[Cite as *Johnson v. Piorkowski*, 2010-Ohio-4545.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF MEDINA	)	

MARY JO JOHNSON Appellee v. LAWRENCE S. PIORKOWSKI Appellant	C. A. No. 09CA0093-M APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF MEDINA, OHIO CASE No. 09DV0252

DECISION AND JOURNAL ENTRY

Dated: September 27, 2010

MOORE, Judge.

{¶1} Appellant, Lawrence Piorkowski, appeals from the decision of the Medina County Court of Common Pleas, Domestic Relations Division. This Court affirms.

I.

{¶2} In September of 2009, Mary Jo Johnson and Lawrence Piorkowski were in a relationship and lived together. On or around September 11, 2009, the relationship ended. The parties disagree as to who ended the relationship. Despite the ending of their relationship, on or around September 29, 2009, the parties entered into a written "agreement." The "agreement" required Johnson, in part, to perform daily sexual acts with Piorkowski. The terms of the "agreement" instituted a monetary fine if Johnson did not perform the required daily sexual act. The parties do not agree as to who drafted the "agreement." Johnson contends that she was forced to sign it.

{¶3} On October 5, 2009, Johnson filed a petition for a domestic violence civil protection order, seeking to protect herself and her daughter from Piorkowski. Johnson attached the parties' "agreement" and explained that Piorkowski threatened her job, forced her to sign the "agreement" and threatened that she would not be permitted to leave the house. She further stated that Piorkowski threatened to make their "agreement" public, and on October 2, 2009, Piorkowski informed her that she was "behind on my duties to fill his sex desires and that I needed to be prepared to pay up." She explained that she was afraid of Piorkowski and that she was afraid that he would rape her and her daughter, because he had stated many times that her daughter "had to grow up and he was going to teach her to be a 'real woman.'" On that same day, the trial court granted the petition ex parte. On October 15, 2009, the trial court held a full hearing at which Johnson and Piorkowski both testified. On December 7, 2009, the magistrate issued a decision to grant the petition, which included attached findings of fact. The trial court approved and adopted this decision making it an order of the court.

{¶4} Piorkowski timely appealed this decision and has raised one assignment of error for our review.

II.

ASSIGNMENT OF ERROR

"THE LOWER COURT ABUSED ITS DISCRETION BECAUSE ITS DECISION WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶5} In his sole assignment of error, Piorkowski contends that the trial court abused its discretion because its decision was against the manifest weight of the evidence.

{¶6} This appeal arises from the trial court's adoption of the magistrate's decision. Piorkowski failed to file any objections to the magistrate's decision. Pursuant to Civ.R.

53(D)(3)(b)(iv) "[e]xcept for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b)."

> "Although in *criminal* cases '[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court,' Crim.R. 52(B), no analogous provision exists in the Rules of *Civil* Procedure. The plain error doctrine originated as a criminal law concept. In applying the doctrine of plain error in a civil case, reviewing courts must proceed with the utmost caution, limiting the doctrine strictly to those extremely rare cases where exceptional circumstances require its application to prevent a manifest miscarriage of justice, and where the error complained of, if left uncorrected, would have a material adverse effect on the character of, and public confidence in, judicial proceedings." (Emphasis sic.) (Citations omitted.) *Goldfuss v. Davidson* (1997), 79 Ohio St.3d 116, 121.

{¶7} Piorkowski did not argue plain error on appeal. We conclude that this is not one of "those extremely rare cases where exceptional circumstances" require us to apply the plain-error doctrine. Id. Accordingly, Piorkowski has forfeited the right to assign error to the trial court's adoption of the magistrate's decision. See *Kiewel v. Kiewel*, 9th Dist. No. 09CA0075-M, 2010-Ohio-2945, at ¶17 (concluding that, although Civ.R. 53 refers to "waiver" of the right to assign error on appeal, "we deem the failure to object to a magistrate's decision in accordance with Civ.R. 53(D)(3) to be appropriately termed forfeiture.")

{¶8} Piorkowski's assignment of error is overruled.

III.

{¶9} Piorkowski's assignment of error is overruled. The judgment of the Medina County Court of Common Pleas, Domestic Relations Division, is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

CARLA MOORE
FOR THE COURT

CARR, P. J.
WHITMORE, J.
CONCUR

APPEARANCES:

STEPHEN P. HANUDEL, Attorney at Law, for Appellant.

MARY JO JOHNSON, pro se, Appellee.