[Cite as *Colosimo v. Kane*, 2015-Ohio-3337.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101053

MICHAEL COLOSIMO

PLAINTIFF-APPELLEE/
CROSS-APPELLANT

vs.

KATHY COLOSIMO KANE

DEFENDANT-APPELLANT/
CROSS-APPELLEE

JUDGMENT
AFFIRMED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. DR-03-294209

BEFORE: McCormack, J., Kilbane, P.J., and E.T. Gallagher, J.

RELEASED AND JOURNALIZED: August 20, 2015

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TIM McCORMACK, J.:

{¶1} Plaintiff-appellee, Michael Colosimo ("Michael"), filed a post-decree motion to modify his spousal support four years after his divorce from defendant-appellant, Kathy Colosimo Kane ("Kathy"). The domestic relations court reduced his spousal support and also made a finding regarding the support arrearage. Kathy appealed the court's reduction of spousal support, and Michael cross-appealed the court's determination of his support arrearage. Reviewing this post-decree matter for an abuse of discretion, we affirm the judgment of the domestic relations court.

Background

{¶2} Michael and Kathy were married in 1987. They have four children. Sixteen years later, in 2003, Michael filed for divorce. After five years of prolonged litigation that consumed the bulk of the marital assets, the parties reached a settlement in 2008. Michael was to pay $596.65 per month for the couple's two remaining minor children and $4,250 per month for spousal support. The spousal support amount of $51,000 per year was based on Michael's annual salary of $102,000 and Kathy's lack of income. Michael was also to pay $1,750 per month on the mortgage and equity line for the maternal home. His total support payment under the judgment of divorce was over $79,000 a year, more than three-fourths of his annual income.

{¶3} Michael later sought to set aside the settlement agreement. The trial court denied his motion and entered a judgment of divorce. On appeal, this court affirmed the

trial court's judgment. *Colosimo v. Colosimo*, 8th Dist. Cuyahoga No. 91883, 2009-Ohio-3892.

Michael's Motion to Modify Spousal Support

{¶4} Three years after the divorce, in September 2011, Michael was laid off from his job. Before he lost his employment, he was able to pay child support payments. He also made payments on the marital residence until December 2011. However, he never fully paid his spousal support obligation of $51,000 a year — he paid $34,692 in 2009, $33,143 in 2010, and $35,353 in 2011 in spousal support.

{¶5} In May 2012, Michael found new employment, which paid $77,000 a year. In the same month, he filed a motion to modify his spousal support. He argued that a reduction of support was warranted because his income was substantially reduced and his ex-wife was voluntarily unemployed.

{¶6} In response, Kathy filed a contempt motion, claiming that Michael was in arrears in his support obligation and also that she had not received the property awarded to her in the divorce.

{¶7} The magistrate held a hearing on these motions on February 27, 2013, and March 1, 2013. On June 4, 2013, the magistrate issued a decision. The magistrate reduced Michael's spousal support obligation to $750 per month and ordered him to pay $208 per month toward his support arrearage. Adding the $292.48 per month in child support for the remaining minor child, his monthly support obligation is now $1,250.48.

The magistrate also determined Michael's support arrearage to be $80,766.84 as of January 31, 2013.

{¶8} Kathy objected to the magistrate's decision on both the reduction in spousal support and the amount of arrearage. The magistrate held an additional hearing on the arrearage matter on October 31, 2013. After the hearing, the magistrate amended her decision on November 6, 2013; the reduced support amount remained the same, but the arrearage was changed from $80,766.84 as of January 31, 2013, to $86,411.34 as of October 4, 2011.

{¶9} On January 27, 2014, the trial court adopted the magistrate's decision and issued a judgment entry. Kathy appeals the court's judgment regarding the reduction of Michael's support obligation; Michael cross-appeals from the court's judgment regarding the arrearage amount.

Wife's Appeal: the Reduction in Support

{¶10} On appeal, Kathy assigns five assignments of error. They state:

1. The Trial Court erred by neither acknowledging, articulating nor applying the factors set forth in O.R.C. 3105.18(C) in modifying the spousal support obligation of Plaintiff/Appellee.

