

The Gonzales Family

Elizabeth Gonzalez (not her real name) is the forty year-old mother of three children. Disabled, she receives supplemental security disability (or SSD) totaling \$11, 500 annually. She has been married for 15 years to Richard Gonzalez, the father of her three children. He is forty-four years old, works in the mailroom of a brokerage house in New Jersey, and had gross earnings of \$48,000 annually.

Mr. Gonzales, who had severely abused his wife, was excluded from the family's home pursuant to a court's order of protection. When he stopped paying the rent, Ms. Gonzalez struggled to meet the costs of everyday life with her three children. Her parents, both on fixed incomes, assisted her for a short while, but they were unable to continue helping her indefinitely.

In the divorce case that followed, Ms. Gonzales's legal aid attorney asked the court for an award of both child support for the three children who remained in her custody and spousal maintenance. Her attorney, shocked at the reaction of the court to the requested award, related this interchange with the judge's court attorney:

“In our conference, the judge was very taken with the fact that the husband's monthly income was only \$3,567 (\$42,804 annually) and from that he would be paying \$1,034 a month (\$12,408 annually) in child support for the three children, which would only leave him with \$2,533 for the month (\$30,396 annually) and he'd have to pay his rent and utilities and make his car payments as well as pay insurance on the car. Did I realize that, the judge asked me, when we were asking for maintenance?

I mentioned that Ms. Gonzalez's income averaged \$958 monthly (\$11496 annually), and, although she received about \$250 monthly in food stamps (\$3000 annually), she had to pay rent and utilities for herself and the three children, take them back and forth from their activities not to speak of buying buy food and clothing. While I acknowledged that \$2,533 was not a lot for the husband to meet his monthly bills for one person, I asked the court to look at my client with \$958 for four people – her and three children.

In the end Ms. Gonzales settled. The uncertainty of getting a decent maintenance award made an agreement that required the husband to pay off the remaining debt on her car, about \$450 monthly (\$5,400 annually), and make the car insurance payments for five years look good. Mr. Gonzales agreed that those payments did not come off his income before child support was calculated, which would have reduced his child support payments.”

With Post-marital Income (PMI) Guidelines:

A presumptive award under the PMI guidelines would have been \$12,100 for 11.25 years, as well as annual child support payments of \$8,975. For the period of time for which both child support for three children and the PMI award are paid, the household with Ms. Gonzales and her children would have an income of \$32,575, one and a half times the poverty guidelines of \$22,050 for a family of four.

The household with Mr. Gonzales alone would have an income of \$26,925, two and a half times the poverty level of \$10,830 for a family of one. Mr. Gonzales would also have the benefit of any raises or other increases in income as well as contributions to a pension fund, health insurance, and any other benefits of his job.

With PMI guidelines, either party might have argued to the court that there were special factors that required a different outcome, but the clear starting point for their negotiations and discussions with the court would have been the assumption that Mr. Gonzales had an obligation to his former wife and the mother of his children that was substantially more than what she settled for in this case.

SUMMARY OF HOUSEHOLD INCOME LEVELS

Actual settlement:

	<u>Household with custodial parent and three children</u>	<u>Household with Non-Custodial Parent</u>
	\$11, 500 SSD	\$48,000 salary
	+ 8,075 child support	- 8,975 child support
	+ 5,400 car payments (until car is paid)	- 5,400 car payments (until car is paid)
Total	<u>\$25,875</u> (plus car insurance for 5 yrs.)	<u>\$33,625</u> (minus car insurance for 5 yrs)
	(1.2 times poverty guidelines)	(3.1 times poverty guidelines)

PMI Guidelines

	<u>Household with custodial parent and three children</u>	<u>Household with non-custodial parent</u>
	\$11,500 SSD	\$48,000 salary
	+ 8,975 child support	-8,975 child support
	+ 12,100 PMI (for 12 yrs.)	-12,100 PMI (for 12 yrs.)
Total	<u>\$32,575</u> (while both child support and PMI are paid)	<u>\$26,925</u> (while both child support and PMI are paid)
	(1.5 times poverty guidelines)	(2.5 times poverty guidelines)