

[Cite as *Ride v. Ride*, 2008-Ohio-4144.]

IN THE COURT OF APPEALS FOR GREENE COUNTY, OHIO

CLAIRE RIDE (nka Claire Boyer)	:	
Plaintiff-Appellant	:	C.A. CASE NO. 2007 CA 68
v.	:	T.C. NO. 2002 DR 0224
JEFFREY L. RIDE	:	(Civil Appeal from Common
Defendant-Appellee	:	Pleas Court, Domestic Relations)
	:	

**OPINION**

Rendered on the 15<sup>th</sup> day of August, 2008.

CLAIRE BOYER, 2812 Varsity Drive, Beavercreek, Ohio 45431  
Plaintiff-Appellant

JEFFREY L. RIDE, 4206 Tradewind Court, Englewood, Ohio 45322  
Defendant-Appellee

WOLFF, P.J.

{¶ 1} Claire Boyer appeals from a judgment of the Greene County Court of Common Pleas, Domestic Relations Division, which denied her motion to find her former husband, Jeffrey Ride, in contempt.

{¶ 2} Ride and Boyer were married in 1988, having entered into a prenuptial agreement

that kept their premarital assets separate, as well as their earnings and other income during the marriage. One child was born of the marriage. In July 2002, Boyer filed a complaint for divorce. In July 2004, the final judgment and decree of divorce was entered.

{¶ 3} In September 2006, Boyer filed a motion to hold Ride in contempt for failure to comply with the divorce decree in three respects. Following a hearing, the magistrate concluded that two of the bases for the alleged contempt were without merit. Boyer's third argument was found to be "in part well taken." The magistrate set forth conditions for Ride to purge the contempt within thirty days, and the trial court approved the magistrate's recommendations.

{¶ 4} Boyer appeals from the denial, in part, of her motion for contempt. She raises four assignments of error.

{¶ 5} I. "THE TRIAL COURT ERRED BY APPLYING ITS FINAL DIVORCE DECREE RULING REGARDING RECORDING COMPANY PROFITS ONLY TO PROFITS EARNED AFTER THE DATE OF THE DECREE."

{¶ 6} The parties invested \$26,000 in a recording company during their marriage, of which \$4,000 was "out of Claire Ride's funds." This fact is undisputed. The magistrate's decision and order dated September 19, 2003, stated: "Therefore, Claire Ride shall be entitled to 4/26th of any profits. Ride shall forward her portion of the profits immediately upon receiving them." Boyer did not object to this finding, and the trial court used the same language in its July 2004 Final Judgment and Decree of Divorce.

{¶ 7} Boyer's motion for contempt asserted that Ride had failed to comply with the trial court's order with respect to the profits from the recording company. She claimed that she was entitled to profits from the date of the marriage, rather than the date of the decree, and that

profits had been earned for which she had not been paid her share. Ride moved to dismiss the portion of the motion for contempt that was based on nonpayment of the recording company's earnings. The trial court granted the motion to dismiss on the basis that Boyer had "no evidence of [Ride] receiving any profits after \*\*\* the date the final decree of divorce was filed."

{¶ 8} Boyer appeals from the dismissal of this portion of her motion for contempt. However, her position is unsupported by the record. The language contained in the decree of divorce does not support her assertion that she was entitled to share in the profits from the recording company from the date of the marriage. Although no time frame is specified, the court's ruling appears to have had prospective application.

{¶ 9} The trial court also correctly concluded that Boyer did not present any evidence that a profit had been earned since the date of the divorce decree. On appeal, Boyer relies on statements by Ride's attorney at the hearing to support her position. The attorney stated that the value of the company was unknown and that Ride had received a sum total of \$412.44 on the investment to date. It was not clear whether the \$412.44 was earned before or after the divorce. The attorney also indicated that Ride was expecting a profit in the future. These statements do not substantiate Boyer's claim that Ride had earned a profit since the divorce. Thus, there was no basis to conclude that he had failed to pay Boyer a portion of the profits in accordance with the divorce decree.

{¶ 10} The first assignment of error is overruled.

{¶ 11} II. "THE TRIAL COURT ERRED BY RULING ON APPELLANT/PLAINTIFF'S REMEDIES FOR NON-PAYMENT OF A COURT ORDER IN LIEU OF CONSIDERING THE CONTEMPT MOTION."

{¶ 12} The decree of divorce awarded Boyer \$13,228.22, plus interest, in repayment of separate funds used to make a down payment on the marital home, with the interest beginning to accrue on the date of the decree. The court did not specifically state how or when the money was to be repaid. Boyer sought to hold Ride in contempt for failure to pay. The magistrate found that the decree did not require Ride to make any payments to Boyer:

{¶ 13} “The Court has not ordered him to pay that back. The Court has not ordered him to make monthly payments. It’s given you that judgment. Under Ohio law you have certain remedies that you can exercise to collect that judgment. You can execute on his property. You can garnish his wages. You can do whatever you want to, to collect that judgment. But this Court cannot find him in contempt because it didn’t order him to pay it. \*\*\*”

{¶ 14} The trial court adopted this position as well, adding that the court no longer had jurisdiction over the judgment and that Boyer should seek a certificate of judgment in the general division of the common pleas court.

