a judgment that incorporated a settlement agreement the parties executed, divorced the parties, awarded the mother custody of the parties' child, ordered the father to pay \$600 per month (\$7,200 per year) in child support, ordered the father to provide health insurance for the child, and ordered the father to pay all noncovered medical expenses.

On August 13, 2021, the mother filed in the trial court a petition that, among other things, sought a finding of contempt against the father for failure to pay the ordered child support, a calculation of the father's past-due child support, and a judgment ordering the father to pay the child-support arrearage. The father answered. On November 4, 2025, the trial court conducted a final hearing, and the following evidence pertinent to this appeal was presented.

The mother presented evidence indicating the monthly amounts the father had paid in child support and medical-expense reimbursement and the amount of the father's alleged arrearage for each year from 2011 through October 2024, when the child reached the age of majority.

Notably, evidence was presented indicating that on August 7, 2021, before she filed her petition on August 13, 2021, the mother sent the father a text message stating: "[Y]ou owe me \$31,800 as of this month. That's just monthly. That doesn't include medical bills and other stuff." The father testified that, after he received the mother's text message, he made a \$28,100 payment to the clerk's office, leaving a child-support balance of \$3,700, which, he said, the child's paternal grandmother paid to satisfy the child-support arrearage. The mother testified that the paternal grandmother's payment was a gift to the child, but, when asked by the trial court for the father's total child-support payment for 2021, the mother agreed that her records showed that the father had paid \$30,550 in child support in 2021.

On December 30, 2025, the trial court entered a final judgment finding the father in contempt, determining the father's child-support arrearage, ordering the father to pay the arrearage to purge himself of contempt, and awarding the mother an attorney fee. The judgment did not include an assessment of statutory interest. The mother filed a postjudgment motion, arguing that the trial court's judgment was plainly and palpably wrong because, she said, it failed to award interest on the

arrearage, it improperly gave the father credit for imputed child support from the mother, and it improperly gave the father credit for payments persons other than the father made. After her postjudgment motion was denied, the mother filed a timely notice of appeal.

Standard of Review

"The trial court received both oral and documentary evidence at the trial of the contempt action; therefore, the ore tenus rule applies. 'The [ore tenus] rule applies to "disputed issues of fact," whether the dispute is based entirely upon oral testimony or upon a combination of oral testimony and documentary evidence. Born v. Clark, 662 So. 2d 669, 672 (Ala. 1995).' Yeager v. Lucy, 998 So. 2d 460, 463 (Ala. 2008).

"'The ore tenus rule affords a presumption of correctness to a trial court's findings of fact based on ore tenus evidence, and the judgment based on those findings will not be disturbed unless those findings are clearly erroneous and against the great weight of the evidence. Reed v. Board of Trs. for Alabama State Univ., 778 So. 2d 791, 795 (Ala. 2000). It is grounded upon the principle that when a trial court hears oral testimony it has an opportunity to evaluate the demeanor and credibility of the witnesses. Hall v. Mazzone, 486 So. 2d 408, 410 (Ala. 1986). The ore tenus rule does not cloak a trial court's conclusions of law or the application of the law to the facts with a presumption of correctness. Kennedy v. Boles Invs., Inc., 53 So. 3d 60 (Ala. 2010).'

"Allsopp v. Bolding, 86 So. 3d 952, 958 (Ala. 2011)."

Rhodes v. Rhodes, 317 So. 3d 37, 42 (Ala. Civ. App. 2020).

Issues and Analyses

The mother's arguments that "the trial court erred by creating an unauthorized 'set-off' against vested child-support arrearages," that "the trial court erred by retroactively assessing a child-support obligation against [the mother]," that "the trial court erred by crediting [the father] without proof of actual support," and that "the trial court erred by combining distinct categories of arrearages without specific findings," the mother's brief, pp. 20, 22, 23, and 24, do not present a basis for reversal of the trial court's judgment because they are either presented for the first time on appeal or do not comply with the requirements of Rule 28(a)(10), Ala. R. App. P. See Adriatic Ins. Co. v. Willingham, 567 So. 2d 1282, 1282 (Ala. 1990) ("[An appellate court] cannot reverse a trial court's judgment for an alleged error that is raised for the first time on appeal. The purpose of this rule is to give trial courts an opportunity to correct errors that, if left unaddressed, would require reversal."); Andrews v. Merritt Oil Co., 612 So. 2d 409, 410 (Ala. 1992); Rule 28(a)(10) (requiring an appellant to set forth "[a]n argument containing the contentions of the appellant/petitioner with respect to the issues presented, and the reasons therefor, with citations to the cases, statutes, other authorities, and parts

