[Cite as *Core v. Core*, 2020-Ohio-789.]

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

NATALIE M. CORE	:	JUDGES:
	:	
	:	Hon. William B. Hoffman, P.J.
Plaintiff-Appellee/Cross-Appellant	:	Hon. John W. Wise, J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	
	:	Case No. 2019CA00048 (consolidated
	:	with 2019CA00050)
DANIEL A. CORE	:	
	:	
	:	
Defendant-Appellant/Cross-Appellee	:	O P I N I O N
	:	

CHARACTER OF PROCEEDING:	Appeal from the Stark County Court of Common Pleas, Domestic Relations Division, Case No. 2018DR00973
JUDGMENT:	AFFIRMED IN PART; REVERSED IN PART; AND REMANDED
DATE OF JUDGMENT ENTRY:	March 2, 2020

APPEARANCES:

For Plaintiff-Appellee/Cross-Appellant:	For Defendant-Appellant/Cross-Appellee:
MICHAEL A. HELLER 333 Babbitt Rd., #233 Euclid, OH 44123	No Appearance

Delaney, J.

{¶1} Plaintiff-Appellee/Cross-Appellant Natalie M. Core appeals the March 1, 2019 Final Entry Decree of Divorce of the Stark County Court of Common Pleas, Domestic Relations Division.

FACTS AND PROCEDURAL HISTORY

{¶2} Plaintiff-Appellee/Cross-Appellant Natalie M. Core ("Wife") and Defendant-Appellant/Cross-Appellee Daniel M. Core ("Husband") were married on April 5, 2013. One child, D.C., was born on January 2, 2010, prior to the marriage. Three children were born after the marriage: E.C., born on November 14, 2014; K.C., born on January 30, 2017; and G.C., born on January 30, 2017.

{¶3} Wife filed her complaint for divorce on October 26, 2018. In her complaint, she requested the trial court make a determination of permanent custody of the minor children, together with an applicable order of support. She did not indicate in her complaint a request for an effective date for child support. On October 26, 2018, Wife also moved for temporary child support. The trial court found Wife failed to perfect service on Husband and continued the matter to January 8, 2019. On December 12, 2018, Wife gave new instructions for service on Husband and refiled her complaint and motion for temporary child support. Service was complete on Husband on December 26, 2018. The trial court issued temporary orders on January 9, 2019, where Wife was granted temporary custody of the children. Husband was granted Schedule A parenting time with the children. Husband was ordered to pay child support in the amount of $565 per month, effective January 1, 2019.

{¶4} On February 21, 2019, Wife filed a Motion to Amend Child Support and/or Alternative Relief. In her motion, Wife asked the trial court to adopt the proposed child support worksheet that ordered Husband to pay child support in the amount of $1,215.22 per month, or in the alternative, adopt the worksheet that ordered Husband to pay $899.10 per month. Wife further requested that child support be retroactive to the date of Wife's complaint for divorce, October 26, 2018.

{¶5} Husband filed a proposed shared parenting plan.

{¶6} On February 25, 2019, Wife's complaint for divorce came on for trial. The following facts were adduced at trial.

{¶7} Husband and Wife resided together prior to their marriage in 2013. Wife alleged that in July or August 2016, Husband moved out of their home. Wife considered July or August 2016 to be their date of separation. Husband paid rent on their home for a while, but then stopped paying rent and Wife moved to a rental property in Akron in January 2017. While Wife was on maternity leave after the birth of their twins, Husband provided Wife with funds for food and supplies, upon her request.

{¶8} In November 2017, Wife and the children moved back in with Husband to a rental property in North Canton. In August 2018, Husband was charged with domestic violence against Wife. Husband was ordered to have no contact with Wife. The charges against Husband were ultimately dismissed. Husband considered August 2018 to be their date of separation.

{¶9} Wife stated that she moved out of the North Canton home in October 2018. She currently resides with the children at a rental property paid for by her Aunt and Uncle. Husband resides with his paramour and child.