2. The Trial Court abused its discretion and/or improperly applied the criteria set forth in O.R.C. 3105.18(C) by downwardly modifying Plaintiff/Appellee's spousal support obligation $42,000 per year upon being presented with evidence that his income had decreased since the prior order by only $25,000 per year.

3. The Trial Court erred by failing to consider, 1) the disposition of marital assets and retirement accounts as required by O.R.C. 3105.18(C) in issuing its determination of spousal support

modification, and 2) the [e]ffect (C)(1) its order would have on the parties' standard of living.

4. The Trial Court erred by improperly applying the doctrine of impossibility for conditions which existed due to voluntary acts on behalf of Plaintiff/Appellant.

5. The Trial Court erred by acting arbitrarily and capriciously by allocating 34 years for Plaintiff/Appellee to repay a support arrearage which was $86,411.34 as of October 4, 2011.

All five assignments of error concern the trial court's application of R.C. 3105.18 in modifying the spousal support. We address them together.

{¶11} In awarding spousal support, the domestic relations court is given broad discretion in deciding "'what is equitable upon the facts and circumstances of each case.'" *Saks v. Riga*, 8th Dist. Cuyahoga No. 101091, 2014-Ohio-4930, ¶ 63, quoting *Kunkle v. Kunkle*, 51 Ohio St.3d 64, 67, 554 N.E.2d 83 (1990). "[A] spousal support decision is generally left to a trial court's discretion, subject to the statutory factors set forth in R.C. 3105.18(C)." *Id*. at ¶ 62.

{¶12} The domestic relations court must consider the factors listed in R.C. 3105.18(C) to determine whether spousal support is appropriate and reasonable. *Carreker v. Carreker*, 8th Dist. Cuyahoga No. 93313, 2010-Ohio-3411, ¶ 22. These factors include: (1) the income of the parties; (2) the earning abilities of the parties; (3) the ages and health of the parties; (4) the parties' retirement benefits; (5) the duration of the marriage; (6) the appropriateness of the parties to seek employment outside the home when there is a minor child; (7) the standard of living during the marriage; (8) the education of the parties; (9) the assets and liabilities of the parties; (10) the contribution

of either party to the other's education; (11) the cost of education of the party seeking support; (12) the tax consequences of a spousal support award; (13) the lost income that results from the parties' marital responsibilities; and (14) any other factor the court deems relevant. R.C. 3105.18(C)(1)(a)-(n).

{¶13} While the trial court must consider these statutory factors, it is not required to comment on each statutory factor and the record need only show that the court considered the statutory factors when making its award. *Carreker* at ¶ 22, citing *Carman v. Carman*, 109 Ohio App.3d 698, 703, 672 N.E.2d 1093 (12th Dist.1996). When the trial court does not specifically address each factor in its order, a reviewing court will presume each factor was considered, absent evidence to the contrary. *Schrader v. Schrader*, 9th Dist. Medina No. 2664-M, 1998 Ohio App. LEXIS 145 (Jan. 21, 1998), citing *Cherry v. Cherry*, 66 Ohio St.2d 348, 356, 421 N.E.2d 1293 (1981).

{¶14} This case concerns Michael's motion to modify a prior order of spousal support. The domestic relations court has jurisdiction to modify support when the judgment of divorce expressly reserves jurisdiction to make the modification and when the court finds that a substantial change in circumstances has occurred and the change is not contemplated at the time of the original decree. *Mandelbaum v. Mandelbaum*, 121 Ohio St.3d 433, 2009-Ohio-1222, 905 N.E.2d 172, ¶ 33.

{¶15} It is uncontested in this case that the trial court reserved jurisdiction in the judgment of divorce to modify the spousal support award. The gist of Kathy's argument

on appeal is that the trial court did not properly consider the statutory factors of R.C. 3105.18(C).

