[Cite as *Meyers v. Hendrich*, 2010-Ohio-4433.]

IN THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

PORTAGE COUNTY, OHIO

NICOLE E. MEYERS, f.k.a. NICOLE E. HENDRICH,	:	**O P I N I O N**
Plaintiff-Appellant/Cross-Appellee,	:	**CASE NO. 2009-P-0032**
- vs -	:	
BRADLEY T. HENDRICH,		
Defendant-Appellee/Cross-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Domestic Relations Division, Case No. 2008 DR 196.

Judgment: Affirmed.

Terry G. P. Kane, Kane & Kane, 111 East Main Street, Suite B, P.O. Box 167, Ravenna, OH 44266 (For Plaintiff-Appellant/Cross-Appellee).

Mora Lowry and *Kenneth L. Gibson*, Randal A. Lowry & Associates, 234 Portage Trail, P.O. Box 535, Cuyahoga Falls, OH 44222 (For Defendant-Appellee/Cross-Appellant).

TIMOTHY P. CANNON, J.

{¶1} Appellant/cross-appellee, Nicole E. Meyers, f.k.a. Nicole E. Hendrich, appeals the judgment entered by the Domestic Relations Division of the Portage County Court of Common Pleas. The trial court determined several matters in granting the parties a decree of divorce.

{¶2} The parties were married in 1996, and they have three children together: M.H – born in 1995, Z.H. – born in 2000, and E.H. – born in 2002.[1]

{¶3} The parties lived in an apartment in Streetsboro, Ohio. Meyers worked the third shift at a Wal-Mart Store. Hendrich worked at a jewelry store. However, at the time of the final hearing in this matter, both parties were involuntarily unemployed.

{¶4} In 2008, Meyers filed a complaint for divorce in the Summit County Court of Common Pleas. The matter was subsequently transferred to the Domestic Relations Division of the Portage County Court of Common Pleas. Thereafter, Hendrich filed his answer to the complaint and a counterclaim for divorce. Meyers responded to the counterclaim by filing an answer.

{¶5} The matter came on for a final divorce hearing. In addition to the guardian ad litem, both parties testified at the hearing. Significant evidence was presented at this hearing, especially in regard to the issue of custody of the parties' children. This evidence will be discussed in further detail in our analysis of the parties' assigned errors.

{¶6} Following the hearing, the trial court issued a final decree of divorce. Therein, among other matters, the trial court designated Hendrich the primary residential parent and legal custodian of the children; gave Meyers visitation rights pursuant to the court's standard order of visitation; ordered that any visitation between the children and their maternal grandparents and maternal uncle must be supervised; and ordered that Meyers be solely responsible for the debt associated with the repossession of her vehicle. In addition, the trial court retained jurisdiction on the issue of spousal support.

1. This court will refer to the minor children by their respective initials.

{¶7} Meyers has timely appealed the judgment of the trial court. In addition, Hendrich has filed a cross-appeal of the trial court's judgment.

{¶8} Meyers raises six assignments of error. Her first assignment of error is:

{¶9} "The trial court erred to the prejudice of plaintiff-appellant in designating defendant-appellee as custodial and residential parent of the parties' three minor children."

{¶10} We note a domestic relations court has significant discretion in allocating parental rights and responsibilities and this court uses an abuse of discretion standard of review when reviewing such determinations. *Dexter v. Dexter*, 11th Dist. No. 2006-P-0051, 2007-Ohio-2568, at ¶11, citing *Miller v. Miller* (1988), 37 Ohio St.3d 71, 74 and *Davis v. Flickinger* (1997), 77 Ohio St.3d 415, 418. An abuse of discretion is the trial court's "'failure to exercise sound, reasonable, and legal decision-making.'" *State v. Beechler*, 2d Dist. No. 09-CA-54, 2010-Ohio-1900, at ¶62, quoting Black's Law Dictionary (8 Ed.Rev.2004) 11.

{¶11} The trial court designated Hendrich the primary residential parent and legal custodian of the children. Meyers was given visitation rights pursuant to the court's standard order of visitation.

{¶12} In this matter, the parties and the children were evaluated by psychiatrists at Western Reserve Psychological Associates, Inc. This firm was chosen by stipulation of the parties. In a joint report, the three psychiatrists that conducted the evaluations recommended that Hendrich be designated the primary residential parent and legal custodian of the children. In addition, the trial court noted that the guardian ad litem

also recommended that Hendrich be designated the primary residential parent and legal custodian of the children.

