

FILED

JUN 03 2025

CHOCTAW TRIBAL SUPREME COURT
OF THE
MISSISSIPPI BAND OF CHOCTAW INDIANS

CHOCTAW SUPREME COURT
BY: *[Signature]*
COURT CLERK 10:33Am

TAMARA EAVES

APPELLANT/
CROSS-APPELLEE

vs.

CAUSE NO. SC 2024-01

CHRISTOPHER EAVES

APPELLEE/
CROSS-APPELLANT

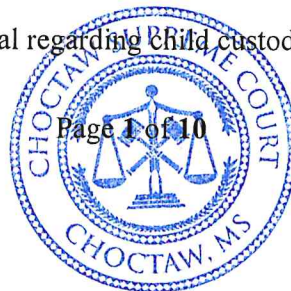
DATE OF JUDGMENT: June 2, 2025
TRIAL JUDGE: Rita Mattera
COURT OF ORIGIN: Choctaw Tribal Civil Court
ATTORNEY FOR APPELLANT: Andrew Hammond
ATTORNEY FOR APPELLEE: Shawn Harris
NATURE OF CASE: Appeal of Final Order
TRIAL COURT DISPOSITION: Feb. 5, 2024

BEFORE: Chief Justice Pro Tem Joshua Breedlove, Associate Justice Brenda Pipestem, Associate Justice Pro Tem Cheryl Fairbanks

FOR THE COURT: CHIEF JUSTICE PRO TEM JOSHUA BREEDLOVE

OPINION AND ORDER

Before this Court are Plaintiff/Appellant’s appeal and Defendant/Appellee’s cross appeal involving child custody, child support and the equitable distribution of property made by the Choctaw Tribal Civil Court in the February 2024 Judgment of Divorce, Paternity, Child Custody, Child Support and Visitation. Upon review of the parties’ briefs, the record on appeal, and pertinent Mississippi Band of Choctaw Indian laws, this Court finds no final order awarding child custody to either parent, no justification for not awarding child support, and an incomprehensible formula utilized by the lower court to equitably distribute marital property as set out in the court’s Judgment of Divorce, Paternity, Child Custody, Child Support and Visitation. Therefore, Plaintiff’s appeal regarding child custody is not ripe, and is dismissed



without prejudice. The lower court erred by not following precedence and justifying the lack of a child support award, therefore, this issue is remanded back to the lower court. Further, the lower court erred by not establishing with clear and concise language the formula used for the equitable division of marital assets, therefore this portion of the judgment is vacated and remanded back to the lower court to clarify, and recalculate, in clear and concise language the formula used to determine the equitable division of marital assets.

BACKGROUND

The Appellant and the Appellee, both enrolled tribal members, filed for a divorce in the Choctaw Tribal Civil Court on September 15, 2021 and July 20, 2021 respectively. Four children were born to the union with the following D.O.B. March 2006, March 2007, July 2008, and September 2009. The final hearing occurred August 4, 2023, and an order granting their divorce based on irreconcilable differences, Choctaw Tribal Code (“CTC”) § 9-3-3(11), was rendered by Judge R. Mattera on February 5, 2024. In addition to rendering the divorce, the lower court’s judgment also addressed “paternity, child custody, child support and visitation.” Both parties have filed an appeal in this case.

Appellant T. Eaves appeals the decision of the lower court arguing that the court committed reversible error by (1) not granting joint physical custody of the minor children, (2) the failure to order both parents to pay twenty-four percent (24%) of Adjusted Gross Income, and (3) that the court erred in its equitable division of property, including unfairly penalizing her when dividing the property.

Appellee C. Eaves cross-appeals the decision of the lower court arguing that the court’s failure to award child support was reversible error.

This Court heard oral arguments on February 4, 2025, at 10AM in the Smith John Tribal Judicial Complex. Appellant T. Eaves did not attend the hearing but was represented by legal counsel Shawn Harris who confirmed he was authorized to present the case in his client's absence. Appellee C. Eaves was present at the hearing and represented by legal counsel Andrew Hammond.

A review of the record shows the lower court:

1. Discussed the disposition of property, utilizing Mississippi state law and precedence, including a detailed *Ferguson*¹ review of marital assets;
2. Discussed alimony and utilized Mississippi state law and precedence, including an *Armstrong*² review;
3. Discussed custody and utilized Mississippi state law and precedence, including an *Albright*³ review quoting and concurring with the report of Guardian Ad Litem Katherine Curren;
4. Made a finding that T. Eaves child support ends on March 1, 2024, and no further child support to be awarded to either party; and
5. Discussed custody and a visitation schedule.

