[Cite as *Bonds v. Hinkle*, 2019-Ohio-1016.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Emmanuel D. Bonds,	:	
Plaintiff-Appellee,	:	
		No. 18AP-606
v.	:	(C.P.C. No. 02JU-6778)
Alena C. Hinkle,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on March 21, 2019

On brief: *Alena C. Hinkle*, pro se. **Argued:** *Alena C. Hinkle*.

APPEAL from the Franklin County Court of Common Pleas,
Division of Domestic Relations, Juvenile Branch

DORRIAN, J.

{¶ 1} Defendant-appellant, Alena C. Hinkle, appeals from a judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch, adopting a magistrate's decision that sustained in part the objection of plaintiff-appellee, Emmanuel D. Bonds, to a child support termination decision and recommendation from the Franklin County Child Support Enforcement Agency ("FCCSEA"), and modified the monthly child support arrearage payment imposed on Bonds. Because we conclude the court did not plainly err by adopting the magistrate's decision to reduce the monthly child support arrearage payment, we affirm.

I. Facts and Procedural History

{¶ 2} Hinkle and Bonds are the parents of a child born August 23, 1999. Child support was established on August 27, 2000, with an effective date of May 18, 2000. Bonds was ordered to pay child support in the amount of $173.25, plus a processing charge, for

the period of May 18, through May 31, 2000. Commencing June 1, 2000, Bonds was ordered to pay child support in the amount of $376.41 per month, plus a processing fee, for a total of $383.94 per month. On April 24, 2002, Bonds filed a petition to modify child support, asserting an involuntary reduction in income due to a change in employment. On June 20, 2002, Bonds filed a second petition to modify child support, again asserting an involuntary reduction in income. Pursuant to an agreed entry, on February 28, 2003, the court modified the child support order and ordered Bonds to pay $200 per month, plus a 2 percent processing fee, for a total of $204 per month.

{¶ 3} On February 5, 2007, Bonds filed another motion to modify child support, asserting he had been unable to secure consistent employment. A magistrate issued a decision on October 30, 2007, finding a change in Bonds' circumstances and modifying his child support obligation to $47 per month, plus a processing fee, effective February 5, 2007. The magistrate further found that Bonds owed a child support arrearage of $11,751.77 as of July 5, 2007, and ordered him to pay the arrearage at a rate of 20 percent of the child support order—i.e., $9.40 per month, plus a processing fee. No objections were filed to the magistrate's decision.

{¶ 4} On June 28, 2013, FCCSEA filed an administrative adjustment recommendation, recommending that Bonds pay child support of $218.28 per month, plus a processing charge, and child support arrearage payments of $9.40 per month. The court adopted FCCSEA's recommendation on August 2, 2013. On December 23, 2016, FCCSEA filed another administrative adjustment recommendation, recommending that Bonds pay child support of $322.67 per month, plus a processing charge, and child support arrearage payments of $9.40 per month. The court adopted FCCSEA's recommendation on February 1, 2017.

{¶ 5} On August 24, 2017, FCCSEA filed findings and recommendations from its investigation into whether the child support order should terminate. FCCSEA recommended that the child support order terminate effective August 23, 2017, due to the child's emancipation. FCCSEA found there was a child support arrearage of $14,245.30, and a processing fee arrearage of $501.82, as of August 22, 2017. FCCSEA recommended Bonds be ordered make arrearage payments of $332.07 per month, plus a processing charge, until the arrearage was liquidated. On December 29, 2017, an FCCSEA hearing

officer issued a termination decision and recommendation, finding no error was made in the termination investigation and recommending the court adopt the findings from the termination investigation. Bonds filed an objection to the termination decision and recommendation, asserting financial hardship.

{¶ 6} On July 5, 2018, a magistrate conducted a hearing on the objection. Following the hearing, the magistrate issued a decision sustaining Bonds' objection in part. The magistrate found FCCSEA's findings and recommendation to terminate child support were correct, but modified the arrearage payment to $232 per month, plus a processing charge. The court adopted the magistrate's decision on July 27, 2018.