{¶13} Moreover, the trial court noted Meyers' emotional issues. It commented on the fact that Meyers was very emotional during the trial. In addition, the court noted Meyers' suicide attempt and the alleged sexual abuse that occurred when she was a child. The trial court was concerned that her failure to deal with this alleged abuse could put the children at risk, as she would not be able to adequately protect them from potential future abuse from third parties.

{¶14} Meyers argues that the trial court failed to consider that she was the primary caregiver of the children. As Hendrich notes, this doctrine is not one of the delineated factors for the trial court's consideration set forth in R.C. 3109.04(F). *Rosebrugh v. Rosebrugh*, 11th Dist. No. 2002-A-0002, 2003-Ohio-4595, at ¶44. However, it may still be used by the trial court in its determination regarding the best interest of the children. Id. (Citation omitted.) In this matter, it is clear that any consideration the trial court gave to Meyers' role as a caretaker of the children was outweighed by its concerns regarding Meyers' emotional issues.

{¶15} Upon review of the evidence presented in this matter, the trial court did not abuse its discretion by designating Hendrich the primary residential parent and legal custodian of the children.

{¶16} Meyers' first assignment is without merit.

{¶17} Meyers' second and third assignments of error are:

{¶18} "[2.] The trial court erred to the prejudice of plaintiff-appellant in failing to remove the [guardian ad litem] from his appointment.

{¶19} "[3.] The trial court erred to the prejudice of plaintiff-appellant in appointing the acting guardian ad litem to continue as guardian post decree."

{¶20} Due to the similar nature of these assigned errors, we will address them in a consolidated analysis.

{¶21} This court reviews a trial court's determination on a motion to remove a guardian ad litem under the abuse of discretion standard of review. *Gabriel v. Gabriel*, 6th Dist. No. L-08-1303, 2009-Ohio-1814, at ¶15. Likewise, the abuse of discretion standard of review is used when reviewing a trial court's appointment of a guardian ad litem. *Thornhill v. Thornhill*, 8th Dist. No. 92913, 2009-Ohio-5569, at ¶18, citing *Gabriel v. Gabriel*, 2009-Ohio-1814, at ¶15.

{¶22} We note, "[t]he role of the guardian ad litem is to investigate the ward's situation and then to ask the court to do what the guardian feels is in the ward's best interest." *In re Baby Girl Baxter* (1985), 17 Ohio St.3d 229, 232.

{¶23} Meyers' primary objection to the guardian ad litem was his focus on the issue of alleged sexual abuse of Meyers by her father and brother, which allegedly occurred when Meyers was a child. Meyers claims this "entire investigation" was based on nothing more than a "'gut feeling.'" However, the guardian ad litem testified that he began this investigation based on statements from Hendrich, who told him that Meyers had admitted to Hendrich on several occasions that the sexual abuse had occurred. The guardian ad litem reviewed the original police report concerning this alleged sexual abuse. His investigation revealed that charges were not pursued because Meyers refused to go forward and recanted her story. The guardian ad litem interviewed Meyers, her parents, and her brother about the alleged abuse. However, none of these

individuals would answer any questions about the topic. This subject was a legitimate issue. Meyers had several emotional issues, including depression and a suicide attempt. Her inability to address the alleged abuse could have contributed to her emotional issues. In addition, the guardian was concerned that the children may be subject to abuse due to Meyers' inability to deal with her own situation. The fact that the guardian ad litem pursued this issue does not constitute grounds for his removal.

{¶24} Meyers also claims the guardian ad litem was "stalking" her residence. The guardian ad litem drove by her residence on two occasions and noticed Meyers' attorney's vehicle at the residence late at night, including on one occasion after midnight. The fact that the guardian ad litem reported his observations, made from a public street, to the trial court for its consideration, does not require his removal from the case.

{¶25} Upon a review of the record, we conclude the trial court did not abuse its discretion denying Meyers' motion to remove the guardian ad litem and permitting the guardian ad litem to remain involved in the case.

{¶26} Meyers' second and third assignments of error are without merit.

{¶27} Meyers' fourth assignment of error is:

{¶28} "The trial court erred to the prejudice of plaintiff-appellant in ordering restricted companionship of the minor children with the maternal grandparents and maternal brother."