{¶16} Although the trial court must consider all statutory factors in R.C. 3105.18(C) (and not base its decision on any one of the factors in isolation), *Dunagan v. Dunagan*, 8th Dist. Cuyahoga No. 93678, 2010-Ohio-5232, ¶ 15, citing *Kaechele v. Kaechele*, 35 Ohio St.3d 93, 518 N.E.2d 1197 (1988), the trial court need not reexamine all the enumerated factors when considering a motion to modify spousal support; it need only consider the factors that have actually changed since the last order. *Kline v. Kline*, 8th Dist. Cuyahoga No. 86734, 2012-Ohio-479, ¶ 4, citing *Dean v. Dean*, 8th Dist. Cuyahoga No. 95615, 2011-Ohio-2401, ¶ 14.

{¶17} As to what constitutes a change of circumstances, R.C. 3105.18(F) states that a change in circumstances "includes, but is not limited to, any increase or involuntary decrease in the party's wages, salary, bonuses, living expenses, or medical expenses."

{¶18} Finally, the party seeking to modify a spousal support obligation bears the burden of showing that the modification is warranted. *Reveal v. Reveal*, 154 Ohio App.3d 758, 2003-Ohio-5335, 798 N.E.2d 1132, ¶ 14 (2d Dist.). The trial court's decision on a motion to modify spousal support will not be disturbed absent a showing that the trial court abused its discretion. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 450 N.E.2d 1140 (1983). *See also Ulery v. Ulery*, 2d Dist. Clark No. 2013 CA 39, 2013-Ohio-4951, ¶ 17. The term "abuse of discretion" connotes more than an error of

law or judgment; it implies that the court's attitude is unreasonable, arbitrary, or unconscionable. *Blakemore* at 219.

{¶19} Turning to the instant case, under the divorce decree, Michael's obligation with one remaining minor child would total $75,580 annually (= $1,750 per month on the marital home, spousal support of $4,250 per month, and child support of $298.33 per month for the remaining child). After May 2012, he makes $77,000 a year. Even before 2012, he was never fully able to meet his obligation. The magistrate also noted that Michael remarried since the divorce and has another child with his new wife. There were three minor children in the new household. She worked for his prior employer but was recently unemployed. She received $524 weekly in unemployment benefits. His monthly expenses for the household total $4,885.21 while Kathy's monthly expenses are $2,500. The magistrate found that, in light of his annual income of $77,000, Michael does not have the ability to pay his support obligation under the divorce decree.

{¶20} The magistrate also found Kathy was voluntarily unemployed. The court is vested with discretion to find voluntary unemployment; the finding and the amount of imputed income are matters to be determined by the trial court based on the facts and circumstances of each case and the determination will not be disturbed on appeal absent an abuse of discretion. *Rock v. Cabral*, 67 Ohio St.3d 108, 616 N.E.2d 218 (1993). Here, the magistrate noted that she has skills and abilities to earn money: she has a cosmetology license; since the divorce, she worked on a flower show and briefly managed a landscaping team on a golf course; and she also earned money by providing care for an

elderly person. Although she testified she had a condition that caused numbness in her hands in cold temperature, she admitted she did not apply for disability benefits, nor did she submit any medical evidence relative to the condition. Finding the condition did not impair Kathy's ability for gainful employment, the magistrate imputed minimum wage income of $17,235 to her. The finding is supported by the record.

{¶21} Based on Michael reduced income, the parties' relative household expenses, and Kathy's voluntary unemployment and imputed income, the magistrate reduced the monthly spousal amount from $4,250 to $750. Michael was also to continue to pay child support ($292.48 per month for the remaining one minor child), as well as an additional $208 per month toward the accrued support arrearage. His monthly payment totals $1,250.48. Our review of the record reflects that the trial court considered the pertinent factors in 3105.18(C)(1) in reducing the spousal support under the circumstances of this case.

{¶22} Kathy argues the trial court abused its discretion in making an 83 percent reduction in spousal support while Michael's income was only reduced by 24 percent. Kathy argues the downward adjustment of spousal support should correlate exactly with Michael's reduction of income.

{¶23} Her claim lacks merit. The goal of spousal support is to achieve an equitable result, and there is no one mathematical formula to reach such a result. *Dunagan,* 8th Dist. Cuyahoga No. 93678, 2010-Ohio-5232, at ¶ 15. The record here reflects the trial court took into account not only Michael's reduced income but also the income available

to him to support his second family after the support payment to Kathy, as well as Kathy's voluntary unemployment and $17,235 in imputed income.

