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# Recent Developments: Gladis v. Gladisova: The Lower Cost of Raising a Child in a Different Country or State Does Not Justify a Downward Deviation from the Child Support Guidelines, as Set Forth in Sections 12-201–12-204 of the Family Law Article

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**GLADIS v. GLADISOVA:**

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*The Lower Cost of Raising a Child in a Different Country or State Does not Justify a Downward Deviation from the Child Support Guidelines, as Set Forth in Sections 12-201—12-204 of the Family Law Article*

**By: April M. Urban**

The Court of Appeals of Maryland held that the lower cost of raising a child in a different country or state does not justify a downward deviation from the child support guidelines, as set forth in sections 12-201—12-204 of the Family Law Article. *Gladis v. Gladisova*, 382 Md. 654, 856 A.2d 703 (2004). In a case of first impression, the court concluded that “a lower cost of living in the child’s locality is not a proper basis for deviating from the [g]uidelines.” *Id.* at 662, 856 A.2d at 708.

Slavomir Gladis (“Gladis”) married Eva Gladisova (“Eva”) in the Slovak Republic in 1993. The same year, the couple’s daughter, Ivana, was born. Gladis moved to the United States in 1994, and he obtained an absolute divorce in 1998. The divorce decree granted custody of Ivana to Eva, and charged Gladis with Ivana’s general support, although no amount was specified.

In 2002, Eva filed a Petition to Establish Child Support in the Circuit Court for Baltimore City. Following a hearing, the Master issued a recommendation that Gladis pay \$300.00 per month to Eva, which was \$197.00 per month less than the amount prescribed by the guidelines. The Master reasoned that the downward deviation was in the best interest of the child, enabling her to benefit from her father’s income while allowing Gladis to meet the needs of his new family in the United States.

Both parties filed exceptions to the Master’s recommendation. Gladis claimed the Master incorrectly calculated the daughter’s monthly care and expenses at \$275.88, as opposed to \$233.00, by listing some items as monthly, rather than annual expenses. Eva argued that the Master erred by deviating from a strict application of the guidelines.

After a hearing, the court required Gladis to pay \$225.00 per month in child support, reasoning that “applying the [g]uidelines is

inappropriate when there is a wide disparity in the cost of living.” *Id.* at 660, 856 A.2d at 707. In response to Eva’s motion to amend, the court later altered its order and instructed Gladis to pay \$497.00 per month pursuant to a strict application of the guidelines. Gladis filed a timely appeal. However, prior to a hearing in the intermediate appellate court, the Court of Appeals of Maryland granted *certiorari* on its own initiative to determine whether the circuit court erred by strictly applying the guidelines in the instant case.

In order to determine whether a downward deviation from the guidelines is permissible when the child lives in a country with a lower standard of living, the court of appeals began its analysis by reiterating its previous holding in *Goldberg v. Miller*, 371 Md. 591, 603-04, 810 A.2d 947, 954 (2002), stating, “trial court[s] must adhere to the Legislature’s plan for calculating the amount and character of a child support award.” *Gladis*, 382 Md. at 662, 856 A.2d at 708. Thus, under MD. CODE ANN. FAMILY LAW §§ 12-202(a)(1), 12-204(d) (1990), it is mandatory that the child support guidelines be used to calculate the proper amount of support in all proceedings where the parents’ combined monthly income does not exceed \$10,000.00. *Id.* Additionally, under MD. CODE ANN. FAM. LAW § 12-202(a)(2)(i) (1990), the amount of child support awarded as a result of strict application of the guidelines is presumptively correct unless it can be shown that the amount is unjust or inappropriate. *Id.*

No Maryland court has addressed the precise issue in the instant case—whether a disparity in standards of living in two geographic areas justifies a deviation from the guidelines. *Id.* at 665, 856 A.2d at 710. Moreover, the few out of state cases addressing this issue represent conflicting views on the subject. *Id.* at 666-69, 856 A.2d at 710-12. Nevertheless, the court of appeals relied on two such cases in its analysis. *Id.* at 666, 856 A.2d at 710.