{¶29} Meyers claims the trial court erred by placing restrictive conditions on the visitation between the children and their maternal grandparents and maternal uncle.

{¶30} Meyers has not demonstrated that she has standing to raise this issue. "Generally, a party cannot appeal an alleged violation of another party's rights." *In re Mourey*, 4th Dist. No. 02CA48, 2003-Ohio-1870, at ¶20.

{¶31} Furthermore, we note the legislature has enacted a separate statute, which specifically addresses visitation of children by nonparent relatives. R.C. 3109.051 provides, in pertinent part:

{¶32} "(B)(1) In a divorce, dissolution of marriage, legal separation, annulment, or child support proceeding that involves a child, the court may grant reasonable companionship or visitation rights to any grandparent, any person related to the child by consanguinity or affinity, or any other person other than a parent, if all of the following apply:

{¶33} "(a) The grandparent, relative, or other person files a motion with the court seeking companionship or visitation rights.

{¶34} "(b) The court determines that the grandparent, relative, or other person has an interest in the welfare of the child.

{¶35} "(c) The court determines that the granting of the companionship or visitation rights is in the best interest of the child."

{¶36} In this matter, if Meyers' parents and brother seek additional visitation time with the children or wish to challenge the trial court's conditions of the visitation, they have a vehicle to do so, as they can file a motion for visitation pursuant to R.C. 3109.051. Moreover, we note that these individuals may still file such a motion, as the motion may be filed subsequent to the final divorce decree. See R.C. 3109.051(B)(2).

Accordingly, these individuals still have an opportunity to pursue this issue if they seek additional visitation with the children.

{¶37} Meyers' fourth assignment of error is without merit.

{¶38} Meyers' fifth assignment of error is:

{¶39} "The trial court erred to the prejudice of plaintiff-appellant by failing to consider the shared parenting plans presented and filed by each party to the court."

{¶40} We note the decision of whether to approve or reject a shared parenting plan rests within the discretion of the trial court. R.C. 3109.04(D)(1)(b).

{¶41} In this matter, the trial court stated that it would not consider a shared parenting plan unless such plan was jointly submitted by the parties. While R.C. 3109.04(D)(1)(a)(i) provides for jointly-submitted shared parenting plans, that is not the only mechanism for the trial court to consider a shared parenting plan. In this matter, both parties filed proposed shared parenting plans for the trial court's consideration, a circumstance specifically contemplated by R.C. 3109.04(D)(1)(a)(ii), which provides:

{¶42} "(D)(1)(a) Upon the filing of a pleading or motion by either parent or both parents, in accordance with division (G) of this section, requesting shared parenting and the filing of a shared parenting plan in accordance with that division, the court shall comply with division (D)(1)(a)(i), (ii), or (iii) of this section, whichever is applicable:

{¶43} "***

{¶44} "(ii) If each parent makes a request in the parent's pleadings or files a motion and each also files a separate plan, the court shall review each plan filed to determine if either is in the best interest of the children. If the court determines that one of the filed plans is in the best interest of the children, the court may approve the plan.

If the court determines that neither filed plan is in the best interest of the children, the court may order each parent to submit appropriate changes to the parent's plan or both of the filed plans to meet the court's objections, or may select one of the filed plans and order each parent to submit appropriate changes to the selected plan to meet the court's objections. If changes to the plan or plans are submitted to meet the court's objections, and if any of the filed plans with the changes is in the best interest of the children, the court may approve the plan with the changes. If changes to the plan or plans are not submitted to meet the court's objections, or if the parents submit changes to the plan or plans to meet the court's objections but the court determines that none of the filed plans with the submitted changes is in the best interest of the children, the court may reject the portion of the parents' pleadings or deny their motions requesting shared parenting of the children and proceed as if the requests in the pleadings or the motions had not been made. If *the court approves a plan under this division, either as originally filed or with submitted changes, or if the court rejects the portion of the parents' pleadings or denies their motions requesting shared parenting under this division and proceeds as if the requests in the pleadings or the motions had not been made, the court shall enter in the record of the case findings of fact and conclusions of law as to the reasons for the approval or the rejection or denial.* Division (D)(1)(b) of this section applies in relation to the approval or disapproval of a plan under this division." (Emphasis added.)