{¶24} Kathy also argues the trial court did not specifically take into account of the standard-of-living factor in reducing the spousal support, pointing to the fact that she has no retirement benefits. As the magistrate noted, the high-conflict, protracted divorce litigation consumed the bulk of Michael's retirement assets and left him with little to divide with Kathy.

{¶25} Kathy also claims that Michael should be found in contempt for failing to procure a $500,000 life insurance in her benefit, as he had agreed to do under the separation agreement. The terms of the separation agreement required Michael to pay Kathy $79,000 in total annual support. As the magistrate found, at the time of divorce, the premium for such a life insurance would have been $150 to $250 per month; adding this amount to the already hefty annual payment of $75,580, his total annual obligation would have been at least $77,380 on a $102,000 income. The trial court did not find Michael in contempt on the ground that he proved the defense of impossibility to pay.

{¶26} An appellate court will not overturn a trial court's decision on a contempt motion absent an abuse of discretion. *State ex rel. Celebrezze v. Gibbs*, 60 Ohio St.3d 69, 573 N.E.2d 62 (1991). More specifically, when a party did not obey the court order due to an inability to pay, a refusal to punish for contempt is largely within the discretion of the trial court. *Baxter v. Thomas*, 8th Dist. Cuyahoga No. 101186, 2015-Ohio-2148,

¶ 78. We will not disturb the trial court's finding that Michael was not in contempt for failing to procure a life insurance.

{¶27} Finally, Kathy claims the trial court abused its discretion in ordering Michael to pay only $208 per month toward the support arrearage. She alleges the rate of payment should be much higher.

{¶28} R.C. 3123.21(A) provides that

> an order to collect current support due under a support order and any arrearage owed by the obligor under a support order pertaining to the same child or spouse shall be rebuttably presumed to provide that the arrearage amount collected with each payment of current support equal at least twenty per cent of the current support payment.

{¶29} Here, the trial court's order requiring Michael to pay $208 per month toward his arrearage is in keeping with the rebuttal presumption of 20 percent of his current support payment established in the statute. Michael's combined spousal and child support is $1,042.48; 20 percent of that amount is $208. We find no abuse of discretion by the trial court in ordering the statutory percentage toward his arrearage. *York v. York*, 12th Clermont No. CA2011-03-016, 2011-Ohio-5872, ¶ 41.

{¶30} For the foregoing reasons, Kathy's first, second, third, fourth, and fifth assignments of error are without merit.

Husband's Cross-Appeal

{¶31} In Michael's cross-appeal, he raises nine assignments of error. They state:

> 1. Appellant/Cross-Appellee failed to file timely Objections. The Court abused its Discretion when it overruled Cross-Appellant's Motion to Dismiss in violation of Civ. R. 53 and Loc.R. 27.

2. Appellant/Cross-Appellee raises arguments on appeal which she failed to raise in her Objections. This Court should dismiss or overrule all arguments raised on Appeal which were not raised in Objections.

3. Appellant/Cross-Appellee failed to object to the stipulation during trial. The Parties entered into stipulations in open court and on the record. The Court's finding that the stipulation was invalid was against the manifest weight of the evidence.

4. The Trial Court held a Civ.R. 53 hearing and excluded all evidence from the parties regarding the stipulation. The Court abused its discretion when it vacated the stipulation.

5. The law of the case provides that when the parties enter into an agreement the Court will not overturn said agreement. The Court abused its discretion when it failed to apply the law of the case and enforce the stipulation.

6. The Trial Court abused its discretion when it failed to find a termination date for the spousal support award.

7. The Trial Court abused its discretion when it characterized mortgage payments as property division where the Decree of Divorce specifically defines said payments as spousal support.

8. The Trial Court abused its discretion when it failed to recognize the mortgage payments as spousal support and failed to include said payments in the spousal support modification.

9. The Trial Court abused its discretion when it ordered a lump sum judgment on the mortgage payments where there was no finding of contempt.