{¶10} Husband and Wife had conflicting testimony as to Husband's relationship with their children. Wife claimed that Husband had no interaction with the twins after they were born. After the no contact order was in place due to the domestic violence charge, Husband had limited interaction with the children. Wife claimed it was not until the trial court issued the temporary orders in January 2019 did Husband begin to regularly care for the children. Husband stated that during their separation, he cared for their children and the younger children knew who he was. Wife and Husband agreed that Husband had a good relationship with their oldest child. Starting in 2016, Husband transported the oldest child to and from school. Husband coached the oldest child's basketball team at the North Canton YMCA for the past two basketball seasons.

{¶11} At the time of trial, Husband was 33 years old and in good health. He had some college education and was a licensed insurance agent, authorized to sell health and life insurance. In 2017, Husband worked for an insurance sales company named TruBridge, Inc., where he earned $66,000. Husband testified he earned $12.00 per hour at TruBridge and the rest of his earnings were bonuses from his sales. Husband testified he was laid off from TruBridge due to a company downsizing. He was unemployed for some time and received unemployment compensation. At the time of trial, Husband worked for Infocision, earning $25,000. He did not testify as to what position he held at Infocision, but he testified that he did not earn commissions. Husband had the capability of procuring health insurance for the children from Infocision. In her opening arguments, Wife argued the trial court should impute income to Husband because he was voluntarily underemployed.

{¶12} At the time of trial, Wife was 31 years old and in good health. She had some college education and worked as a retail manager with Sedexo. She earned $26,000 per year. The children obtained their health insurance from the State of Ohio.

{¶13} On March 1, 2019, the trial court filed the Final Entry Decree of Divorce. The trial court found Husband was bonded with the children, but his involvement in their care was limited and less active. The trial court denied Husband's proposed shared parenting plan and named Wife as the residential parent and legal custodian of the children. Husband was granted visitation with the children pursuant to the Stark County Family Court Schedule A/Companionship Schedule.

{¶14} As to child support, the trial court found Husband earned $25,000 and Wife earned $26,000. Pursuant to the child support schedules and worksheet calculations, the annual child support for the four children was $13,506. Husband's obligation was $6,621 or 49% and Wife's was $6,885 or 51%. Husband's calculated support would be $551.72 per month. The trial court next found the calculated amount of child support was unjust, inappropriate, and not in the best interest of the children, therefore a downward deviation from the amount of child support was warranted based upon Husband's parenting time. Effective March 1, 2019, Husband was ordered to pay Wife $441.72 per month in support of the children.

{¶15} Husband filed an appeal of the March 1, 2019 judgment entry with this Court on March 29, 2019 in Case No. 2019CA00048. Wife filed a notice of appeal of the March 1, 2019 judgment entry in Case No. 2019CA00050. We consolidated the appeals and Wife was designated Appellee and Cross-Appellant, while Husband was designated Appellant and Cross-Appellee. On September 24, 2019, we dismissed Husband's appeal

for failure to prosecute. As such, only Wife's appeal is being considered. Husband has not filed an appellee's brief. Pursuant to App.R. 18(C), "[i]f an appellee fails to file the appellee's brief within the time provided by this rule, or within the time as extended, * * * in determining the appeal, the court may accept the appellant's statement of the facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain such action."

ASSIGNMENTS OF ERROR

{¶16} Wife raises three Assignments of Error:

{¶17} "I. THE TRIAL COURT ERRED IN THEIR COMPUTATION OF CHILD SUPPORT AND THE CHILD SUPPORT GUIDELINES, INCLUDING BUT NOT LIMITED TO, INCORRECT DATA INPUT.

{¶18} "II. THE TRIAL COURT ERRED/ABUSED ITS DISCRETION IN DEVIATING FROM THE CHILD SUPPORT GUIDELINES.

{¶19} "III. THE TRIAL COURT ERRED BY FAILING TO MAKE CHILD SUPPORT RELATE BACK TO THE DATE OF THE FILING OF THE DIVORCE."

ANALYSIS

{¶20} Before we begin our analysis, we note the Ohio General Assembly updated its child support guidelines with the passage of H.B. 366. H.B. 366 made changes to (1) the basic child support schedule and worksheets, (2) the Child Support Guideline Advisory Council review, (3) how child support is calculated, (4) minimum child support order requirements, (5) how health care for children covered by a child support order is handled, (6) the review and modification of child support orders, and (7) the collection of

arrearages under terminated orders. *See* Niyah Walters, *Bill Analysis*, Ohio Legislative Service Commission. H.B. 366 became effective on March 28, 2019.

