DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

BIANCA RAMPARTAP,
Appellant,

v.

DARRYL RAMPARTAP,
Appellee.

No. 4D2025-1920

[October 21, 2026]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Lauren M. Alperstein, Judge; L.T. Case No. 062016DR000326AXXXCE.

Samuel Alexander of Alexander Appellate Law P.A., Jacksonville, for appellant.

No appearance for appellee.

SHEPHERD, J.

The former wife appeals from the trial court's final judgment, arguing the trial court erred in three respects by: (1) imputing income to her without notice and an opportunity to be heard; (2) adopting the recommended order without allowing her a hearing and an opportunity to object; and (3) imputing income to her based on contributions from her new spouse. We reverse the improper inclusion of the new spouse's mortgage and household expenses contributions as those were not payments to the former wife and therefore not within the definition of "income" in the relevant statute. We affirm on the other two issues.

Background

In 2016, the parties divorced by a final judgment of dissolution. The final judgment ordered equal timesharing for the one minor child, established a parenting plan, and ordered that the costs of extra-curricular activities, uniforms and equipment for those activities and summer camp be paid 40% by the former wife and 60% by the former husband. The trial court did not order child support at that time.

In 2018, the trial court ordered the former husband to pay $225.42 bimonthly in child support. The trial court also modified the costs of extra-curricular activities, uniforms and equipment for those activities and summer camp to be paid 50% by the former wife and 50% by the former husband.

In 2024, the former wife filed a supplemental petition for modification of child support and full custody. The former wife alleged that the former husband had moved out of the country and had ceased exercising overnight timesharing upon which child support was predicated. The trial court granted the petition, finding that the former husband had not exercised any timesharing in eight months, and unrebutted testimony had established that the former husband was permanently living in Trinidad. The trial court awarded the former wife sole parental responsibility and 100% timesharing and decision-making authority. The trial court referred the child support issue to a hearing officer.

The hearing officer subsequently issued a recommended order on child support that provided, in part:

> [The former wife] testified that she earns $1,500 per month in gross income. In addition, [the former wife's current] husband pays all of the household expenses listed in section A of her Financial Affidavit filed August 15, 2024, totaling $8,600 per month. This amount is considered income for purposes of calculating child support. *See Varchetti v. Varchetti*[,] 355 So. 3d 435 (Fla. 4[th] DCA 2023). The undersigned finds that [the former wife] has a gross (sic) monthly income of $10,100 and a net (sic) monthly income of $10,487.
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> . . . .
>
> [The former husband's] currently (sic) child support obligation totals $270.42 which includes $225.42 for current child support and $45 towards the child support arrears. [The former wife] is entitled to retroactive child support to August 15, 2024 when the Petition for Modification was filed. Therefore, [the former husband] owes $1,953.38 ($403 - $225.42 = $177.58 x 11 months) in retroactive child support.

The trial court adopted the hearing officer's findings and ordered child support as follows:

> [T]he former husband to pay ongoing child support for the parties' minor child in the amount of $403 per month, commencing July 1, 2025 and a like sum shall be paid on the 1st day of each month until February 28, 2030 or until such time as the oldest/child dies, joins the armed forces, or otherwise becomes emancipated, whichever first occurs.... The child support obligation may continue beyond the age of 18 and until high school graduation for any child who is: dependent in fact; between the ages of 18 and 19; and is still in high school, performing in good faith with a reasonable expectation of graduation before the age of 19. The [former husband] owes retroactive child support [of] $1,953.38 through June 2025. These sums shall be paid in addition to the ongoing obligation at the rate of $81 per month until paid in full.

The hearing officer calculated child support as demonstrated in the child support guidelines worksheet. The hearing officer found the former wife's gross monthly income was $10,100 and her net monthly income was $10,487. We believe the hearing officer incorrectly transposed those numbers, as net income will always be less than gross income by definition. The hearing officer then added the former wife's incorrectly stated $10,487 net monthly income to the former husband's $2,551 net monthly income, for a total net monthly income of $13,038. The hearing officer then calculated the percentages of each parent's income relative to the total income, applied those percentages (80.43% for the former wife and 19.57% for the former husband) to the monthly obligation for the one minor child and determined that the former wife's share of the monthly obligation was $1,278 and the former husband's share was $311. After the hearing officer calculated the additional support costs and statutory adjustments or credits, the former husband was obligated to pay $403 in monthly child support.

The trial court later entered a final judgment adopting the hearing officer's recommended order.