II. Assignment of Error

{¶ 7} Hinkle appeals pro se and assigns the following sole assignment of error for our review:

> Per Court/magistrates findings after hearing date July 5/2018, the court granted father's recommendation to reduce the liquidation of child support arrears payments.

III. Analysis

{¶ 8} Hinkle argues on appeal the trial court erred by adopting the magistrate's decision reducing the monthly arrearage payment imposed on Bonds. Generally, we review matters concerning child support under an abuse of discretion standard. *Booth v. Booth*, 44 Ohio St.3d 142, 144 (1989); *Winkler v. Winkler*, 10th Dist. No. 02AP-937, 2003-Ohio-2418, ¶ 54. In this case, however, our review is limited to plain error because Hinkle did not file an objection to the magistrate's decision. *Hamilton v. Hamilton*, 10th Dist. No. 14AP-1061, 2016-Ohio-5900, ¶ 4; Civ.R. 53(D)(3)(b)(iv); Juv.R. 40(D)(3)(b)(iv). The magistrate's decision as adopted by the court contained the following notice to the parties in bold type:

> 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) or Juv. R. 40(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b) or Juv. R. 40(D)(3)(b).

(Magistrate's Decision at 1.) In civil cases, plain error may only be applied in exceptional circumstances where the error seriously affects the basic fairness, integrity, or public

reputation of the judicial process. *Hamilton* at ¶ 8. The error must be clearly apparent on the face of the record and prejudicial to the appellant. *Id*.

{¶ 9} R.C. 3123.21(A) creates a rebuttable presumption that an order to collect a child support arrearage should equal at least 20 percent of the current child support payment. The statute further provides that the court "may consider evidence of household expenditures, income variables, extraordinary health care issues, and other reasons for a deviation from the twenty per cent presumption." R.C. 3123.21(B). Although the child support order had been terminated in this case due to emancipation of the child, R.C. 3121.36 provides that termination of a child support order does not abate the power of the court or child support enforcement agency to collect any overdue and unpaid support or arrearage owed under the terminated support order.

{¶ 10} FCCSEA recommended Bonds be ordered to liquidate the arrearage at a rate of $332.07 per month. Bonds requested the arrearage liquidation order be reduced, asserting he had a financial hardship as a result of another minor child diagnosed with autism. The magistrate ordered the arrearage payment be reduced to $232.00 per month, and the court adopted the magistrate's decision. The magistrate did not alter FCCSEA's arrearage calculation, just the monthly rate at which Bonds was expected to liquidate the arrearage.

{¶ 11} As explained above, Bonds' child support obligation was modified multiple times while the child support order was in effect. The child support obligation in effect immediately prior to emancipation was $322.67 per month, plus a processing charge. The arrearage payment rate recommended by FCCSEA of $332.07 per month was equal to 99.8 percent of the last child support obligation imposed on Bonds. Although the court reduced the monthly arrearage payment from FCCSEA's recommendation, the reduced rate imposed by the court still represented 69.7 percent of the last child support obligation Bonds owed prior to emancipation. Thus, the reduced rate still well exceeded the statutory presumption of 20 percent. Moreover, we note Bonds asserted a financial hardship due to the medical condition of another minor child, which the court could consider in setting the child support arrearage payment pursuant to R.C. 3123.21(B). Under these circumstances, we cannot conclude the court plainly erred by adopting the magistrate's decision reducing the monthly child support arrearage payment imposed on Bonds. *See Wortham v.*

Wortham, 2d Dist. No. 23831, 2010-Ohio-4524, ¶ 9-12 (finding no abuse of discretion in reduction of child support arrearage payment from $377 per month to $75 per month and noting that reduced payment was almost exactly 20 percent of previous child support obligation).

{¶ 12} Accordingly, we overrule Hinkle's sole assignment of error.

IV. Conclusion

{¶ 13} Having overruled Hinkle's sole assignment of error, we affirm the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, Juvenile Branch.

Judgment affirmed.

SADLER and LUPER SCHUSTER, JJ., concur.