[Cite as *Ledenican v. Howard*, 2011-Ohio-2330.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

LAKE COUNTY, OHIO

MARY L. LEDENICAN	:	**O P I N I O N**
Obligee-Appellee,	:	
- vs -	:	**CASE NO. 2010-L-103**
DARRYL L. HOWARD,	:	
Obligor-Appellant.	:	

Civil Appeal from the Lake County Court of Common Pleas, Juvenile Division, Case No. 2010 SE 00816.

Judgment: Affirmed.

Mary L. Ledenican, pro se, 26241 Lakeshore Boulevard, Apt. 169, Euclid, OH 44132 (Obligee-Appellee).

Thomas A McCormack, McCormack Family Law, 1915 The Superior Building, 815 Superior Avenue, East, Cleveland, OH 44114 (For Obligor-Appellant).

DIANE V. GRENDELL, J.

{¶1} Obligor-appellant, Darryl Howard, appeals from the judgment of the Lake County Court of Common Pleas, Juvenile Division, awarding obligee-appellee, Mary Ledenican, $222.71 a month in child support for Howard and Ledenican's minor child, Heaven. The issue to be decided in this case is whether the trial court abused its discretion by failing to specify the monthly amount of child support owed, as required by R.C. 3119.02. For the following reasons, we affirm the decision of the court below.

{¶2} On April 13, 2010, the Lake County Child Support Enforcement Agency (CSEA) issued an Administrative Order for Child Support and Medical Support, requiring Howard to pay Ledenican $222.71 per month for child support for Heaven's support. The order also required Howard to pay a two percent processing charge, for a total child support payment of $227.16 per month.

{¶3} Pursuant to R.C. 3111.84, Howard filed an objection to the administrative Order with the Lake County Court of Common Pleas, Juvenile Division, on May 10, 2010. A hearing was held before the magistrate on July 30, 2010. On that date, the magistrate issued a Magistrate's Decision and found that "the Administrative determination is in the best interest of the minor child and the objection is overruled." The magistrate recommended that the "Administrative determination shall be the Order of the Court, effective April 6, 2010."

{¶4} On August 2, 2010, the court issued a Judgment Entry, stating that the court had independently reviewed the matter and adopting the Magistrate's Decision in full.

{¶5} Howard filed Objections to Decision of Magistrate on August 10, 2010, and argued that the magistrate erred by failing to conduct the hearing de novo and failing to perform an independent calculation of child support. In addition, Howard argued that the magistrate erred in finding that the determination of child support should be reviewed under a best interest standard.

{¶6} On August 27, 2010, Howard filed an appeal with this court.

{¶7} On September 1, 2010, the trial court overruled Howard's Objections to Decision of Magistrate.

{¶8} On December 7, 2010, this court issued a Judgment Entry, finding that the trial court's August 2, 2010 Judgment Entry was not a final appealable order, as the trial court's entry "merely orders that a previous administrative order shall be the order of the court without separately stating the judgment and relief granted to the parties." This court remanded the matter to the trial court for twenty days for the purpose of "allowing the trial court to issue a judgment which not only adopts or rejects the magistrate's decision after its own independent review but which sets forth in the judgment all that is needed to determine what is necessary to comply with the judgment."

{¶9} Upon remand, the trial court issued a Judgment Entry on December 16, 2010, stating the court "refers this matter back to the magistrate for Findings of Fact and Conclusions of Law."

{¶10} On December 20, 2010, the magistrate issued Findings of Fact and Conclusions of Law in this case. The Findings of Fact stated that the only testimony offered during the July 30, 2010 court hearing was the testimony of Howard, discussing the questions asked to him during the administrative hearing. The magistrate also stated that the administrative hearing officer found both Ledenican and Howard to be voluntarily unemployed and that neither had a disability preventing them from working. The magistrate again found that the administrative decision was in the best interest of the child and overruled the objections to the administrative decision.

{¶11} The trial court issued a Judgment Entry on December 27, 2010. It stated that it had independently reviewed the Findings of Fact and Conclusions of Law of the magistrate and found that the Objection to the Administrative Determination of Child Support was without merit and overruled. The trial court made further findings that

"effective April 6, 2010, *** Howard[] shall pay $222.71 per month for current child support plus 2% processing charge for a total of $227.16 per month" for the minor child. The Entry also specified that the duty of support continued until the child was eighteen, and provided the appropriate method of payment. The court also found that regarding health care needs, Howard was to pay 50% of the health care needs of the child and that Ledenican was also to pay 50% of such costs. The court also attached a child support worksheet to its Entry.

{¶12} On January 12, 2011, this court issued a Judgment Entry, finding that, due to the trial court's December 27, 2010 Judgment Entry, there was now a final appealable order. The Entry stated that Howard's "Notice of Appeal filed August 26, 2010, will be considered a premature appeal as of December 27, 2010, pursuant to App.R. 4(C) and shall proceed according to the Ohio Rules of Appellate Procedure."[1]

{¶13} Howard timely appeals and asserts the following assignment of error:

{¶14} "The trial court below abused its discretion in adopting a Magistrate's Decision which was clearly contrary to law."

{¶15} Howard argues that the trial court abused its discretion by adopting the Magistrate's decision because it failed to comply with the requirements of R.C. 3119.02 and that, because of this failure, the trial court did not conduct a de novo review of Howard's child support obligation.