of the record relied on"); Sea Calm Shipping Co., S.A. v. Cooks, 565 So. 2d 212, 216 (Ala. 1990) ("Where an appellant fails to cite any authority for an argument, this Court may affirm the judgment as to those issues, for it is neither this Court's duty nor its function to perform all the legal research for an appellant."); Beachcroft Props., LLP v. City of Alabaster, 901 So. 2d 703, 708 (Ala. 2004) (quoting Geisenhoff v. Geisenhoff, 693 So. 2d 489, 491 (Ala. Civ. App. 1997)) ("Authority supporting only 'general propositions of law' does not constitute a sufficient argument for reversal."); Steele v. Rosenfeld, LLC, 936 So. 2d 488, 493 (Ala. 2005) ("The law of Alabama provides that where no legal authority is cited or argued, the effect is the same as if no argument had been made." (citation and emphasis omitted)); and Ezell v. Ezell, 394 So. 3d 608, 612 (Ala. Civ. App. 2024) ("[T]he burden is on the appellant to provide an argument and analysis supported with authority and citations to the record and to show how the cited authority supports reversible error."). Therefore, the trial court's judgment is affirmed as to those issues.

The mother contends that the trial court exceeded its discretion by crediting payments the paternal grandmother made toward the father's child-support obligation. The mother maintains that Rule 32(B)(9), Ala.

R. Jud. Admin., expressly states that credit is not allowed for benefits or payments persons other than the obligor made; that third-party payments do not satisfy a parent's child support obligation; and, that consequently, the gratuitous third-party gifts the paternal grandmother made cannot, as a matter of law, be credited toward the father's child-support arrearage. She also cites Hebert v. Stephenson, 574 So. 2d 835 (Ala. Civ. App. 1990), to support her position.

Rule 32(B)(9) provides in pertinent part:

"Credit for third-party payment to children.

"(a) Social Security retirement, survivor's, or disability-insurance benefits, veteran's benefits, railroad retirement or any other third-party payments paid for the children based on the support obligor's earnings record or other eligibility requirement attributable to the support obligor shall be credited against that parent's support obligation, for so long as it is being received by the support payee, as follows:

"(1) Determine the total child-support obligation; then

"(2) Determine the monthly benefit amount that is attributable to the obligor and that the support recipient receives for the children and then subtract that amount from the total child-support obligation.

"(i) If the children's obligor-based benefit exceeds the total support amount, then no additional support amount should be ordered.

"(ii) If the children's obligor-based benefits are less than the obligor's total support amount, then the difference between the benefits received for the children and the total support amount becomes the ordered obligation.

"(b) The following payments to the children by a third party shall not be credited toward the support obligor's child-support obligation:

"(1) Payments that are not based on the support obligor's earnings record or other eligibility requirement attributable to the support obligor;

"(2) Any payments resulting from the disability of the child;

"(3) Any payment received in excess of the amount of child support owed to the child;

"(4) Any payment received by the child shall not be credited against arrearages that accrued before the receipt of the obligor's benefits;

"(5) Social Security income benefits paid to the child; and

"(6) Adoption subsidy paid to adoptive parents of a special-needs child pursuant to section 26-10-20 et seq. of the Code of Alabama."

The Comment to Amendments to Rule 32, effective June 1, 2018, states:

"A new subdivision (9) was added to subsection (B) and what was subdivision (9) was renumbered subdivision (10). The new subdivision (9) allows the obligor to receive credit against child-support obligations for certain third-party payments made directly to the payee. Subsection (B)(9)(i) is based on Section 3.07 (Social Security Benefit Credit) of the 2013 Michigan Child Support Formula Manual (effective January 1, 2013), which provides credits for certain benefits provided by government insurance programs, with the addition of credit for other third-party payments such as railroad retirement benefits.