The Dispute Regarding the Spousal Support Arrearage

{¶32} The first five assignments of error all concern the amount of arrearage found by the trial court. The record reflects the following pertinent facts relating to these claims.

{¶33} At the initial hearing on Michael's motion to modify support held on February 27, 2013, the magistrate was advised that based on an audit performed by the Child Support Enforcement Agency ("CSEA") requested by Michael's counsel, the support arrearage would be stipulated to be $80,766.84.

{¶34} Subsequently, on March 28, 2013, Kathy filed a "Notice of Incomplete Audit," bringing to the court's attention that there was a discrepancy between the CSEA's payments record in this case, which reflected an arrearage amount of $121,134.13 as of January 4, 2013, and the stipulated amount; the latter was based on an audit calculated with the instruction from Michael's counsel not to take into consideration the arrears determination from the judgment of divorce (which ordered $32,441 of arrears at the time of divorce) and a judgment entry entered on January 11, 2012.

{¶35} Despite Kathy's challenge to the amount of arrearage, the magistrate adopted the stipulated amount in her initial decision on June 4, 2013, stating that the arrearage amount had been stipulated to be $80,766.84 as of January 31, 2013. Kathy filed objections to the magistrate's decision.

{¶36} Because of Kathy's objections, on October 31, 2013, the magistrate held another hearing specifically on the issue of arrearage. Two CSEA representatives testified as to the audit. The testimony reflects that the audit was to be used for the

parties' pretrial negotiations only and the agency would not have prepared the audit had it known the information would be used in court. The testimony also shows that the agency calculated the arrearage based on the instruction from Michael's counsel to exclude the previously adjudicated amount of arrearage and that, without the specific instruction, the agency would have taken into account the determinations in previous court orders. Kathy was apparently unaware that the arrearage amount in any previous judgment entries had been excluded in the agency's calculation when she agreed to the stipulated amount.

{¶37} After the hearing on the arrearage issue, on November 6, 2013, the magistrate issued an amended decision, finding that, based on the October 31, 2013 hearing, the amount of arrearage stipulated at the February 27, 2013 hearing should be set aside. The magistrate explained that the testimony from the October 31, 2013 hearing showed that the audit did not take into account arrearage amounts determined in previous judgment entries. Although a letter from Michael's counsel was sent to Kathy before the February 27, 2013 hearing explaining that fact, Kathy apparently did not receive the letter and was not aware that the audit was calculated without using the previously adjudicated amount of arrearage. Because of the mistaken belief on the part of Kathy, the magistrate found the stipulated amount should be set aside.

{¶38} Furthermore, the magistrate noted there was a lack of payment records from the CSEA in evidence for the magistrate to accurately determine the arrearage; therefore, the magistrate decided the arrearage calculation in the court's January 11, 2012 order

(issued when the court emancipated one of the children) should be adopted instead. That order showed an arrearage amount of $86,411.34 as of October 4, 2011. The magistrate's determination regarding the arrearage was affirmed by the trial court.

{¶39} Michael's first assignment of error relates to the timeliness of Kathy's objections to the magistrate's June 4, 2013 decision. Kathy did not file her objections within the 14-day period required by the rules. Rather, she filed a motion to extend time, which was granted by the trial court. Michael argues the court should not have granted Kathy's motion for an extension of time.

{¶40} Michael's argument lacks merit. The record reflects Kathy filed her motion to extend time to file objections within the 14-day period for objections. Michael cites Loc.R. 27(3)(a) of the Court of Common Pleas of Cuyahoga County, Domestic Relations Division, for his claim that such an extension of time is prohibited. That rule states that no extension of time shall be granted for filing objections to the magistrate's decision within the 14-day period.

{¶41} The local rules differ from Civil Rule 53. Pursuant to Civ.R. 53(D)(3)(b)(i), a party may file objections to a magistrate's decision within 14 days of the filing of the decision. However, Civ.R. 53(D)(5) permits the trial court to grant a reasonable extension of time for a party to file objections outside the 14-day time "for good cause shown." *See Napier v. Cieslak*, 12th Dist. Butler No. CA2014-12-242, 2015-Ohio-2574, ¶ 5.