{¶16} A trial court's decision regarding child support obligations will not be overturned absent a showing of an abuse of discretion. *Booth v. Booth* (1989), 44 Ohio

1. Howard filed his brief on October 20, 2010, prior to the December 7, 2010 Judgment Entry of this court remanding to the trial court due to a lack of a final appealable order. After the issuance of the trial court's December 27, 2010 Judgment Entry, Howard did not file a supplemental brief or additional assignments of error with this court.

St.3d 142, 144. Moreover, "[t]he decision to adopt, reject or modify a magistrate's decision will not be reversed on appeal unless the decision was an abuse of discretion." *Bandish v. Bandish*, 11th Dist. No. 2002-G-2489, 2004-Ohio-3544, at ¶13.

{¶17} Howard brought this case to the trial court through an objection to the administrative decision of CSEA. See R.C. 3111.84 ("[t]he mother or father of a child who is the subject of an administrative support order may object to the order by bringing an action for the payment of support and provision for the child's health care under section 2151.231 of the Revised Code in the juvenile court *** of the county in which the child support enforcement agency that employs the administrative officer is located").

{¶18} "In any action in which a court child support order is issued or modified, in any other proceeding in which the court determines the amount of child support that will be ordered to be paid pursuant to a child support order, or when a child support enforcement agency determines the amount of child support that will be paid pursuant to an administrative child support order, the court or agency shall calculate the amount of the obligor's child support obligation in accordance with the basic child support schedule, the applicable worksheet, and the other provisions of sections 3119.02 to 3119.24 of the Revised Code. The court or agency shall specify the support obligation as a monthly amount due and shall order the support obligation to be paid in periodic increments as it determines to be in the best interest of the children. In performing its duties under this section, the court or agency is not required to accept any calculations in a worksheet prepared by any party to the action or proceeding." R.C. 3119.02.

{¶19} Howard asserts that the trial court's Judgment Entry did not calculate or state the amount of child support owed by Howard, as required by R.C. 3119.02.

{¶20} We agree that the trial court's initial August 2, 2010 Judgment Entry did not properly state the obligations of the parties. That Entry did not state the amount of support to be paid monthly or include a child support worksheet, as required by R.C. 3119.02. However, that Entry was not a final appealable order and this court remanded to the trial court, based on the Entry's failure to separately state the judgment and relief granted to the parties and that the Entry simply adopted CSEA's administrative order.

{¶21} The trial court issued a new Judgment Entry on December 27, 2010, which was deemed by this court to be a final appealable order. This court made this clear when it issued its January 12, 2011 Judgment Entry, finding that, due to the trial court's December 27, 2010 Judgment Entry, there was now a final appealable order and that the appeal would be considered premature as of December 27, 2010. See Civ.R. 4(C). Therefore, the appeal was to proceed as it related to the December 27 Entry of the trial court.

{¶22} We also note that Howard has not amended or supplemented his appellate brief or assignments of error to address any new concerns that may have arisen from the Judgment Entry issued upon remand.

{¶23} Therefore, Howard's argument that the trial court failed to make a determination as to child support in its original August 2, 2010 Entry will only have merit if it applies to the December 27 Entry. See *Miller v. Miller*, 11th Dist. No. 2008-T-0105, 2009-Ohio-4258, at ¶25 (while the appellant's argument "may have been true prior to the remand," it was no longer applicable based on the trial court's new Entry and therefore, was found to be without merit).

{¶24} While the court may have initially erred, the court did not abuse its discretion when issuing its December 27 Judgment Entry. The court's December 27 Entry states the amount Howard must pay in monthly child support, includes determinations regarding medical expenses, and had an attached support worksheet, as required by R.C. 3119.02. Although the trial court did not prepare the worksheet on its own, it adopted the worksheet as prepared by CSEA. This is an acceptable method of fulfilling the requirement to have a completed worksheet made part of the record. See *Anderson v. Anderson*, 147 Ohio App.3d 513, 2002-Ohio-1156, at ¶¶85-86; *McCoy v. McCoy* (1995), 105 Ohio App.3d 651, 655 (the court may include a worksheet prepared by CSEA when the court is adopting the amounts listed in the worksheet).

{¶25} In addition, the court also stated in its December 27 Entry that it conducted an independent review of the facts. Howard does not present any specific arguments about how the trial court failed to conduct such an independent review, aside from the argument addressed above. Additionally, he raises no new issues related specifically to the December 27 Entry. "Ordinarily, it is presumed that the trial court performed an independent analysis in reviewing the magistrate's decision. *** Accordingly, the party asserting error bears the burden of affirmatively demonstrating the trial court's failure to perform its Civ.R. 53(E) duty of independent analysis." *Adoption of M.E.M.*, 11th Dist No. 2010-L-020, 2010-Ohio-4430, at ¶25, (citations omitted); *Hartt v. Munobe*, 67 Ohio St.3d 3, 7, 1993-Ohio-177. In this case, no evidence was presented that the trial court failed to conduct an independent review in its December 27 Judgment Entry. The only error that Howard found to exist in the trial court's August 2 Entry was corrected upon remand.

{¶26} Accordingly, Howard's sole assignment of error is without merit.

{¶27} For the foregoing reasons, the decision of Lake County Court of Common Pleas, Juvenile Division, awarding Ledenican $222.71 a month in child support for Howard and Ledenican's minor child, Heaven, is affirmed. Costs to be taxed against appellant.

TIMOTHY P. CANNON, P.J.,

CYNTHIA WESTCOTT RICE, J.,

concur.