{¶21} The trial court in the present case issued its Final Entry Decree of Divorce on March 1, 2019. Accordingly, H.B. 366 was not effective at the time of the trial court's judgment entry and we therefore apply the law applicable to child support prior to the enactment of H.B. 366.

I. Imputation of Income to Husband

{¶22} Wife argues in her first Assignment of Error that the trial court erred when it did not impute income to Husband for child support calculation purposes. We disagree.

{¶23} At trial, Wife argued the trial court should impute income to Husband because he was voluntarily underemployed. At trial, Husband testified that in 2017, he was employed by TruBridge selling health and life insurance policies. His base earnings were $12.00 per hour but he received bonuses for sales. Husband testified he earned approximately $66,000 per year, which included his base earnings and bonuses. He testified he was laid off from TruBridge. He was unemployed for some time and received unemployment compensation. At the time of trial, he was employed by Infocision and earned $25,000 per year.

{¶24} Wife argues the trial court erred when it did not impute income to Husband in calculating child support. In *Booth v. Booth*, 44 Ohio St.3d 142, 541 N.E.2d 1028 (1989), the Ohio Supreme Court determined an abuse of discretion standard is the appropriate standard of review in matters concerning child support. In order to find an abuse of that discretion, we must determine the trial court's decision was unreasonable, arbitrary or unconscionable and not merely an error of law or judgment. *Blakemore v.*

Blakemore, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983). Furthermore, as an appellate court, we are not the trier of fact. Our role is to determine whether there is relevant, competent and credible evidence upon which the fact finder could base its judgment. *Cross Truck v. Jeffries*, 5th Dist. Stark App. No. CA-5758, 1982 WL 2911 (February 10, 1982). Accordingly, a judgment supported by some competent, credible evidence will not be reversed as being against the manifest weight of the evidence. *C.E. Morris Co. v. Foley Construction*, 54 Ohio St.2d 279, 376 N.E.2d 578 (1978).

{¶25} Wife argues the trial court should have considered Husband's "potential income" and ordered him to pay child support. She refers to R.C. 3119.01(C)(9) where "income" is defined as:

> (a) For a parent who is employed to full capacity, the gross income of the parent;
>
> (b) For a parent who is unemployed or underemployed, the sum of the gross income of the parent and any potential income of the parent.
>
> * * *

{¶26} In calculating child support, a trial court is permitted to impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. R.C. 3119.01(C)(11). This Court stated in *Farrell v. Farrell*, 5th Dist. Licking No. 2008–CA–0080, 2009–Ohio–1341, ¶ 20: "In deciding if an individual is voluntarily under employed or unemployed, the court must determine not only whether the change was voluntary, but also whether it was made with due regard to obligor's income-producing abilities and his or her duty to provide for the continuing needs of the child. *Woloch v. Foster*, 98 Ohio

App.3d 86, 649 N.E.2d 918 (1994). A trial court does so by weighing the circumstances of each particular case. *Rock v. Cabral*, 67 Ohio St.3d 108, 616 N.E.2d 218 (1993)."

{¶27} Pursuant to R.C. 3119.01(C)(11)(a), imputed income is determined from the following criteria:

(i) The parent's prior employment experience;

(ii) The parent's education;

(iii) The parent's physical and mental disabilities, if any;

(iv) The availability of employment in the geographic area in which the parent resides;

(v) The prevailing wage and salary levels in the geographic area in which the parent resides;

(vi) The parent's special skills and training;

(vii) Whether there is evidence that the parent has the ability to earn the imputed income;

(viii) The age and special needs of the child for whom child support is being calculated under this section;

(ix) The parent's increased earning capacity because of experience;

(x) The parent's decreased earning capacity because of a felony conviction;

(xi) Any other relevant factor.

Bosch v. Bosch, 5th Dist. Fairfield No. 17-CA-14, 2017-Ohio-7308, 2017 WL 3635587, ¶¶ 14-15.

{¶28} In this case, the trial court did not impute income to Husband. Our review of the record supports the trial court's determination that Husband's income was $25,000.