One day after entry of the final judgment, the former wife filed a motion to vacate, arguing that the trial court had failed to comply with Florida Family Law Rule of Procedure 12.491(f) by adopting the hearing officer's recommended order before affording the former wife time to object. The former wife also argued that the trial court had improperly imputed income to her based on contributions from her new spouse. The trial court denied the motion as legally insufficient.

The former wife filed a motion for rehearing or amendment pursuant to

Florida Family Law Rules of Procedure 12.491 and 12.530. The trial court denied the motion without prejudice for failure to comply with rules 12.490 and 12.491. The trial court subsequently denied the former wife's amended motion for rehearing.

The former wife then filed this appeal, challenging the trial court's imputation of income to her without due process and in violation of *Nadeau v. Reeves*, 328 So. 3d 1001 (Fla. 4th DCA 2021), and section 61.30(2)(a)13., Florida Statutes (2025). The former wife also challenges the trial court's denial of her motion to vacate the final judgment without a hearing or objection period.

Analysis

"The standard of review for a child support award is abuse of discretion." *Alvarez v. Salazar*, 338 So. 3d 267, 271 (Fla. 4th DCA 2022) (quoting *Smith v. Loffredo-Smith*, 230 So. 3d 898, 899 (Fla. 4th DCA 2017)). "However, the framework which a trial court has used to calculate child support is reviewed de novo." *Varchetti*, 355 So. 3d at 437 (citing *Waldera v. Waldera*, 306 So. 3d 1037, 1039 (Fla. 3d DCA 2020)).

Child support calculation is governed by Chapter 61, Florida Statutes. Section 61.30(2) provides:

> (2) Income shall be determined on a monthly basis for each parent as follows:
>
> (a) Gross income shall include, but is not limited to, the following:
>
> . . .
>
> 13. Reimbursed expenses or in kind payments to the extent that they reduce living expenses.

§ 61.30(2)(a)13., Fla. Stat. (2025).

"Under section 61.30(2)(a), a trial court's determination of 'income … on a monthly basis for each parent' necessarily contemplates a trial court's initial determination of the monthly 'gross income' of each parent. § 61.30(2)(a), Fla. Stat. And under section 61.30(2)(a) 13., '[r]eimbursed expenses or in kind payments to the extent that they reduce living expenses' necessarily fall within the ambit of 'gross income.' § 61.30(2)(a) 13., Fla. Stat." *Roman v. Roman*, No. 6D2023-0841, 2026 WL 2881394, at *3 (Fla. 6th DCA Sept. 25, 2026). "Income" is defined in sections

61.30(2)(a)1.-14. and 61.046(8), Florida Statutes (2025). Section 61.046(8) defines "income" as "any form of *payment* to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, . . . and any other *payments*, made by any person, private entity, federal or state government, or any unit of local government." § 61.046(8) (2025) (emphasis added). While both sections specify various sources that are considered income, neither section refers to a new spouse's contributions.

We have held that when a relative regularly gifts, *reimburses or pays* the parent for household expenses, to the extent that the reimbursements or payments reduce living expenses, those contributions are "income" for child-support determinations. *See Ordini v. Ordini*, 701 So. 2d 663 (Fla. 4th DCA 1997) (holding that regular monthly support provided by the husband's parents throughout the marriage and continuing through trial could be included in the husband's income for purposes of determining alimony and child support); *accord Cooper v. Kahn*, 696 So. 2d 1186 (Fla. 3d DCA 1997) (affirming the imputation of income based on the former wife's mother's continuing and ongoing payment of the former wife's rent, car rental fees, and other monthly living expenses); *Thalgott v. Thalgott*, 571 So. 2d 1368 (Fla. 1st DCA 1990) (recognizing that the former wife's parents' regular payment of household expenses—averaging approximately $20,000 per year—was relevant to determining her income because those payments reduced her living expenses); *Garcia v. Garcia*, 560 So. 2d 403 (Fla. 3d DCA 1990) (holding that, in determining income for child-support purposes, the trial court could consider housing, automobile, credit-card, and other expenses paid on the husband's behalf by his father or the family business as in-kind payments reducing his living expenses).

We recently held, in accord with this authority and the expansive statutory definition of "income," that an uncle and (new) fiancé who had provided a former spouse "financial assistance by paying or reimbursing her for various bills, including home utilities, car payments, auto insurance, and groceries," were making direct or "in-kind" payments to her and that such payments could fairly be called "income." *Varchetti,* 355 So. 3d at 435 (citing § 61.30(2)(a)13. Fla. Stat. (2021)); *accord Roman*, 2026 WL 2881394, at *1, 4 (boyfriend and boyfriend's mother who resided in marital home with former wife and paid "all the household bills, utilities, mortgage and HOA fees" were making "in-kind" payments that counted towards former wife's income).

