

STATE OF MICHIGAN
COURT OF APPEALS

GRACE BRAUSER,

Plaintiff-Appellee,

v

CRAIG SCHUBINER,

Defendant-Appellant.

UNPUBLISHED

March 4, 2014

No. 310964

Oakland Circuit Court

LC No. 2010-769676-DP

Before: HOEKSTRA, P.J., and MURRAY and RIORDAN, JJ.

MURRAY, J. (*concurring*).

I concur in the majority opinion vacating and remanding the trial court’s child support order. There is no doubt that the trial court did an admirable job outlining its factual findings and why it found it unjust and inappropriate to deem defendant’s income as “zero.”¹ However, the statute, as enforced by caselaw, requires a little bit more. In particular the statute requires that, before deviating from the child support amount determined by use of the Michigan Child Support Formula, the trial court make express findings as to the support amount determined by the child support formula, and how the support order deviates from that amount. MCL 552.605(2)(a) and (b). Neither of these findings were made by the trial court, and though it may seem to be a matter of form over substance, the Supreme Court has unequivocally held that this statute requires trial courts “to meticulously set forth these [statutory] factors when deviating. Anything less fails to fulfill the statutory procedure.” *Burba v Burba (After Remand)*, 461 Mich 637, 645-646; 610 NW2d 873 (2000) (vacating child support order because trial court did not make express findings under MCL 552.17(a) and (b), a prior version of MCL 552.605(2)(a) and (b)). Were it not for the failure to fulfill these statutory requirements, I would affirm.

/s/ Christopher M. Murray

¹ This includes the accurate reading of our opinion in *Borowsky v Borowsky*, 273 Mich App 666, 672; 733 NW2d 71 (2007).