Specifically, we find Wife did not present sufficient evidence to demonstrate that income should be imputed to Husband under R.C. 3119.01(C)(11)(a). There was no evidence presented as to the availability of employment or the prevailing wage and salary levels in insurance sales in the Akron/Canton area. Wife did not present any evidence to demonstrate that Husband had the ability to earn the imputed income after he was laid off from TruBridge. Wife attempted to show that Husband either quit his job or was terminated for cause from TruBridge; however, Husband testified he was laid off from TruBridge and there was no disputing evidence presented. Whether a person is voluntarily underemployed and the amount of income to be imputed "are matters to be determined by the trial court based upon the facts and circumstances of each case." *Rock v. Cabral*, 67 Ohio St.3d 108, 616 N.E.2d 218 (1993), paragraph one of the syllabus. A determination with respect to these matters will only be reversed upon a showing of abuse of discretion. *Id*. Pursuant to this record, we find no abuse of discretion for the trial court to deny Wife's argument to impute income to Husband for child support calculation purposes.

{¶29} Wife's first Assignment of Error is overruled.

II. Deviation

{¶30} Wife argues in her second Assignment of Error that the trial court erred when it deviated from the child support calculation worksheet and reduced Husband's child support obligation. We agree.

{¶31} Child support decisions, including the decision to deviate from the actual obligation, are reviewed for abuse of discretion. *Bible v. Bible*, 5th Dist. Coshocton No. 2018CA0001, 2018-Ohio-5147, 2018 WL 6721064, ¶ 21 citing *Booth v. Booth*, 44 Ohio

St.3d 142, 144, 541 N.E.2d 1028 (1989). An 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 v. Blakemore*, 5 Ohio St.3d 217, 450 N.E.2d 1140 (1983).

{¶32} R.C. 3119.22 allows the trial court to deviate from the guideline calculation if that amount "would be unjust or inappropriate to the children or either parent and would not be in the best interest of the child because of extraordinary circumstances of the parents or because of any other factors or criteria as set forth in R.C. 3119.23 of the Revised Code." *Bible v. Bible*, 5th Dist. Coshocton No. 2018CA0001, 2018-Ohio-5147, 2018 WL 6721064, ¶ 22. In this case, the trial court found the guideline calculation of child support was unjust, inappropriate, and not in the best interest of the child under R.C. 3113.215(B)(3)(a) through (o), due to the amount of time each parent was with the child. The child support guideline worksheet established that Husband owed $551.72 per month. Based on Husband's ordered parenting time and R.C. 3119.22-23, the trial court reduced Husband's child support obligation by 20% to $441.72 per month.

{¶33} Under R.C. 3119.22,

> The court may order an amount of child support that deviates from the amount of child support that would otherwise result from the use of the basic child support schedule and the applicable worksheet if, after considering the factors and criteria set forth in section 3119.23 of the Revised Code, the court determines that the amount calculated pursuant to the basic child support schedule and the applicable worksheet would be unjust or inappropriate and therefore not be in the best interest of the child.

If it deviates, the court must enter in the journal the amount of child support calculated pursuant to the basic child support schedule and the applicable worksheet, its determination that the amount would be unjust or inappropriate and therefore not in the best interest of the child, and findings of fact supporting that determination.

{¶34} The factors of R.C. 3119.23 include:

The court may consider any of the following factors in determining whether to grant a deviation pursuant to section 3119.22 of the Revised Code:

(A) Special and unusual needs of the child or children, including needs arising from the physical or psychological condition of the child or children;

(B) Other court-ordered payments;

(C) Extended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time;

(D) The financial resources and the earning ability of the child or children;

(E) The relative financial resources, including the disparity in income between parties or households, other assets, and the needs of each parent;

(F) The obligee's income, if the obligee's annual income is equal to or less than one hundred per cent of the federal poverty level;

(G) Benefits that either parent receives from remarriage or sharing living expenses with another person;

(H) The amount of federal, state, and local taxes actually paid or estimated to be paid by a parent or both of the parents;

(I) Significant in-kind contributions from a parent, including, but not limited to, direct payment for lessons, sports equipment, schooling, or clothing;

(J) Extraordinary work-related expenses incurred by either parent;

(K) The standard of living and circumstances of each parent and the standard of living the child would have enjoyed had the marriage continued or had the parents been married;

(L) The educational opportunities that would have been available to the child had the circumstances requiring a child support order not arisen;

