

[Cite as *Wingate v. Wingate*, 2002-Ohio-2365.]

IN THE COURT OF APPEALS OF LUCAS COUNTY

Sherry Wingate

Appellant

Court of Appeals No. L-01-1339

Trial Court No. DR-96-1271

v.

Jeffrey Wingate

Appellee

DECISION AND JUDGMENT ENTRY

Decided: May 17, 2002

* * * * *

Fred J. Burkholder, for appellant.

Colleen M. Dooley, for appellee.

* * * * *

KNEPPER, J.

{¶1} This is an accelerated appeal from a judgment of the Lucas County Court of Common Pleas, Domestic Relations Division, that set forth its reasons for using June 30, 1997 as the appropriate date for purposes of assigning a value to the marital portion of appellee's 401(k) account.

{¶2} This case was before the trial court on remand from this court for clarification of its reasons for deviating from the use of the same date for valuation of all of the assets in the parties' marital estate. See *Wingate v. Wingate* (Jan. 21, 2001), Lucas App. No. L-99-1018. Accordingly, by judgment entry dated June 29, 2001, the trial court explained that evidence was submitted at trial on the value of the 401(k) account as of June 30, 1997, and as of December 30, 1997. The trial court further explained that it used

the June 30, 1997 value because it was calculated closer to April 1996, when the parties separated, and to the date in 1995 when appellee left his place of employment, than was the December 1997 value.

{¶3} Appellant now appeals, claiming that the trial court did not adequately explain its rationale for deviating from the use of the trial date for purposes of valuing the account and that the trial court's decision therefore constitutes an abuse of discretion. This court has thoroughly examined the record of proceedings in the trial court and, based thereon, we find that the trial court has complied with this court's instructions on remand and clearly explained its decision to value the 401(k) account as of June 30, 1997. The trial court's June 29, 2001 judgment entry was not unreasonable, arbitrary or unconscionable and therefore not an abuse of discretion. See *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217. Accordingly, appellant's sole assignment of error is not well-taken.

{¶4} Upon consideration whereof, this court finds that substantial justice was done the party complaining and the judgment of the Lucas County Court of Common Pleas, Domestic Relations Division, is affirmed. Costs of this appeal are assessed to appellant.

JUDGMENT AFFIRMED.

Melvin L. Resnick, J.

JUDGE

James R. Sherck, J.

Richard W. Knepper, J.
CONCUR.

JUDGE

JUDGE