[Cite as *Davis v. Evans*, 2012-Ohio-1664.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Carol M. Davis,	:	
Plaintiff-Appellee,	:	
v.	:	No. 11AP-888 (C.P.C. No. 07-DR-01-0355)
Charles R. Evans,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on April 12, 2012

Robert A. Bracco & Associates, and *Robert A. Bracco*, for appellee.

Charles R. Evans, pro se.

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

TYACK, J.

{¶ 1} Charles R. Evans is appealing from the provisions of his final decree of divorce journalized on September 21, 2011. He assigns six errors for our consideration:

> [I.] The Judgment Entry-Decree of Divorce is VOID Where the Trial Court Denied the Required Civil Rule 75 Oral Hearing to be Held Prior to the Final Hearing Depriving Evans' Fundamental Parental & Property Rights.
>
> [II.] The Court Erred as to Determining Child Support where No Child Support Worksheet is attached to the Judgment Entry Decree of Divorce.
>
> [III.] The Court Erred as to Determining a Child Support Arrearage where No Request for Child Support Was Made by

> Davis and No Previous Order for Child Support Exists in the Record *and* where the Child's Financial Needs were met during the Pre-Order Period.
>
> [IV.] The Court Erred Denying Evans Health Insurance Coverage During the Pendency of the Restraining Order.
>
> [V.] The Court Erred Ordering Attorney Fees and Litigation Costs which are Unreasonable and where Evans has an Inability to Pay.
>
> [VI.] The Court Erred in the Inequitable Distribution of Marital Property.

{¶ 2} Our consideration of the merits of these assignments of error is seriously hampered by the fact that no transcript of the 13-day trial of this case has been prepared.

{¶ 3} In the first assignment of error, Evans argues that the final decree of divorce is void because no Civ.R. 75(N) hearing was ever held. Civ.R. 75(N) addresses temporary orders, especially spousal support, child support, and allocation of parental rights and responsibilities. The general rule is temporary orders are merged into the final decree of divorce. *Garrett v. Garrett*, 10th Dist. No. 99AP-1050 (Oct. 19, 2000). A final decree of divorce is never rendered void by the failure of a trial court to conduct an evidentiary hearing under Civ.R. 75. Individual provisions of a divorce decree may be called into question on appeal, such as the reducing of a child support or spousal support arrearage to judgment, but the final decree of divorce does not become void as the result of the failure to conduct a Civ.R. 75(N) hearing.

{¶ 4} The first assignment of error is overruled.

{¶ 5} The second assignment of error alleges that the trial court erred in failing to attach a child support worksheet to the final decree of divorce. In fact, the trial court did not attach its own child support worksheet to the decree of divorce, but had before it a comprehensive Child Support Computation Summary Worksheet – Sole Residential Parenting Order provided by counsel for Carol M. Davis, the appellee in this appeal. Further, the trial court provided individualized findings as to the paragraphs of the applicable statutes, R.C. 3119.02 to 3119.24—especially R.C. 3119.23, factors relevant to granting deviation.

{¶ 6} The trial court clearly used the support figures contained in the worksheet provided, which was attached to the decree, and it then analyzed whether deviation from these figures was warranted. This is sufficient for the trial court and the failure to attach a worksheet to the final decree is not reversible error, and complies with the requirements of *Marker v. Grimm*, 65 Ohio St.3d 139 (1992). *Gaul v. Gaul*, 11th Dist. No. 2009-A-0011, 2010-Ohio-2156, ¶ 33. Further, the failure to attach a child support guidelines worksheet could also easily be remedied pursuant to a Civ.R. 60(A) proceeding. *Schumann v. Schumann*, 8th Dist. No. 83404, 2005-Ohio-91, ¶ 64 (where a child support guidelines sheet was attached to appellant's proposed judgment entry). Ideally, the trial court would have appended the worksheet to the divorce decree but its failure to do so does not make the child support order rendered incorrect or invalid.

{¶ 7} The second assignment of error is overruled.

{¶ 8} The third assignment of error attacks the trial court's awarding of a child support arrearage when no temporary orders for child support had been journalized. The assignment of error alleges another theory which is clearly in conflict with the record before us. A demand for child support was part of the pleadings, so a request for child support was always part of the litigation.

{¶ 9} The fact the financial needs of the child were met during the pendency of the divorce does not mean that the child is not entitled to support from both parents. R.C. 3109.05(A)(1) provides that, in a divorce, a trial court may order either or both parents to support or help support their children.

{¶ 10} A trial court's decision regarding child support obligations falls within the discretion of the trial court and will not be disturbed absent a showing of an abuse of discretion. *Pauly v. Pauly*, 80 Ohio St.3d 386, 390 (1997).

{¶ 11} The trial court conducted evidentiary proceedings in this case on 13 different dates in 2010. The final decree was not journalized until September 2011. As part of the final decree, the trial court ordered basic child support of $142.67 per month effective January 1, 2011, after the evidence had all been submitted but before the court could make the necessary factual findings and journalize a decree. The decree runs over 60 pages.

{¶ 12} The decree does not literally reduce the support effective January 1, 2011 until the issuance of the decree to judgment as an arrearage. Instead, the decree lists the start date for child support, potentially increased by an additional charge based upon the existence or nonexistence of medical coverage for the child. The sums between January 1 and September 21 are an arrearage of sorts, but an acceptable arrearage which frequently occurs when a time lapse occurs between when an issue is submitted to the court and the court can journalize its order on the issue.

{¶ 13} The third assignment of error is overruled.

{¶ 14} As in all divorce cases, the temporary orders end when the final orders in the decree of divorce are journalized. The restraining orders also ended with journalization of the final decree. The trial court did not deny medical coverage for Evans while the divorce was pending, but did not enforce the restraining order as to maintaining him on his wife's health insurance coverage. The record includes an allegation that Evans caused his wife to lose her job and hence her initial group health insurance, which would have made a finding of contempt against Carol M. Davis for failure to maintain health insurance on her now ex-husband unlikely. However, with no transcripts, we cannot say the trial court's failure to enforce the restraining order as to health insurance was error.

{¶ 15} The duty to provide a transcript for appellate review falls upon the appellant. This is necessarily so because an appellant bears the burden of showing error by reference to matters in the record. App.R. 9(B); *Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197 (1980). "When portions of the transcript necessary for resolution of assigned errors are omitted from the record, the reviewing court has nothing to pass upon and thus, as to those assigned errors, the court has no choice but to presume the validity of the lower court's proceedings, and affirm." *Id.* at 199 (failure to file a transcript).

{¶ 16} The fourth assignment of error is overruled.

{¶ 17} The fifth assignment of error attacks the trial court's orders as to attorney fees and litigation costs. The awards under attack are penalties for the filing of motions and civil suits which the trial court found to be frivolous.

{¶ 18} The trial court ruled on an immense number of motions filed in this divorce case. Without a transcript, we cannot say the trial court erred in making the rulings it made or in assessing the penalties it assessed. *Id.*

{¶ 19} The fifth assignment of error is overruled.

{¶ 20} The same problem confronts this appellate court with respect to the distribution of marital property. We do not know what evidence was before the trial court, so we do not know why the trial court divided marital property the way it did. *Id.*

{¶ 21} The sixth assignment of error is overruled.

{¶ 22} All six assignments of error having been overruled, the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, is affirmed.

Judgment affirmed.

SADLER and CONNOR, JJ., concur.