In the case of *In re Marriage of Beecher*, 582 N.W.2d 510, 514 (Iowa 1998), the Supreme Court of Iowa held that the higher cost of living in California, as opposed to Iowa, did not justify a departure from the guidelines. *Id.* Additionally, the court cited a case more on point, *Edwards v. Dominick*, 815 So.2d 236, 239 (La. App. 2002), in which a father claimed that disparate standards of living between South Africa and Louisiana are relevant in determining an award of child support; however, the court found application of the guidelines equitable to the parties and within the best interest of the child. *Id.* at 666-67, 856 A.2d at 710. Alternatively, other

jurisdictions have held that a deviation from the guidelines is appropriate when parents enjoy disparate standards of living in different localities. *Id.* at 667, 856 A.2d at 710-11

Although the court of appeals recognized the conflicting views of other jurisdictions, it found that deviation from the guidelines based on different standards of living was inconsistent with the Legislature's intent when enacting Maryland's child support law. *Id.* at 668, 856 A.2d at 711. Specifically, according to *Voishan v. Palma*, 327 Md. 318, 322, 609 A.2d 319, 321 (1992), the legislative purpose of the guidelines was to ensure the child receives and enjoys the same standard of living he or she would have experienced had the child's parents remained together. *Gladis*, 382 Md. at 669, 856 A.2d at 712. The belief was that awarding child support based on the guidelines would meet the needs of the children, while improving consistency, equity, and efficiency. *Id.* at 668, 856 A.2d at 712. In *Voishan*, the court tried to reconcile these goals by holding that the trial court had discretion to award a presumptive minimum basic award when using guidelines in a case where the parents' income exceeds the \$10,000.00 limit; however, the Legislature did not cap the basic award at the upper limit of the scale. *Id.* at 669, 856 A.2d at 712 (citing *Voishan*, 327 Md. at 325, 609 A.2d at 323).

Analogizing the holding in *Voishan* to the instant case, the court of appeals concluded that although the child support award exceeded the minimum amount needed for care and support of Ivana, it was nonetheless within her best interest to enjoy the standard of living she would have experienced if her parents had not divorced. *Id.* Moreover, the guidelines limit the trial court's need for factual findings, thereby avoiding inconsistent child support awards. *Id.* at 670, 856 A.2d at 712. The court of appeals reasoned that determining the precise value of currency in two different countries will lead to the inconsistent awards the Legislature hoped to avoid. *Id.* at 670, 856 A.2d at 713.

Further support exists in *Smith v. Freeman*, 149 Md. App. 1, 33, 814 A.2d 65, 84 (2002), where a professional football player argued that his child should not benefit from his recent salary boost because the child was not accustomed to her father's wealthy economic status. *Gladis*, 382 Md. at 671, 856 A.2d at 713. Although the guidelines did not apply because the parties' income exceeded \$10,000.00 per month, the court in *Smith*, noted "many people have far more than they 'need' to survive, or even to live comfortably." *Id.* at 671, 856 A.2d at 713 (quoting *Smith*, 149 Md. App. at

32, 814 A.2d at 83). Thus, the court in *Smith*, held that the “concept of ‘need’ is relative . . . and varies with the particular circumstances of the people involved.” *Gladis*, 382 Md. at 671, 856 A.2d at 713 (quoting *Smith*, 149 Md. App. at 33, 814 A.2d at 84).

In comparing the instant case to the holding in *Smith*, the court of appeals held that the advantages of Gladis’s economic position should flow to his child whether she lives in Maryland or Slovak Republic; thus, the guidelines apply regardless of the child’s geographical location. *Id.* at 672, 856 A.2d at 714. As a result, the court of appeals affirmed the circuit court holding that “the lower cost of raising a child in a different country or state does not justify a downward deviation from the [g]uidelines;” therefore, the court below did not abuse its discretion in awarding child support that far exceeds the standard of living in the Slovak Republic, but satisfies the guidelines. *Id.* at 670, 856 A.2d at 713.

The court’s holding in *Gladis v. Gladisova* clarifies the Legislature’s intent that strict application of the child support guidelines ensures that child support awards reflect the actual cost of raising children instead of resulting in an insufficient award. In so holding, the court protects the best interest of the child by ensuring each child is provided with the best possible lifestyle within the means of the family structure. The protection also shields the court from a potential floodgate of child support modifications that could result if awards must be modified each time a custodial parent moves to a different state or country. Thus, use of the guidelines prevents disastrous results for both children and courts alike.