{¶45} In this matter, the trial court should have more thoroughly considered the individual shared parenting plans submitted by the parties pursuant to R.C. 3109.04(D)(1)(a)(ii). According to this subsection of the statute, the trial court is

required to state its reasons, in the form of findings of fact and conclusions of law, in support of its decision to deny the proposed shared parenting plan. *Spence v. Spence*, 11th Dist. No. 2007-P-0070, 2008-Ohio-2127, at ¶35. (Citation omitted.) However, while strict compliance with this statute is preferred, it is not required. This court has held, "[s]ome courts have found that substantial compliance with these requirements will suffice provided the trial court's reasons for approval or denial of the [shared parenting plan] are apparent from the record." Id. at ¶35, citing *Theiss v. Theiss* (Apr. 11, 2001), 9th Dist. No. 00CA0022, 2001 Ohio App. LEXIS 1655.

{¶46} In this matter, after designating Hendrich the primary residential parent and legal custodian of the children, the trial court stated in the divorce decree:

{¶47} "Wife is hereby granted companionship time with the parties' children as set forth in this Court's Standard Order of Visitation, ***. The granting of such standard order of visitation, although against the recommendations of the Guardian ad Litem, is conditioned upon Wife being immediately evaluated and follow[ing] any and all recommendations and medication to help her with the traumas in her life, alleged abuse, [suicidality], and bad advice she has received over the years. *** The Court is apprehensive in granting Wife the standard order of visitation, but because of the close relationship between Wife and the children, the fact that she has successfully sheltered the children from any abuse from members of her family and because of all evidence related to the close relationship the children have with Wife, the Court grants Wife the companionship rights stated above to minimize the traumatic effects on the children if the visits with Wife were ordered to be supervised."

{¶48} In this matter, the trial court issued a 23-page divorce decree, with a substantial portion of it dedicated to the issue of allocation of parental rights. The trial court conducted a detailed analysis of the issue of parental rights and stated several reasons on the record in support of its decision to designate Hendrich the primary residential parent and legal custodian of the children, while permitting Meyers to have visitation rights pursuant to the court's standard order. The trial court specifically mentioned several of its concerns with Meyers. The fact that the trial court was "apprehensive" in granting Meyers visitation pursuant to the court's standard order of visitation clearly indicates that the trial court denied Meyers' shared parenting plan for the same reasons. Accordingly, we find that the trial court substantially complied with the requirements set forth in R.C. 3109.04(D)(1)(a)(ii), since its reasons for denying Meyers' proposed shared parenting plan are "apparent from the record." *Spence v. Spence*, supra, at ¶35, citing *Theiss v. Theiss*, supra. Thus, we cannot say the trial court's actions rise to the level of an abuse of discretion.

{¶49} Meyers' fifth assignment of error is without merit.

{¶50} Meyers' sixth assignment of error is:

{¶51} "The trial court erred to the prejudice of plaintiff-appellant by allocating the entire $15,000.00 deficiency balance debt for the voluntary repossession of the parties[']Veracruz motor vehicle to the wife."

{¶52} This court will not reverse a trial court's determination regarding the allocation of marital debt unless it is shown that the trial court abused its discretion. See *Biro v. Biro*, 11th Dist. Nos. 2006-L-068 & 2006-L-236, 2007-Ohio-3191, at ¶92. (Citations omitted.)

{¶53} In the divorce decree, the trial court addressed this issue as follows:

{¶54} "The evidence clearly indicates that during the pendency of this case, Wife failed to make the monthly payments on the [Veracruz] vehicle resulting in that motor vehicle being repossessed and there is currently a deficiency judgment owing to CitiFinancial in the amount of $15,000.00. Since Wife received sufficient funds to pay for the vehicle, Wife shall pay and save Husband harmless on the vehicle deficiency judgment."

{¶55} In her brief, Meyers acknowledges that she was receiving $1,500 per month from Hendrich while the divorce was pending. However, she still failed to make the payments on the vehicle, and it was repossessed. Meyers argues that she did not have enough money to make the payments on the vehicle. Even if her argument is accepted, Meyers cannot demonstrate the trial court abused its discretion. Instead of taking proactive steps to eliminate or reduce her payments, such as selling the vehicle and obtaining a less expensive form of transportation, Meyers simply stopped making the payments. She did not attempt to mitigate her losses. Presumably, the deficiency judgment included the additional costs associated with the repossession from the financial institution. Accordingly, Meyers' actions were the cause of the deficiency judgment.

{¶56} The trial court did not abuse its discretion by ordering that Meyers is solely responsible for the debt associated with the repossession of her vehicle.