{¶42} "[W]hen the operation of a local court rule and an Ohio Civil Rule conflict, the local rule must give way to the operation of the Civil Rule." *Fidelity & Guar. Ins. Underwriters v. Aetna Cas. & Sur. Co.*, 6th Dist. Lucas No. L-92-024, 1993 Ohio App. LEXIS 3324 (June 30, 1993). "Courts are given latitude in following their own local rules." *In re D.H.*, 8th Dist. Cuyahoga No. 89219, 2007-Ohio-4069, ¶ 25. "The enforcement of local rules is a matter within the discretion of the court promulgating the rules." *Jackson v. Jackson*, 11th Dist. Lake Nos. 2011-L-016 and 2011-L-017, 2012-Ohio-662, ¶ 30.

{¶43} Here, on the 14th day of the magistrate's decision, June 17, 2013, Kathy filed a motion to extend time to file objections to the magistrate's decision. The trial court here had the authority to grant an extension of time pursuant to Civ.R. 53(D)(5), and it was within the trial court's discretion to do so. *Tate v. Owens State Community College*, 10th Dist. Franklin No. 10AP-1201, 2011-Ohio-3452, ¶ 12, The first cross-assignment of error lacks merit.

{¶44} Under the second cross-assignment of error, Michael claims this court should not consider Kathy's argument regarding the stipulated arrearage because she raises it for the first time on appeal without the trial court having had an opportunity to address it.

{¶45} Michael's claim is clearly contradicted by the record. The record reflects Kathy filed a "Notice of Incomplete Audit" after the February 27, 2013 hearing, bringing to the trial court's attention that the stipulation was calculated by the agency without

taking into account prior judgment entries. She again challenged it in her objections to the magistrate's decision. The trial court had an opportunity to consider the issue — the magistrate had indeed held a hearing solely on this issue. The second cross-assignment of error lacks merit.

{¶46} The third, fourth, and fifth cross-assignments of error all concern whether the trial court abused its discretion in adopting the magistrate's amended (November 6, 2013) decision that set aside the stipulated amount of arrearage found in the initial magistrate's decision.

{¶47} A magistrate's decisions is interlocutory in nature, and remains so, unless and until the court adopts it and enters a final order. *Price v. Klapp*, 9th Dist. Summit No. 27343, 2014-Ohio-5644, ¶ 7. Furthermore, "Ohio courts have given weight to the principal of judicial economy and recognition to the fact that magistrate decisions may be reconsidered by permitting evidence arising between the magistrate's decision and the trial court's judgment to be heard."

In re A.S., 9th Dist. Summit No. 26462, 2013-Ohio-1975, ¶ 20.

{¶48} While the trial court is generally required to abide by a stipulation that has been presented to and accepted by the trial court, the court need not accept or enforce a stipulation when the stipulation is shown to have been "the result of fraud, or it is unconscionable or unreasonable under the facts and circumstances present, or it is otherwise unjust." *Miller v. Miller*, 9th Dist. Lorain No. 4409, 1989 Ohio App. LEXIS 72 (Jan. 11, 1989), citing *Ish v. Crane*, 13 Ohio St. 574, 579-580 (1862). *See also J.*

Bauer v. Bauer, 8th Dist. Cuyahoga No. 42805, 1981 Ohio App. LEXIS 14005, *8 (Apr. 2, 1981) (the trial court has discretionary authority to reject or modify an agreement between the parties where the court finds the agreement to be unfair, unjust, or inequitable).

{¶49} Here, the magistrate held a hearing on Kathy's contention that the agency's audit, upon which the stipulated amount was based, did not take into account previous judgment entries. After a consideration of testimony from the agency representative showing how the discrepancy came about, the court set aside the stipulated amount. We find no abuse of discretion. The third, fourth, and fifth cross-assignments of error lack merit.