"Subsection (B)(9)(i) is consistent with current Alabama caselaw. In Goldman v. Goldman, 197 So. 3d 487 (Ala. Civ. App. 2015), the Alabama Court of Civil Appeals held that the veteran's disability benefits of the former husband were to be considered income for purpose of calculating his child-support obligation. A noncustodial parent cannot be required to pay child support when Social Security payments received by a child based on a parent's disability exceeds the guideline amounts. Self v. Self, 685 So. 2d 732 (Ala. Civ. App. 1996). The obligor is also entitled to a credit against his or her obligation when a child receives benefits based on the obligor's retirement benefits. Adams v. Adams, 107 So. 3d 194 (Ala. Civ. App. 2012). Notwithstanding, if the third-party payment to the child is stopped for any reason, the child support owed

by the obligor remains the amount of the existing child-support order. For example, if a child is receiving a third-party payment from Social Security that terminates when the child reaches the age of 18, the obligation of the obligor to pay the court-ordered child support will remain in effect until the child reaches the age of majority.

"The exclusions of credit enumerated in subsection (B)(9)(ii) reflect current Alabama law. Alabama has consistently held that credit is not allowed for a benefit a child receives based on the work history of someone other than the obligor. See Hebert v. Stephenson, 574 So. 2d 835 (Ala. Civ. App. 1990). See also the court's discussion in Hebert regarding child-support credit based on the child's own disability. 574 So. 2d at 837. Also, the exclusion of credit for Social Security income benefits in subsection (B)(9)(ii)(5) is consistent with Lightel v. Myers, 791 So. 2d 955 (Ala. Civ. App. 2000), holding that a parent should not get credit for the Social Security income benefits payable to the child as a 'supplement to income' for the child based on the child's disability, as was clarified by the court in Adams v. Adams, 107 So. 3d 194 (Ala. Civ. App. 2012), which held that credit could be given to a parent whose child received Social Security retirement benefits based on the parent's work history and, thus, are a 'substitute income source.' Likewise, the exclusion of credit for adoption-subsidy pay in subsection (B)(9)(ii)(6) is consistent with current law because the adoption subsidy is not a 'substitute income source'; rather, it is supplemental to the adoptive parents' income. W.R. v. C.R., 75 So. 3d 159 (Ala. Civ. App. 2011)."

In Dillon v. Gilotti-Dillon, [Ms. CL-2025-0546, Mar. 20, 2026] ____ So. 3d ___, ____ (Ala. Civ. App. 2026), we discussed Rule 32(B)(9) and Hebert, stating:

"The plain language of Rule 32(B)(9)[, Ala. R. Civ. P.,] allowing for a credit for third-party payments to a child applies to payments stemming from a relationship with the child-support obligor. Specifically, Rule 32(B)(9)(a) provides for a credit for the payment to a child of Social Security survivor benefits 'paid for the children based on the support obligor's earnings record of other eligibility requirement attributable to the support obligor.' Rule 32(B)(9)(b)(1) excludes payments 'not based on the support obligor's earnings record or other eligibility requirements attributable to the support obligor.' ...

"Our supreme court, in amending Rule 32 to include a credit for certain third-party payments based on the child-support obligor's circumstances, could have provided that a credit be applied for any payment received by a child. Instead, the supreme court determined that the child-support obligor should benefit from government payments that result only because of his or her own circumstances. The supreme court acknowledged in the Comment that Rule 32 was modified in accordance with Alabama caselaw, citing Goldman v. Goldman, 197 So. 3d 487 (Ala. Civ. App. 2015); Self v. Self, 685 So. 2d 732 (Ala. Civ. App. 1996); Adams v. Adams, 107 So. 3d 194 (Ala. Civ. App. 2012); Hebert v. Stephenson, 574 So. 2d 835 (Ala. Civ. App. 1990); Lightel v. Myers, 791 So. 2d 955 (Ala. Civ. App. 2001); and W.R. v. C.R., 75 So. 3d 159 (Ala. Civ. App. 2011).

