

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1092

CA 20-00595

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, BANNISTER, AND DEJOSEPH, JJ.

---

HILLARY RIFKIN, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

WILLIAM ILECKI, DEFENDANT-APPELLANT.

---

JENNIFER M. LORENZ, ORCHARD PARK, FOR DEFENDANT-APPELLANT.

RUPP BAASE PFALZGRAF CUNNINGHAM, LLC, WILLIAMSVILLE (MICHAEL J. COLLETTA OF COUNSEL), FOR PLAINTIFF-RESPONDENT.

---

Appeal from an order of the Supreme Court, Erie County (Emilio L. Colaiacovo, J.), entered November 27, 2019. The order, *inter alia*, directed defendant to pay monthly child support of \$4,970 and awarded plaintiff interim counsel fees of \$5,500.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: In this action for divorce and ancillary relief, defendant appeals from an order that, *inter alia*, directed him to pay temporary monthly child support of \$4,970 and awarded plaintiff interim counsel fees of \$5,500. We affirm.

"The Child Support Standards Act [CSSA] provides the formulas to be applied to the parties' income and the factors to be considered in determining a *final* award of child support (*see* Domestic Relations Law § 240 [1-b]). Courts considering applications for *pendente lite* child support may, in their discretion, apply the CSSA standards and guidelines, but they are not required to do so" (*Davydova v Sasonov*, 109 AD3d 955, 957 [2d Dept 2013] [internal quotation marks omitted]). Thus, contrary to defendant's contention, Supreme Court was "not required to calculate [defendant's *pendente lite*] child support obligation pursuant to the CSSA" (*Vistocco v Jardine*, 116 AD3d 842, 843 [2d Dept 2014]; *see* § 236 [B] [7] [a]; *Hof v Hof*, 131 AD3d 579, 581 [2d Dept 2015]). With respect to defendant's contention that the court erred in its calculations, imputation of income, and application of the statutory factors, it is well settled that "[t]he remedy for any claimed inequity in [an] award[] of temporary . . . child support . . . is a speedy trial where the respective finances of the parties can be ascertained and a permanent award based on the evidence may be made" (*Tabor v Tabor*, 39 AD2d 640, 640 [4th Dept 1972] [internal quotation marks omitted]; *see Baxter v Baxter*, 162 AD3d 1743, 1743-1744 [4th Dept 2018]).

Finally, contrary to defendant's further contention, the court did not abuse its discretion in awarding plaintiff interim counsel fees (see Domestic Relations Law § 237; *Johnson v Chapin*, 12 NY3d 461, 467 [2009], *rearg denied* 13 NY3d 888 [2009]; *Vistocco*, 116 AD3d at 844).

Entered: November 20, 2020

Mark W. Bennett  
Clerk of the Court