Lack of Termination Date for Support Payments

{¶50} Under the sixth cross-assignment of error, Michael asserts that the trial court abused its discretion in not ordering a termination date for the spousal support award. Regarding the duration of spousal support award, the courts are to consider factors such as the duration of a marriage, the parties' ages, whether a spouse is a homemaker with little opportunity to develop meaningful employment outside the home, and whether a spouse has the resources, ability, and potential to be self-supporting. *Kunkle*, Ohio St.3d at 69, 554 N.E.2d 83.

{¶51} Here, the trial court considered Michael's current income, the parties' ages (both parties are in their 50's), and Kathy's ability for employment. It reduced Michael spousal support amount by 80 percent, reduced his monthly obligation on the marital

home, ordered a fairly small monthly payment on his arrearage, and no longer required him to obtain life insurance to benefit Kathy. The trial court has broad discretion to fashion a support award that is appropriate and reasonable. Under the circumstances of this case, we are unable to conclude the trial court abused its discretion in not providing a termination date for the support payments. Because the trial court reserved jurisdiction in the matter, Michael is not precluded from requesting a termination of support under R.C. 3105.18 when the ordered support is no longer appropriate or reasonable. The sixth cross-assignment of error lacks merit.

The Mortgage and Line of Equity Payments

{¶52} The seventh, eighth, and ninth cross-assignments of error concern the nature of the mortgage/line of equity payments on the marital residence. We address them together. The following facts pertain to these claims.

{¶53} In the judgment of divorce, the court awarded the martial residence to Kathy as part of the couple's property division and Michael was ordered to make the monthly payments ($1,750) on the mortgage/line of equity until all the indebtedness relating to the home was fully paid off. The judgment, however, seemingly contradictory, also stated Michael's mortgage and home equity payments were to be considered "non-taxable spousal support."

{¶54} In the magistrate's November 6, 2013 decision, adopted by the trial court, the magistrate clarified that the payments toward the debt incurred on the house was a

part of the parties' property division and, as such, would not be reduced in Michael's instant motion to modify support.

{¶55} The magistrate also noted that Michael made the mortgage and equity payments until December 2011, and that the residence was now under water and a foreclosure had been filed. The magistrate, based on Michael's monthly obligation of $1,750 per month from December 2011 through February 2013 (the time of hearing), determined Michael owed $24,500 (14 months x $1,750) and entered a judgment of $24,500 against Michael. The magistrate in addition noted that, under the terms of the divorce decree, Michael will continue to accrue the amount that was due on the monthly mortgage/equity line payments as debt payable to Kathy, until the value of the debt owed on the home at the time of the divorce is satisfied.

{¶56} On appeal, Michael argues the trial court abused its discretion. He argues the trial court should have considered the mortgage/equity line payments as supposal support, rather than property division, and reduced the payments as well, based on his inability to pay.

{¶57} "[W]here there is good faith confusion over the requirements of the dissolution decree, a court has the power to enforce its decree, to hear the matter, clarify the confusion, and resolve the dispute." *Bond v. Bond*, 69 Ohio App.3d 225, 228, 590 N.E.2d 348 (9th Dist.1990). The trial court "has broad discretion in clarifying ambiguous language by considering not only the intent of the parties but the equities

involved." *Id.* We review a trial court's interpretation of ambiguous language in a divorce decree for an abuse of discretion. *Id.*

{¶58} Here, the court clarified that the periodic payments Michael was obligated to make on the marital home was part of the property division, and as such, would not be reduced in the instant motion to modify spousal support. The trial court did not abuse its discretion in clarifying a potential confusion in the divorce decree.

{¶59} Finally, Michael claims the trial court cannot reduce the payments he owed on the marital residence ($24,500) to a judgment without first finding him in contempt. He cites no authority to support his claim, however. An appellate court may disregard an assignment of error pursuant to App.R. 12(A)(2) if an appellant fails to cite any legal authority as required by App.R. 16(A)(7). We decline to review this claim pursuant to these appellate rules. The seventh, eighth, and ninth cross-assignments of error are overruled.

{¶60} Judgment affirmed.

It is ordered that appellant and appellee share the costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, domestic relations division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

_____
TIM McCORMACK, JUDGE

MARY EILEEN KILBANE, P.J., and
EILEEN T. GALLAGHER, J., CONCUR