By contrast, in *Nadeau*, we held that "[i]n computing a parent's child support obligation where that parent has remarried, it is error to use a

new spouse's contributions to inflate the income of the remarried parent." *Nadeau*, 328 So. 3d at 1002. We rejected the trial court's decision to count as income the monies "her husband pays for all the expenses on her financial affidavit." *Id.* at 1001. When the new husband merely paid the household expenses for his own household, no "payment," in kind or otherwise, had been made to his wife.[1]

Here, as in *Nadeau*, the new spouse's payment of the mortgage and other household expenses was not a "payment" made to the former wife. Thus, no competent substantial evidence supports the trial court's order counting $8,600 of such household payments made by the new spouse as the former wife's "income" for child support purposes. Without a payment (whether "in kind," by reimbursement, otherwise) to the former wife, the new spouse's payments made for his own household are not the former wife's "income" pursuant to sections 61.30(2) or 61.046(8).

Accordingly, we reverse for the trial court to determine the former wife's income for child support purposes and recalculate the child support obligations accordingly. We leave to the trial court's discretion how it may choose to do so. We affirm the former wife's remaining issues without discussion.

Affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion.

GERBER, C.J., and LOTT, J., concur.
LOTT, J., concurs with separate opinion, in which SHEPHERD, J., concurs.

LOTT, J., concurring.

I fully join the majority's opinion. I write separately to make three observations about cases, as here, that concern calculation of child support where one of the former spouses remarries.

1. The guide star of the inquiry is "income."

First, the answer to the question of whether something should be counted as income for child support purposes should be answered by whether it falls within the definition of "income" under chapter 61, Florida

[1] Although *Nadeau* cited *Hinton v. Smith*, 725 So. 2d 1154 (Fla. 2d DCA 1998), we have not adopted *Hinton's* outright ban on considering a new spouse's financial contributions when calculating a parent's income for child-support purposes.

Statutes (2025). But our precedent has not always hewn closely to this inquiry.

Chapter 61 defines "income" in two places for the purposes of child support.

First, section 61.046(8), Florida Statutes (2025), provides:

> "Income" means any form of payment to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. United States Department of Veterans Affairs disability benefits and reemployment assistance or unemployment compensation, as defined in chapter 443, are excluded from this definition of income except for purposes of establishing an amount of support.

The structure of this definition provides that income is "any form of payment to an individual," "including but not limited to" a non-exhaustive laundry list of imaginable types of payments. The limiting factor in this broad definition is not the form of the payment in the expansive list following "including"; instead, the limitation turns on whether something is a "payment to an individual."

Section 61.30(2), Florida Statutes (2025), provides that, for child support purposes in particular, "[i]ncome [that is, the defined term we just discussed,] shall be determined on a monthly basis for each parent as follows . . . ." Section 61.30(2) then provides that "[g]ross income shall include, but is not limited to, the following," and provides 14 types of income that non-exhaustively comprise "gross income." § 61.30(2)(a)1.–14., Fla. Stat. (2025).

Our caselaw has often focused on whether a type of income falls within the 14 enumerated categories of section 61.30(2)(a). In the "new spouse remarries" or related "relative helps out spouse" cases, we have focused in particular on whether something falls within section 61.30(2)(a)13., "[r]eimbursed expenses or in kind payments to the extent that they reduce living expenses." *See, e.g.*, *Nadeau v. Reeves*, 328 So. 3d 1001, 1002 (Fla. 4th DCA 2021) ("In computing a parent's child support obligation where