(M) The responsibility of each parent for the support of others, including support of a child or children with disabilities who are not subject to the support order;

(N) Post-secondary educational expenses paid for by a parent for the parent's own child or children, regardless of whether the child or children are emancipated;

(O) Costs incurred or reasonably anticipated to be incurred by the parents in compliance with court-ordered reunification efforts in child abuse, neglect, or dependency cases;

(P) Extraordinary child care costs required for the child or children that exceed the maximum state-wide average cost estimate as described in division (P)(1)(d) of section 3119.05 of the Revised Code, including extraordinary costs associated with caring for a child or children with specialized physical, psychological, or educational needs;

(Q) Any other relevant factor.

> If the court grants a deviation based on division (Q) of this section, it shall specifically state in the order the facts that are the basis for the deviation.

{¶35} The trial court stated in its Final Entry Decree of Divorce that it deviated from the child support guideline based upon Husband's parenting time order. It would appear that one of the factors it relied upon to make a downward deviation was R.C. 3119.23(C), which states "[e]xtended parenting time or extraordinary costs associated with parenting time, including extraordinary travel expenses when exchanging the child or children for parenting time."

{¶36} Husband and Wife do not have equal parenting time. Wife was named the residential parent of the children. The trial court found that Husband's involvement with the children was limited, but he was involved in the care of the oldest child by providing transportation to school and coaching his recreational basketball team. The trial court ordered that Husband have continuous, consistent, and frequent contact with the children pursuant to the Companionship Schedule attached to the Decree of Divorce. The Companionship Schedule was the Stark County Family Court standard parenting time schedule. Beginning March 15, 2019, Husband was granted parenting time with the children every other weekend from Friday night at 6:00 p.m. to Sunday night at 6:00 p.m. The children were to spend a minimum of one weekday parenting time from 5:00 p.m. to 8:00 a.m. the following day. Days of special meaning and holidays were the standard schedule.

{¶37} In this case, we agree with Wife's arguments that the trial court abused its discretion when it deviated from the child support guidelines. The trial court stated it deviated from the child support guidelines by 20% due to Husband's ordered parenting

time. The record in this case, however, does not align with the trial court's stated findings of fact and determination that the calculated amount of child support was unjust, inappropriate, and not in the best interests of the children considering the factors of R.C. 3119.23. Husband and Wife do not have equal parenting time nor did the record show that Husband had extended parenting time with the four children, other than coaching one child's recreational basketball team. The trial court granted Husband parenting time pursuant to the trial court's standard companionship schedule.

{¶38} We sustain Wife's second Assignment of Error and remand the matter to the trial court for further proceedings consistent with this opinion and law.

III. Retroactive Child Support

{¶39} In her third Assignment of Error, Wife contends the trial court erred when it did not order that Husband's child support obligation should relate back to October 26, 2018, when Wife filed her complaint for divorce. We disagree.

{¶40} Wife filed her complaint for divorce on October 26, 2018. In her complaint, she requested the trial court make a determination of permanent custody of the minor children, together with an applicable order of support. She did not indicate in her complaint a request for an effective date for child support. On October 26, 2018, Wife also moved for temporary child support. The trial court found Wife failed to perfect service on Father and continued the matter to January 8, 2019. On December 12, 2018, Wife gave new instructions for service on Husband and refiled her complaint and motion for temporary child support. Service was complete on Husband on December 26, 2018. On January 9, 2019, the trial court ordered Husband to pay child support in the amount of $565 per month, effective January 1, 2019.

{¶41} On February 21, 2019, Wife filed a Motion to Amend Child Support and/or Alternative Relief. In her motion, Wife asked the trial court to adopt the proposed child support worksheet that ordered Husband to pay child support in the amount of $1,215.22 per month, or in the alternative, adopt the worksheet that ordered Husband to pay $899.10 per month. Wife further requested that child support be retroactive to the date of Wife's complaint for divorce, October 26, 2018. On March 1, 2019, the trial court issued the Final Entry Decree of Divorce and ruled that effective March 1, 2019, Husband was ordered to pay Wife $441.72 per month in support of the children.