A review of the record shows the lower court ordered:

1. A divorce for irreconcilable differences;
2. Equitable distribution of marital assets by authorizing both parties to retain their 401(k), granting use and ownership of the marital home to the father, the disposition

¹ *Ferguson v. Ferguson*, 639 So. 2d 921 (Miss. 1994).

² *Armstrong v. Armstrong*, 618 So. 2d 1278 (Miss. 1993).

³ *Albright v. Albright*, 437 So. 2d 1003 (Miss. 1983).

of real and moveable property, and a \$60,000.00 payment as a just and equitable distribution to the mother;

3. Exclusive use of the marital home to the father and restraints on both parties;
4. The father appointed as payee for receipt of the distribution checks for all four (4) minor children;
5. Authorized each party to claim two (2) children on their taxes each year;
6. A restraint prohibiting the contact of minor children with three (3) specified individuals;
7. A restraint prohibiting the parties from speaking negatively of the other party in the presence of the minor children, and a mandate to restrain others from doing the same;
8. That both parties shall be allowed to have regular telephonic contact with minor children while in custody of the other party; and
9. A restraint on the minor children from operating a motor vehicle without a license within MBCI jurisdiction.

DISCUSSION

I. *Jurisdiction*

The facts of the case have not been disputed, nor has any party raised objection to this Court's jurisdiction. Under its own motion and for the purpose of a complete record this Court states: (a) all parties and minor children are members of the Mississippi Band of Choctaw Indians, (b) all real property is located within the reservation of the Mississippi Band of Choctaw Indians, (c) the parties and minor children reside within the reservation of the Mississippi Band of Choctaw Indians, (d) the parties voluntarily subjected themselves to the jurisdiction of the

lower court established by CTC §1-3-1, and (e) then voluntarily appealed and cross-appealed to this Court which was established by CTC §1-3-2.

This Court finds it has personal jurisdiction over the parties and subject matter jurisdiction over the case at bar.

II. *Applicable Law*

In October of 2023, the Mississippi Band of Choctaw Indians Tribal Council adopted CTC Title XXXVIII “Child Support Code.” This case was filed in 2021 prior to the adoption of Title XXXVIII and therefore this Court will utilize CTC §1-1-4⁴ as controlling law. This Court shall follow this Court’s precedence and guidance from Mississippi Code Title 43 Chapter 19.

III. *Standard of Review*

“A trial judge is accorded the same deference regarding his factual findings as a chancellor and his findings will not be disturbed where there is substantial, credible and reasonable evidence.” *Burns v. MBCI*, p.6 (MBCI Sup. Ct. 2019) (*citations omitted*). Questions of law are reviewed de novo. *Id.*, *Henry v. Henry*, p.8 (MBCI Sup. Ct. 2018) (*citations omitted*).

IV. *Issues Appealed*

(1) Child Custody

Appellant requests this Court reverse the order of sole physical custody to the father with liberal visitation and grant the mother joint physical custody.

Appellee requests that this Court not disturb the order of the trial court.

⁴ CTC §1-1-4 states, “In all civil actions the Choctaw Court shall apply applicable laws of the United States and authorized regulations of the Secretary of the Interior, and ordinances, customs, and usages of the Tribe. Where doubt arises as to the customs and usages of the Tribe, the court may request the advice of persons generally recognized in the community as being familiar with such customs and usages. Any matter not covered by applicable federal law and regulations or by ordinances, customs, and usages of the Tribe, shall be decided by the court according to the laws of the State of Mississippi.”

A careful review of the record shows that the lower court did not actually include an order on the custody of the minor children, therefore this Court must deny the appeal as not ripe at this time.

This Court may only hear matters consistent with CTC §7-1-2⁵ or any other subject matter jurisdiction granted by the Choctaw Tribal Code or resolutions of the Mississippi Band of Choctaw Indians Tribal Council. For a case to be appealed there must be a final order, commitment or judgment of the tribal court. In the case at bar there is no final child custody order.

The lower court stated “The [c]ourt **finds** that this custody and visitation arrangement would be in the best interest of the children and concurs with the Guardian ad Litem Curren’s recommendations.” (*emphasis added*) By the clear and unambiguous language of the lower court, the court merely made findings in regard to custody and visitation, and did not issue any orders on said subjects. Further, the lower court specifically states it is “Ordered and Adjudged” for nine (9) specific matters. However, child custody is not one of the nine (9) matters identified.

