

**TWIN FALLS, IDAHO, NOVEMBER 8, 2024, AT 8:50 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>KRISTIN A. MARLAR,</b>	)	
<b>fka KRISTIN A. GEARHART,</b>	)	
	)	<b>Docket No. 51274-2023</b>
<b>Petitioner-Respondent,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>DAN LEE GEARHART,</b>	)	
	)	
<b>Respondent-Appellant.</b>	)	
	)	

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Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Blaine County. Ned C. Williamson, District Judge.

Roy, Nielson, Platts & McGee, LLP, Twin Falls, for Appellant.

Gjording Fouser, PLLC, Boise, for Respondent.

This appeal concerns a magistrate court’s authority to retroactively credit Social Security Disability (“SSD”) payments against outstanding child support payments. Dan Lee Gearhart and Kristin A. Marlar were married and had three children together. In September 2018, the couple divorced. The magistrate court granted the couple joint legal and physical custody over the children and ordered Gearhart to pay child support to Marlar beginning in October 2018.

Gearhart has Parkinson’s disease. In August 2018, after the divorce trial but before issuance of the decree of divorce and child support order, Gearhart applied for disability benefits on behalf of himself and his children. The Social Security Administration approved his applications. The Social Security Administration appointed Marlar to be the “representative payee” of the children, so she received their SSD payments on their behalf. The magistrate court did not consider these SSD funds when calculating child support.

Gearhart stopped making child support payments in May 2020, asserting that the SSD payments satisfied his support obligation. Marlar made multiple demands through her attorney for Gearhart to fulfill his support obligation. However, Gearhart refused and, in May 2022, moved the magistrate court to modify his child support obligation. Taking account of the children’s SSD payments that Marlar was receiving, the magistrate court reduced Gearhart’s child support obligation going forward. The magistrate court also determined that it had discretion to consider the SSD payments received by Marlar on behalf of the children as credits against Gearhart’s arrearage, and modified Gearhart’s support arrearage to zero dollars. Marlar appealed to the district

court, which reversed that portion of the magistrate court's decision applying the SSD funds as a credit to Gearhart's arrearage. It held that the plain language of Idaho Code section 32-709 provides that the retroactive modification of child support is generally prohibited except in one instance that is not applicable in this case.

Gearhart now appeals, arguing that the district court's statutory interpretation is erroneous. Alternatively, Gearhart argues that the Idaho Supreme Court should modify Idaho's Child Support Guidelines to address the treatment of SSD benefits in situations like this one.