{¶57} Meyers' sixth assignment of error is without merit.

{¶58} Hendrich raises the following assignment of error in his cross-appeal:

{¶59} "The trial court erred in the manner of its reservation of jurisdiction to modify spousal support."

{¶60} A determination on whether to retain jurisdiction to modify spousal support is a matter that is left to the discretion of the trial court. *Harrison v. Harrison*, 11th Dist. No. 2004-A-0003, 2005-Ohio-6293, at ¶23, quoting *Shehab v. Shehab*, 11th Dist. No. 2002-P-0122, 2004-Ohio-5460, at ¶16.

{¶61} Hendrich argues that the trial court erred by requiring him to notify the Child Support Enforcement Agency ("CSEA") when he became gainfully employed, without imposing a similar requirement on Meyers. As Meyers notes, the trial court's judgment entry did place a similar requirement on her. In the context of child support, the court ordered Meyers to "immediately notify C.S.E.A., in writing, of any change in employment [status.]"

{¶62} Moreover, the trial court noted that it intended to follow the procedures set forth in R.C. 3105.18 when considering whether to modify the spousal support amount. Specifically, the trial court stated in its judgment entry:

{¶63} "It is ordered that the Court retains jurisdiction under R.C. 3105.18(E)(1) to modify the amount of support to be paid and to modify the terms of support to be paid as provided in R.C. 3105.18(F) if there has been a change in circumstances of the parties, including, but not limited to any increase or involuntary decrease in the parties' wages, salaries, bonuses, [or] living or medical expenses[.]"

{¶64} In a similar case, the trial court included identical language in its judgment entry. See *Eva v. Eva*, 11th Dist. No. 2007-P-0062, 2008-Ohio-6986, at ¶37. In *Eva v. Eva*, this court held the fact that the trial court specifically referenced its intention to

follow the mandates of R.C. 3105.18(F) clarified its prior statement that "'employment by Wife shall be basis for review.'" Id. at ¶36-39. Similarly, in the instant matter, even though the trial court specifically indicated Hendrich's employment would be a basis for modifying spousal support, by referencing its intention to comply with R.C. 3105.18(F), the trial court indicated it would consider any qualifying circumstance when determining whether to modify spousal support. Id. at ¶38.

{¶65} Also, Hendrich contends the trial court erred by retaining jurisdiction over the issue of spousal support when it did not make a spousal support award.

{¶66} As Hendrich notes, this court addressed the issue of whether a trial court is permitted to retain jurisdiction over the issue of spousal support when it does not make a spousal support award as part of the final divorce decree. See *McLeod v. McLeod*, 11th Dist. No. 2000-L-197, 2002-Ohio-3710, at ¶103. This court noted there was a split of authority on this issue. Id. This court observed the Second Appellate District held that a trial court did not abuse its discretion by retaining jurisdiction to modify spousal support without awarding spousal support. Id. at ¶104, citing *Alystock v. Bregenzer* (June 29, 1994), 2d Dist. No. 14325, 1994 Ohio App. LEXIS 3138, at *4-6. On the other hand, this court noted that the Third Appellate District held that a trial court erred by retaining jurisdiction over the issue of spousal support when the court found that an award of spousal support was not appropriate at the time of the final divorce decree. Id. at ¶107, citing *Wolding v. Wolding* (1992), 82 Ohio App.3d 235, 239.

{¶67} In resolving this conflict, this court held:

{¶68} "We find that the better practice would be to refrain from setting forth a blanket rule that a trial court is never permitted to reserve jurisdiction to modify spousal

support when the court initially grants no support. Rather, we hold that a trial court can retain jurisdiction to modify spousal support even if no spousal support is ordered at the time of the final decree so long as the retention of jurisdiction is supported by the facts of the case." *McLeod v. McLeod*, 2002-Ohio-3710, at ¶113.

{¶69} In the case sub judice, the facts of the case supported the trial court's decision to retain jurisdiction, even though it did not make an award of spousal support. At the time of the final hearing, both parties were involuntarily unemployed. When one or both of the parties' status changes, the trial court anticipated revisiting the issue of spousal support pursuant to R.C. 3105.18(F).