{¶ 15} The trial court, in the divorce decree, granted Boyer a money judgment for \$13,228.88, plus interest, and nothing more. The trial court did not put a payment schedule for this obligation into the decree. As such, the magistrate and trial court were correct that Ride could not be held in contempt because he had not violated any order that he pay money to Boyer. Furthermore, the magistrate and trial court correctly identified certain collection methods available to Boyer.

{¶ 16} If Boyer was dissatisfied with the failure of the trial court to put a payment schedule in the decree, she should have appealed from the July 2004 divorce decree and assigned this failure as error. Notwithstanding, we think the trial court possesses the jurisdiction to reopen the divorce

decree to establish a reasonable payment schedule for this obligation, and we urge the trial court to consider doing so.

{¶ 17} The second assignment of error is overruled.

{¶ 18} III. “THE TRIAL COURT ERRED BY MISCALCULATING THE AMOUNT APPELLEE/DEFENDANT OWED APPELLANT/PLAINTIFF FOR THE MINOR CHILD’S UNINSURED MEDICAL COSTS.”

{¶ 19} In the divorce decree, Boyer was ordered to pay the first \$100 per year in medical expenses for the parties’ daughter that were not covered by insurance. Thereafter, Boyer was required to pay 55.44% and Ride was required to pay 44.56%. In her motion for contempt, Boyer claimed that Ride had failed to pay his percentage of the costs of medical care for their daughter, which was hurting her credit rating. Boyer also disputed the use of a calculation in which her initial payment of \$100 was deducted from the amount Ride owed, rather than from the total medical expenses before the percentages were calculated. The magistrate’s finding with respect to unpaid medical expenses was as follows:

{¶ 20} “The evidence establishes that [Boyer] is owed \$416.31 on unpaid medical expenses for the minor child of the parties. The evidence establishes that [Ride] has made occasional payments to [Boyer] and care providers but the evidence further establishes that all bills for medical expenses incurred by [Boyer] have not been presented to [Ride] on a timely basis.”

{¶ 21} In adopting the magistrate’s decision, the court further stated that Ride had presented proof of paying \$2,052.65 of the \$2,468.96 owed for medical expenses. Thus, the court adopted the magistrate’s order that Ride pay \$416.31 for medical expenses. Boyer claimed that this amount was understated by \$312.03.

{¶ 22} Although Boyer compiled a detailed list of medical expenses, insurance coverage, and the parties' contributions, she was not able to answer several questions about the document at the hearing. For example, she was unable to explain how the document accounted for the first \$100 that she was to pay each year and for some recent payments made by Ride. As such, the trial court did not abuse its discretion in refusing to order Ride to pay the total sum sought by Boyer. Moreover, the trial court credited Ride's testimony that Boyer did not always present medical expenses to him in a timely fashion that would enable him to keep current on those payments.

{¶ 23} Based on the evidence presented, we cannot conclude that the trial court abused its discretion in resolving the question of outstanding medical expenses as it did. The third assignment of error is overruled.

{¶ 24} IV. "THE TRIAL COURT ERRED BY FAILING TO FIND APPELLEE-DEFENDANT IN CONTEMPT FOR VIOLATION OF CERTAIN ORDERS IN THE FINAL DECREE OF DIVORCE AND BY FINDING HIM ONLY IN CONTEMPT IN PART FOR HIS FAILURE TO PAY HIS PORTION OF THE MINOR CHILD'S UNINSURED MEDICAL EXPENSES."

{¶ 25} Under this assignment of error, Boyer contends that the trial court erred in not finding Ride in contempt for non-payment of record company profits, as discussed in the first assignment of error, failure to repay the separate property used for the down payment on the house, as discussed in the second assignment, and nonpayment of medical expenses, as set forth in the third assignment.

{¶ 26} First, because we find no abuse of discretion in the trial court's conclusion that no record company profits had been established, the trial court did not err in failing to issue a finding of contempt on that basis.

{¶ 27} Second, the trial court properly concluded that Ride was not in contempt for failure to pay a mere money judgment, although we believe the trial court has the jurisdiction to even now establish a payment schedule for the obligation evidenced by that judgment.

{¶ 28} Third, it is apparent from the trial court proceedings and its conclusions related to the medical expenses that the amount owed at any given time was somewhat unclear. Moreover, the court attributed some of the difficulty to Boyer's inconsistency in requesting reimbursement or notifying Ride of expenditures. In adopting the magistrate's recommendation, it appears that the court did find Ride in contempt for failure to pay an additional \$416.31, but that it was sympathetic to Ride's confusion over the amount to be paid. Thus, the court gave Ride 30 days to purge the contempt. The court acted within its discretion in resolving this issue as it did.

{¶ 29} The fourth assignment of error is overruled.

{¶ 30} The judgment of the trial court will be affirmed.

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BROGAN, J. and FAIN, J., concur.

Copies mailed to:

Claire Boyer  
Jeffrey L. Ride  
Hon. Steven L. Hurley