that parent has remarried, it is error to use a new spouse's contributions to inflate the income of the remarried parent.") (discussing section 61.30(2)(a)13.)); *Varchetti v. Varchetti*, 355 So. 3d 435, 439 (Fla. 4th DCA 2023) ("The former wife testified that she lived with her fiancé and uncle, both of whom were providing her financial assistance by paying or reimbursing her for various bills, including home utilities, car payments, auto insurance, and groceries. The Florida court erred in failing to take these in-kind contributions, payments, and reimbursements into consideration in calculating the former wife's gross income.") (discussing section 61.30(2)(a)13.)); *Ordini v. Ordini*, 701 So. 2d 663, 666 (Fla. 4th DCA 1997) ("[W]e agree with the third district's analysis in *Cooper* that the provisions of chapter 61 are broad enough to include regular gifts in determining income for purposes of child support." (discussing section 61.30(2)(a)13.)); *Posner v. Posner*, 39 So. 3d 411, 414 (Fla. 4th DCA 2010) ("We conclude that the court did not abuse its discretion in imputing the rental value to the husband as in-kind income. Not only had the parents paid such expenses for an extended period of time, the husband's mother testified that she would pay for his expenses of shelter should he need it.") (discussing section 61.30(2)(a)13.)); *Hanley v. Hanley*, 734 So. 2d 529, 530 (Fla. 4th DCA 1999) ("We . . . interpret section 61.30(2)(a)13. to include such payments reimbursed by another, not payments made by a spouse as part of his or her obligation to maintain jointly-held property.").

One may be tempted to apply the "expressio unius" canon[2] to the 14-item list in section 61.30(2)(a): if a form of income is similar to an enumerated category, but does not neatly fit within that category, that form of income must be excluded from "income."

But that's the wrong canon. Section 61.30(2)(a)'s 14-item list lays out a subset of things (money sources) that "include, but [are] not limited to" all things that can comprise "gross income" as defined in that section. But section 61.30(2)(a)'s definition of "gross income" itself is a mere subset of section 61.046(8)'s even broader definition of "income"—which also sets out a list of payment forms that "include, but [are] not limited to" sources of payment that constitute "income."

[2] *E.g.*, *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976) ("It is of course, a general principle of statutory construction that the mention of one thing implies the exclusion of another; expressio unius est exclusio alterius. Hence, where a statute enumerates the things on which it is to operate, or forbids certain things, it is ordinarily to be construed as excluding from its operation all those not expressly mentioned." (citation omitted)).

And "[g]enerally, it is improper to apply expressio unius to a statute in which the Legislature used the word 'include.'" *White v. Mederi Caretenders Visiting Servs. of Se. Fla., LLC*, 226 So. 3d 774, 781 (Fla. 2017). "'[I]nclude' is generally an expansionary term." *City of Boynton Beach v. Pierre*, 2026 WL 2727433, at *2 (Fla. 4th DCA Sept. 16, 2026).

In other words, the inquiry shouldn't focus on whether something falls within one of the enumerated categories, but should instead focus more broadly on whether something is "income," including whether it is a "payment in any form to an individual." § 61.046(8), Fla. Stat. (2025). The enumerated categories are helpful exemplars and guideposts, but do not necessarily limit what is considered "income." *Cf. Ortega v. Wood*, 316 So. 3d 408 (Fla. 1st DCA 2021) (conducting sound analysis based on definition of "income"); *see also Roman v. Roman*, No. 6D2023-0841, 2026 WL 2881394, at *6 (Fla. 6th DCA Sept. 25, 2026) (Pratt, J., concurring) ("[T]he definition of 'income' applicable to chapter 61, Florida Statutes, is quite broad and may independently capture the payment of the household bills regularly made by the boyfriend/mother as part of Appellee's monthly 'gross income' under section 61.30(2)(a), Florida Statutes.").

In any event, our caselaw has generally managed to reach the correct result, even with occasional inattentiveness to chapter 61's broader structure. In *Ordini*, we held that "the provisions of chapter 61 are broad enough to include regular gifts in determining income for purposes of child support," and found that regular cash and cash-like payments from a former spouse's parent was "income." 701 So. 2d at 666. Those recurring gifts were a "form of payment to an individual" within the common meaning of "payments" made from the parents to their child.[3] Monies moved from the parent "to" the child.[4]

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[3] When *Ordini* was decided, section 61.046's operative language defined "income" as "payments, made by any person." *Ordini*, 701 So. 2d at 665 (quoting § 61.046, Fla. Stat. (1995)). No meaningful distinction exists between this language and section 61.046's modern language.

[4] A decent argument can be made that the *Ordini* line of cases was wrong as a matter of statutory interpretation and that "any form of payment to an individual" does not include gifts, recurring or otherwise. Most dictionary definitions of "payment" (and "pay") contemplate remuneration for something, rather than something gratuitous. And the "associated words" canon suggests that gifts are unlike the things (various forms of monetary compensation of remuneration) which follow the "including but not limited to" language in the definitions in Sections 61.046(8) and 61.30(2)(a). *Cf. City of Boynton Beach v. Pierre*, No. 4D2026-0133, 2026 WL 2727433, at *3 (Fla. 4th DCA Sept. 16, 2026) ("The most

In *Varchetti*, we correctly held that a fiancé and uncle who lived with a former spouse "paying or reimbursing her for various bills, including home utilities, car payments, auto insurance, and groceries," constituted income to that spouse. 355 So. 3d at 439. Based on the evidence in that case, regardless of whether those payments were direct (payments to the former spouse) or indirect/in-kind (paying the vendor directly for goods or services used by the former spouse), monies moved from the fiancé and uncle "to" the former spouse, for her benefit.