{¶70} Next, we address the "indefinite" nature of the trial court's reservation of jurisdiction, since the trial court did not place a termination date on its reservation. "Generally, a termination date of a spousal support award is favored." *Harrison v. Harrison*, 11th Dist. No. 2004-A-0003, 2005-Ohio-6293, at ¶22, citing *Kunkle v. Kunkle* (1990), 51 Ohio St.3d 64, 69. Similarly, this court has held that a trial court may retain jurisdiction to modify a spousal support order when no initial award is made, but the reservation of jurisdiction should not be indefinite. *McLeod v. McLeod*, 2002-Ohio-3710, at ¶113. The rationale of this holding is the goal of finality of judgments. Id.

{¶71} In this matter, while the trial court did not place a specific termination date on its reservation of jurisdiction, it held that the issue would be revisited upon Hendrich's employment. As noted above, we believe the trial court intended any qualifying change of circumstance, pursuant to R.C. 3105.18(F), to be the basis for review. This would include a change in either party's status as "involuntarily unemployed." Thus, it appears the trial court envisioned revisiting the issue of spousal support in a relatively short time

period. Accordingly, we do not consider this case to be a situation where the trial court's reservation of jurisdiction will continue indefinitely. However, when the trial court does revisit this issue, it should place a definite time limit on any spousal support award it issues or specifically annunciate its reasons for choosing not to do so.

{¶72} We understand Hendrich's concern regarding the lack of finality on this issue. However, at this time, Hendrich is not aggrieved by the trial court's actions, since there is no spousal support award. We note that, when and if the trial court imposes a spousal support award, either party may file a notice of appeal from that award if they believe the trial court erred in making it. See, e.g., *Mandelbaum v. Mandelbaum*, 121 Ohio St.3d 433, 2009-Ohio-1222, at ¶8-9.

{¶73} Hendrich's assignment of error is without merit.

{¶74} The judgment of the Domestic Relations Division of the Portage County Court of Common Pleas is affirmed.

DIANE V. GRENDELL, J., concurs in judgment only,

COLLEEN MARY O'TOOLE, J., concurs in part, dissents in part, with Concurring/Dissenting Opinion.

COLLEEN MARY O'TOOLE, J., concurs in part, dissents in part, with Concurring/Dissenting Opinion.

{¶75} I concur with the majority's well-reasoned disposition of Ms. Meyers' assignments of error. I part company with it concerning Mr. Hendrich's assignment of error on cross-appeal. I would find the trial court erred in retaining jurisdiction of

spousal support, when it made no award of spousal support in the decree of divorce. I find the reasoning of the Court of Appeals for the Third Appellate District in *Wolding*, supra, persuasive:

{¶76} "R.C. 3105.18(D) *** provides that the trial court has continuing jurisdiction to modify the terms or amount of an order for periodic alimony only if it finds that the circumstances of either party have changed and the decree or separation agreement contains a provision specifically authorizing the court to make such modification. We have found nothing which authorizes a trial court to continue jurisdiction over the issue of alimony when it made a specific finding that no alimony was warranted at the time of divorce.

{¶77} "In *Ressler v. Ressler* (1985), 17 Ohio St.3d 17, 18, ***, the Supreme Court held that 'alimony decrees should possess a degree of finality and certainty.' We believe that divorce decrees which make a specific finding that alimony is not warranted should also possess a degree of finality and certainty:

{¶78} "'In order to provide stability, the law (looks) with favor on the principle of "finality of judgments." The reason for this principle is that persons must be able to rely on court rulings. If courts had continuing jurisdiction to modify all decrees, there would be confusion and uncertainty.' *Bean v. Bean* (1983), 14 Ohio App.3d 358, 361, ***, citing *Popovic v. Popovic* (1975), 45 Ohio App.2d 57, 64, ***.

{¶79} "As recognized by the Court of Appeals for Stark County in *Norris v. Norris* (1982), 13 Ohio App.3d 248, 249, ***, the Family Law Committee of the Ohio State Bar Association, in recommending amendments to R.C. 3105.18 and 3105.65, had as one

of its main objectives 'finality of decisions.'" (Parallel citations omitted.) (Footnote omitted.)

{¶80} This writer believes the situation of the parties in this case underscores the importance of the doctrine of finality of decisions in divorce cases, particularly in the realm of spousal support. Each party worked throughout the marriage; each was unemployed at the time the divorce decree was entered. It was not a marriage of great duration. As the parties were without income, the trial court made no present award of spousal support at the time of divorce. The parties should be allowed to move forward, and try to reconstruct their separate lives.

{¶81} I respectfully concur in part, and dissent in part.