This Court cannot and will not rule on arguments for matters that are not properly before this Court. Therefore, this Court finds the appeal of Appellant T. Eaves is premature and not properly before this Court. We dismiss the requested relief on the child custody matter.

(2) Child Support

Appellant requests that this Court order the trial court to order each parent to pay the other 24% of their Adjusted Gross Income.

⁵ CTC §7-1-2 which states in part, “Any party who is aggrieved by any final order, commitment or judgment of the Tribal Court may appeal in the manner prescribed by these rules ...”

Appellee requests this Court reverse the lower court's decision and remand it back to the trial court to enter an order awarding child support to Appellee consistent with the statutory guidelines.

MS Code § 43-19-101(1) states in part, "The following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state" The court may only deviate from the guidelines with a finding consistent with MS Code § 43-19-101(2)⁶. The court must evaluate the ten (10) criteria as detailed in MS Code § 43-19-103(a-j).

In the judgment, the lower court erred by failing: (1) to clearly and plainly elucidate the reasoning for the denial of child support, (2) to evaluate the ten (10) criteria as established by MS Code, and (3) to issue a final ruling regarding child support.

This Court finds remands the child support issue for a determination consistent with this opinion.

(3) Equitable Distribution of Property

Appellant requests that this Court reverse the decision of the lower court and eliminate the two fifteen percent (15%) reductions and apply the correct mathematical formula and pay an additional \$20,000 in equity payments.

Appellee requests that this Court uphold the lower court's equitable division of marital property.

⁶ MS Code § 43-19-101(2) states, "The guidelines provided for in subsection (1) of this section apply unless the judicial or administrative body awarding or modifying the child support makes a written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case as determined under the criteria specified in Section 43-19-103."

The lower court engaged in a lengthy evaluation of the *Ferguson* standards regarding the equitable distribution of property. The asset amounts for each party utilized by the lower court for its calculations have not been appealed.

A recitation of relevant facts:

The lower court assessed a 15% reduction in T. Eaves distribution due to personal debt.

The lower court assessed a 15% reduction due to T. Eaves dissipation of assets in the amount of \$28,880.

The lower court then granted a \$60,000 payment to T. Eaves as a final equitable distribution of assets.

There is a clear and reasonable misunderstanding of the lower court's order as this Court and both parties have arrived at different interpretations and calculations resulting from the lower court's formula. It is also unclear as to the rationale and implementation of the lower court's two (2) fifteen percent (15%) reductions assessed against T. Eaves. This Court does not reach the merits of the parties' arguments, rather we vacate the order of equitable distribution and remand this issue to the lower court to: (1) clarify the formula used to calculate the award, (2) support and justify any reductions in distributions, and (3) issue an order in clear and concise language so that all parties may fully be informed of their financial obligations pursuant to the judgment of the trial court.

CONCLUSION AND ORDER

This Court finds that the trial court neglected to issue a final order regarding child custody, therefore the issue raised on appeal is not ripe for review; this issue is dismissed without prejudice. This Court finds the lower court committed error by failing to follow existing precedence and law which requires the court to justify its decision on whether or not to award

child support, and therefore we remand this matter to the lower court to address child support consistent with MS Code § 43-19-101(2). Further, the lower court erred in its equitable division of martial assets, therefore we vacate and remand this issue for a clear and concise formula with proper application and justification.

IT IS SO ORDERED, this the 2nd day of June 2025.


Joshua Breedlove (Jun 3, 2025 10:20 CDT)

Joshua Breedlove, Pro Tem Chief Justice
Choctaw Supreme Court



Brenda Toineeta Pipestem, Associate Justice
Choctaw Supreme Court


Cheryl Fairbanks (Jun 3, 2025 10:00 CDT)

Cheryl Fairbanks, Pro Tem Associate Justice
Choctaw Supreme Court



CERTIFICATE OF SERVICE

I do hereby certify that I have this, the ____ day of June 2025 cause to be forwarded by electronic mail, United States mail and/or hand delivered a true and accurate copy of the above and foregoing document to the below listed counsel of record.

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Hon. Rita Mattera
Tribal Civil Court Judge
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Jane Charles
Jane Charles (Jun 3, 2025 10:21 CDT)
Jane Charles, Clerk of Supreme Court