By contrast, in *Nadeau*, we correctly held that evidence showing a former spouse's "[new] husband pays for all the expenses on her financial affidavit" did not amount to "income." 328 So. 3d at 1001. No "payment" was made "to" the former spouse within those words' common meanings when the new husband paid his own household expenses.

If I buy a $3.00 gallon of milk and put it in my fridge, we do not say that I just made an in-kind payment to my wife (whether the whole $3.00 or half, $1.50). That's not what a "payment to" someone is. I just bought milk. Similarly, if I pay the mortgage from a joint bank account in a given month, and I make more money than my wife, we do not say that I have just made an in-kind payment to my wife for some fractional delta of the mortgage vis-à-vis our relative incomes. That's not a payment to my wife. I just paid the mortgage.

Similarly, if a parent lets an adult child live in an empty room in their home and does not charge rent (which is a different case than the cash payments made to the child in *Ordini*), the parent is not making an in-kind "payment" to the child for the market value of the rent. The parent is just letting their child live in their home. By contrast, if parents pay the rent for the child's own apartment directly to the landlord, or even if the parents allow the child to live rent-free in an investment property or vacation home

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common effect of the canon is … to limit a general term to a subset of all the things or actions that it covers.") (quotation omitted).

But given both the uniform and longstanding extent to which the district courts have considered recurring gifts to fit within the definition of "income," and the point is at least debatable given the definition's textual breadth, I see no reason to call that authority into question. *Cf. State v. Poole,* 297 So. 3d 487, 507 (Fla. 2020), as clarified on denial of reh'g (Apr. 2, 2023) ("[O]nce we have chosen to reassess a precedent and have come to the conclusion that it is clearly erroneous, the proper question becomes whether there is a valid reason why not to recede from that precedent.").

that they own, a much better argument would exist that an in-kind "payment" has been made "to" the child, and thus that value should count as "income." *Cf. Roman*, 2026 WL 2881394 at *4 (payment of household bills including mortgage by new boyfriend and his mother residing with former wife in her (former marital) home was income to former wife).

The flip side of this thought exercise is that no categorical prohibition exists on pecuniary benefits from a new spouse being "income," where a "payment" has been made "to" the former spouse. For example, if a wealthy new spouse afforded her husband a monthly allowance for credit card spending on luxury goods and services, that may well be an (in-kind) "payment to" the husband that could count as his "income" for child support purposes. The same could be true if the new spouse paid the lease payment on her husband's new sports car that he drives when he's not hauling the children around in the family SUV.

In other words, in most cases, payments of common household expenses by a new spouse will probably not be "income." But in some cases, such payments could be.

The important inquiry is not the source from which the payment came, whether it be a new spouse, parent, fiancé, uncle, etc. Income can be "any form of payment . . . regardless of source." § 61.046(8), Fla. Stat. (2025). The important inquiry is, instead, whether the monies meet the broad statutory definition of "income," which will likely turn on whether the money is a "payment to" the former spouse, as those words are commonly used.

2. *Hinton v. Smith* was overbroad and wrongly reasoned.

Second, some courts have made the wrong inquiry.

In *Hinton v. Smith*, 725 So. 2d 1154 (Fla. 2d DCA 1998), the Second District confronted a question similar to the question here and in *Nadeau*: should the ordinary household support from a new spouse count as income for child support purposes? The *Hinton* court, like the majority today and the *Nadeau* court, answered "no," but reasoned:

> Gross income includes only those items listed in 61.30(2)(a), one of which is "reimbursed expenses or in kind payments to the extent that they reduce living expenses." We believe that the legislature intended the "reimbursed expenses and in kind payments" to cover items such as food, housing and vehicles furnished by the employer who is paying wages. The effect of

> a former spouse's remarriage to a new spouse who can contribute to expenses may be an increase in the former spouse's disposable income after he or she pays child support obligations, but it plays no role in calculating child support.