"In Goldman, the former husband (the child-support obligor) received veteran's disability benefits, and this court held that those benefits could be considered income for the purposes of calculating child support. In Self, the children were mentally disabled and received Social Security income benefits because of their disabilities; they also received Social Security disability benefits because of their father's disability. On appeal, the father, the noncustodial parent, argued that he should be allowed a credit against his child-support obligation to the extent of the Social Security disability

benefits received by the children because of his own disability. This court held that the father should receive full credit for his child-support obligation based on the payments received by the children as a result of the father's disability.

"In Adams, the noncustodial father sought to modify the child-support provision of a divorce judgment, asserting that he was entitled to a reduction of his monthly child-support obligation in the same amount as the Social Security dependent retirement benefits that his child had received each month as a result of the father's eligibility for retirement benefits. This court determined that the decision whether to grant the father a credit for the dependent retirement benefits was a matter within the trial court's discretion. After examining the reasons why the trial court in Adams denied the father a credit, this court reversed the trial court's judgment, concluding that the stated reasons were invalid and that the trial court had acted outside its discretion in denying a credit for the benefits received by the child. Adams, 107 So. 3d at 203. This court determined that the Social Security dependent retirement benefits were based on the father's work history and were a substitute income source.

"In Hebert, this court considered whether to credit the father for Social Security benefit payments paid to the children based on the children's stepfather's disability. The father had argued that the Social Security benefit payments received by the children due to the disability of their stepfather made the children 'self-supporting or supported by a third party and that, therefore, the payments should operate to relieve the father of support payments and should be credited against the arrearage amount that the father owes.' Hebert, 574 So. 2d at 836. We held that the Social Security benefit payments that were derived from the stepfather's disability did not operate to relieve the father of his duty of support on the theory that the children are self-supporting or supported by a third person.

"Lightel involved Social Security disability payments made to adult children who were mentally disabled. The father argued that he was entitled to offset the amount he was obligated to pay for the disabled children's living expenses by the amount of Social Security disability payments the children received each month. This court held that the father was not entitled to an offset because of the children's receipt of disability payments.

"In W.R., this court held that an adoption subsidy could not serve as a credit against a support-paying spouse's child-support obligation. In that case, the mother had been awarded custody of the parties' adopted special-needs children, and the father argued that he should receive a credit for at least half of the amount of the adoption subsidy the parties received as a result of adopting the special-needs children. We held that the adoption subsidy was supplemental to the adoptive parents' income, not a substitute income source, and could not serve as a credit against the father's child-support obligation."

We recognized in Dillon that the husband had a duty to support the children and held that the Social Security survivor benefits the children received that were in no way attributable to him could not be used to offset his obligation to the children.

In this case, the mother's reliance on Rule 32(B)(9) and Hebert is misplaced. Rule 32(B)(9) and Hebert address payments made to a child from governmental entities and other third parties based on the child-support obligor's earnings record or other similar eligibility requirements and disallows credits for payments received based on a third party's or a

child's income. Neither Rule 32(B)(9) nor Hebert support reversal.

Indeed, whether the paternal grandmother's payment should be credited toward the father's child-support obligation created a question of fact for the trial court to determine. Conflicting testimony was presented regarding whether the paternal grandmother's payment was a gift for the child or was made on behalf of the father to satisfy his child-support obligation. As we have frequently stated:

"It is the duty of the trial court to resolve conflicts in the testimony, and the deference given to the trial court in this regard is due, in part, to its unique position to see and hear something that may not be readily apparent on the face of a written record. See Terry v. Terry, 660 So. 2d 996 (Ala. Civ. App. 1995)."

Abernathy v. Sullivan, 676 So. 2d 939, 941 (Ala. Civ. App. 1996).

Therefore, the trial court's judgment is affirmed insofar as it credited the father for the payment the paternal grandmother made in calculating the father's child-support arrearage.

The mother also contends that the trial court exceeded its discretion by failing to add interest to the arrearage. We agree.