{¶42} In *Hammons v. Hammons*, 5th Dist. Delaware No. 13 CAF 07 0053, 2014-Ohio-221, this Court addressed an argument where the appellee/cross-appellant contended the trial court erred when it made the increase of child support effective as of the date of the divorce decree. *Id*. at ¶ 20. The trial court had ordered a temporary monthly child support obligation when the appellee filed the divorce complaint. *Id*. at ¶ 5. After a hearing before the magistrate, the magistrate recommended an increase in the appellant's child support obligation. *Id*. The parties filed objections to the magistrate's decision. The trial court overruled the objections and adopted the magistrate's decision, making the child support obligation effective from the date of the filing of the divorce decree. *Id*. at ¶ 6.

{¶43} The appellee/cross-appellant argued the effective date of the child support obligation should have been the first day of the trial on the divorce complaint. The appellee/cross-appellant argued the date of the decree as the effective date of the child support obligation was in violation of this Court's decision in *Wayco v. Wayco*, 5th Dist. Stark No. 1998CA00279, 1999 WL 174918 (Mar. 8, 1999). In *Wayco*, we held that absent

special circumstances, an order of the court modifying child support should be retroactive to the date the parties received notice of the request for modification. We differentiated *Wayco* from the facts presented in *Hammons*, because in *Hammons*, the child support order was an initial order of support, not a modification. While the amount was an increase over the temporary support order, the order was not a modification of an initial support order as in *Wayco*, *supra*. *Id*. at ¶ 21. We held the trial court did not err in making the support order effective with the filing of the divorce decree. *Id*.

{¶44} In the present case, Wife is making the opposite argument that the trial court erred in making the support order effective on the date of the divorce decree when she requested it be effective with the filing with the divorce complaint. As in *Hammons*, the child support order was an initial order of support, not a modification. Pursuant to *Hammons*, we find no abuse of discretion for the trial court to make the support order effective with the filing of the divorce decree. Further, based on the procedural history of this case, we find any error as to the date of the effectiveness of Husband's child support obligation to be harmless. Wife filed her complaint for divorce on October 26, 2018 but Wife did not obtain service of the complaint for divorce on Husband until December 26, 2018. On January 9, 2019, the trial court issued temporary orders that Husband was to pay child support to Mother in the amount of $565 per month, effective January 1, 2019. On February 21, 2019, Wife notified the trial court for the first time that the effective date of the child support should be October 26, 2018. The divorce decree ordered Husband to pay child support effective March 1, 2019.

{¶45} Wife's third Assignment of Error is overruled.

CONCLUSION

{¶46} The judgment of the Stark County Court of Common Pleas, Domestic Relations Division, is affirmed in part, reversed in part, and the matter remanded to the trial court for further proceedings consistent with this Opinion and law.

By: Delaney, J., and

Hoffman, P.J.

Wise, John, J., concurs separately.

Wise, J., concurring

{¶47} I concur with the majority's decision to affirm in part and reverse in part. I am compelled to write separately due to our present departure from the general deference shown by appellate courts on questions of child support deviation. *See*, *e.g*., *Gulley v. Gulley*, 5th Dist. Stark No. 2018 CA 00013, 2018-Ohio-4192, ¶ 26 (applying the abuse-of-discretion standard to the decision of a trial court as to the issue of deviation in the amount of child support owed by an obligor). *See*, *also*, *Sarchione-Tookey v. Tookey*, 4th Dist. Athens No. 17CA41, 2018-Ohio-2716, ¶ 21.

{¶48} In the case *sub judice*, the trial court stated in the decree that it was basing its deviation "upon father's parenting time ordered." Decree of Divorce at 8. As indicated in the majority opinion, this has largely been manifested (over and above the standard parenting time order) in Husband's involvement in coaching and transporting the oldest child. However, Husband, as cross-appellee, has not filed a response brief (*see* App.R. 18(C)), and in any event we are not required to search the record for evidence to create and support a responsive argument for him. *See State v. Trammell*, 5th Dist. Stark No. 2015 CA 00151, 2016-Ohio-1317, ¶ 15, citing *Sisson v. Ohio Department of Human Services,* 9th Dist. Medina No. 2949–M, 2000 WL 422396. I would nonetheless note that Husband's testimony provides no details as to the logistical aspects of his coaching and transportation activities. *See* Tr. at 45-46.

{¶49} I therefore agree that reversal on the deviation ruling is warranted in this instance.