Hinton, 725 So. 2d at 1158. That holding set forth an erroneous, overbroad rule that is both ungrounded from, and contrary to, the statute. Gross income, contrary to *Hinton*'s pronouncement, does *not* include "only those items listed in [section] 61.30(2)(a)."[5] *Id.* Not only *was Hinton*'s cabined definition of "reimbursed expenses or in kind payments" contrary to that phrase's general construction in cases involving non-spouses, *cf. Ordini*, 701 So. 2d 663 (reasoning that gifts from parents fit the definition, in accord with other district authority), the *Hinton* court wrongly applied the expressio unius canon to potential income that did not fit neatly within one of the enumerated subsections (as discussed above).

Hinton's reasoning was instead based solely on apparent divination of the legislature's intent. Such theory "depends on the fictional premise that hundreds of legislators . . . shared a unified private view of how the statute should apply in a contested circumstance." *Goshay v. State*, 2026 WL 2931712 (4th DCA Sept. 30, 2026) (quoting *FS Credit Opportunities Corp. v. Saba Cap. Master Fund, Ltd*, 608 U.S. 608, 621 (2026)). "Worse, it violates the fundamental precept that we are governed by laws, not by the intentions of legislators." *Id.* (cleaned up).

As discussed above, in the usual case, a new spouse's contributions to the household are probably not "payments" made to the former spouse and will probably not count as "income." So, *Hinton* will probably be consistent with the correct analysis in most cases. *But Hinton*'s reasoning is wrong, its rule is wrong, and we should be careful not to follow it lest it lead us astray in marginal cases. Although we have cited favorably to *Hinton*, *see Nadeau*, 328 So. 3d at 1001–02; *Hanley*, 734 So. 2d at 530–31, we have not adopted, and should not adopt, its holding or reasoning.

Indeed, in *Sunderwirth v. Sunderwirth*, 332 So. 3d 1087, 1090 (Fla. 2d DCA 2022), the Second District extended *Hinton*'s apparent categorical prohibition on "income" consideration of new spouses to new fiancés. ("[T]his court has held [in *Hinton*] that in kind payments made by a new spouse are not to be included as additional income when calculating child

[5] Nor did gross income include "only those items listed in section 61.30(2)(a)" when *Hinton* was decided. *See* Fla. Sess. Law Serv. Ch. 97-170 (H.B. 2031) (section 61.30(2)(a) contained substantially identical language to its current version).

support. . . . We can see no reason why a fiancé's in kind payments, as is the case here, should be treated any differently from a new spouse."). *Sunderwirth* appears to conflict with *Varchetti*, 355 So. 3d at 439, which correctly considered certain in-kind payments from a new fiancé to be "income" because those in-kind payments were in fact "payments to" that former spouse and so fit within the statutory definition of "income."

3. Remarriage may still be considered in deviating from the guidelines.

Third, even to the extent a new spouse's contributions may not be "income," if a former spouse's remarriage is leading to lopsided and inequitable child support payments, the trial court still has an ability to account for such a situation: the court may deviate from the guidelines.

Under section 61.30(1)(a), Florida Statutes (2025), "[t]he trier of fact may order payment of child support in an amount which varies more than 5 percent from such guideline amount only upon a written finding explaining why ordering payment of such guideline amount would be unjust or inappropriate." Further, under section 61.30(11)(a), "[t]he court may adjust the total minimum child support award, or either or both parents' share of the total minimum child support award, based upon" eleven enumerated factors. One of these factors is a broad catchall: "[a]ny other adjustment that is needed to achieve an equitable result . . . ." *Id.* § 61.30(11)(a)11., Fla. Stat. (2025).

Apparently, no court has held that new spousal contributions may not provide a basis to deviate from the guidelines, provided the court makes sufficient written findings supported by competent substantial evidence in the record. One could certainly imagine cases where a former spouse remarries into a home that is far wealthier than either former spouse, such that it would be inequitable to make the low-income former spouse scrap and save for child support that would account for a drop in the bucket of the (now) high-income spouse's household expenses.

Although deviation tends to be reserved for exceptional cases, deviation is at least an option to remedy extraordinary inequities that may result from remarriage. Even cases like *Hinton* concern only whether new spousal contributions should be considered "income" for guidelines calculations. Such cases have no bearing on whether a court may or should deviate from the guidelines.

* * *

In sum, the majority today faithfully applies the statutory definition of "income." In cases like this, we should take care to ground our inquiry in the statute and not be led astray by those cases that fail to do so.

SHEPHERD, J., concurs.

* * *

Not final until disposition of timely-filed motion for rehearing.