"This court has consistently held that a trial court's failure to impose interest on past-due child-support installments constitutes reversible error. See Corwin v. Corwin, 29 So. 3d 913, 914 (Ala. Civ. App. 2009) (trial court erred by failing to compute the amount of postjudgment

interest due on the father's child-support arrearage); T.L.D. v. C.G., 849 So. 2d 200, 204 (Ala. Civ. App. 2002) ('By failing to award postjudgment interest on the child-support arrearage, the trial court erroneously applied the law to the facts.');

and Walker v. Walker, 828 So. 2d 943, 945 (Ala. Civ. App. 2002) ('[A] trial court with jurisdiction over proceedings to enforce an earlier child-support judgment is without authority to waive the imposition of statutorily imposed postjudgment interest upon such payments.')."

State ex rel. Walker v. Walker, 58 So. 3d 823, 826 (Ala. Civ. App. 2010)

(footnoted omitted). In Clay v. Clay, 255 So. 3d 238, 242 (Ala. Civ. App.

2017), we stated:

"'A child-support-arrearage judgment ... reflects a trial court's adding up existing final judgments for past-due child support (plus any interest that might be due).' Cochran v. Cochran, 5 So. 3d 1220, 1246 n. 22 (Ala. 2008)(Murdock, J., concurring in the judgment of reversal, but dissenting as to the rationale and the instructions on remand).

"'Alabama law requires that interest ... be applied to each installment of past-due child support. T.L.D. v. C.G., 849 So. 2d 200, 204 (Ala. Civ. App. 2002) (citing Ala. Code 1975, § 8-8-10). '[A] trial court with jurisdiction over proceedings to enforce an earlier child-support judgment is without authority to waive the imposition of statutorily imposed postjudgment interest upon such payments.'" T.L.D., 849 So. 2d at 204 (quoting Walker v. Walker, 828 So. 2d 943, 945 (Ala. Civ. App. 2002)); see also State ex rel. Pritchett v. Pritchett, 771 So.2d 1048, 1051 (Ala. Civ. App. 2000).

""Under Alabama law, child-support payment 'installments become final judgments as of the date due.' Osborne v. Osborne, 57 Ala. App. 204, 206, 326 So. 2d 766, 767 (Ala. Civ. App. 1976). Because 'judgments for the payment of money bear interest from the date of rendition' 'it follows that such [child-support] judgments would bear interest from due date.' Osborne, 57 Ala. App. at 206, 326 So. 2d at 767. Therefore, to properly calculate interest on an arrearage, one would have to compute the interest due on each installment from its due date. Id."

"'Hollen v. Conley, 840 So. 2d 921, 924 (Ala. Civ. App. 2002).'

"Corwin v. Corwin, 29 So. 3d 913, 914 (Ala. Civ. App. 2009)."

The father agrees with the mother that a trial court cannot waive the imposition of interest on a child-support arrearage if it can be determined from the evidence. Instead, he maintains that the mother did not present evidence from which the trial court could calculate the amount of interest due. He cites Hackworth v. Hackworth, 736 So. 2d 1116 (Ala. Civ. App. 1999), in support of his argument. In Hackworth, the wife presented evidence indicating that the husband, who had been ordered to pay weekly child support, had missed several payments each year but had not presented evidence indicating which weekly payments

he had missed. Because that trial court had no evidence from which it could conclude the due date of those missed payments, and which payments the husband had made and which payments he had not, this court determined that the trial court had no evidence from which it could calculate the amount of interest due and, consequently, that the trial court did not err in failing to award interest.

This case, however, is distinguishable from Hackworth. The record in this case contains evidence from which the trial court can calculate the amount of interest due. Evidence was presented indicating the months that the father paid child support and the months that he did not. To reach its determination of an arrearage, the trial court made determinations as to the father's payment or nonpayment of child support. Therefore, the trial court erred in not determining and imposing interest when adequate evidence was presented from which it could calculate the amount of interest due.

Conclusion

Accordingly, the trial court's judgment is affirmed in part and reversed in part, and this cause is remanded with instructions that the trial court properly compute the father's child-support arrearage,

including the statutorily mandated interest on each past-due installment. See Corwin v. Corwin, 29 So. 3d 913, 914 (Ala. Civ. App. 2009).

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED
WITH INSTRUCTIONS.

Moore, P.J., and Edwards, Fridy, and Bowden, JJ., concur.