

[Cite as *Fink v. Fink*, 2009-Ohio-4948.]

IN THE COURT OF APPEALS OF CHAMPAIGN COUNTY, OHIO

LINDA JOY NICOLE FINK :
 (NKA DAMRON)
 Plaintiff-Appellee : C.A. CASE NO. 08CA24

vs. : T.C. CASE NO. 00-DR-35

:
 JEFFERY M. FINK : (Civil Appeal From
 Defendant-Appellant : Common Pleas Court)

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O P I N I O N

Rendered on the 18th day of September, 2009.

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Linda Joy Damron, 9910 County Road 15, Zanefield, OH 43360
 Plaintiff-Appellee, Pro Se

G.S. Weithman, Atty. Reg. No. 0018377, P.O. Box 109, Urbana,
 OH 43078
 Attorney for Defendant-Appellant

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GRADY, J.

{¶ 1} This is an appeal from an order modifying a child support order.

{¶ 2} The marriage of the parties, Linda Fink and Jeffery Fink, was terminated by a decree of dissolution in 2000. Subsequently, the parties agreed to a shared-parenting arrangement regarding their minor child. Because of the amount

of parenting time Jeffery was awarded, the court ordered a 43% downward deviation from the statutory amount of child support Jeffery would otherwise be obligated to pay.

{¶ 3} Linda moved to modify the child support order in 2007.

The matter was referred to a magistrate, who modified the prior 43% downward deviation to one of 15%, increasing Jeffery's child support obligation from \$69.14 per week to \$114.60 per week.

Jeffery filed objections. The court overruled the objections.

Jeffery appeals.

FIRST ASSIGNMENT OF ERROR

{¶ 4} "THE TRIAL COURT ERRED IN REASSIGNING PERCENTAGES OF DEVIATION FOR SHARED PARENTING WITHOUT PROPER EVIDENCE OR MOTION CONCERNING THE SAME WHICH WAS PREVIOUSLY AGREED TO BY THE PARTIES AND APPROVED BY THE COURT."

{¶ 5} When reviewing a child support order, we apply the abuse of discretion standard. *Booth v. Booth* (1989), 44 Ohio St.3d 342. "'Abuse of discretion' has been defined as an attitude that is unreasonable, arbitrary or unconscionable. *Huffman v. Hair Surgeon, Inc.* (1985), 19 Ohio St.3d 83, 87, 19 OBR 123, 126, 482 N.E.2d 1248, 1252. It is to be expected that most instances of abuse of discretion will result in decisions that are simply unreasonable, rather than decisions that are unconscionable or arbitrary.

{¶ 6} "A decision is unreasonable if there is no sound reasoning process that would support that decision. It is not enough that the reviewing court, were it deciding the issue *de novo*, would not have found that reasoning process to be persuasive, perhaps in view of countervailing reasoning processes that would support a contrary result." AAAA *Enterprises, Inc. v. River Place Community Redevelopment* (1990), 50 Ohio St.3d 157, 161.

{¶ 7} R.C. 3119.24(A)(1) provides that a court that issues a shared parenting order shall order an amount of child support based on the schedule and worksheet set forth in R.C. 3119.022, "except that, 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 the extraordinary circumstances of the parents or because of any other factors or criteria set forth in section 3119.23 of the Revised Code, the court may deviate from that amount." The amount of time a child spends with each parent may constitute an "extraordinary circumstance of the parent." R.C. 3119.24(B)(1).

{¶ 8} The magistrate heard evidence that Jeffery had exercised far less visitation time with the minor child than he was awarded in the 2004 shared parenting order. While the actual amount of time varied, the record offers no basis to

find that the court abused its discretion in modifying Jeffery's child support obligation as it did.

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

SECOND ASSIGNMENT OF ERROR

{¶ 10} "THE COURT ERRED IN SUSTAINING THE MAGISTRATE'S DETERMINATION OF APPELLEE'S INCOME AND ITS DETERMINATION IS CAPRICIOUS, BEYOND THE EVIDENCE SUBMITTED."

{¶ 11} Linda testified that she has an annual income of \$25,408 from worker's compensation. Jeffery argues that Linda's income is instead from unemployment compensation. He offers no reason why that distinction presents any difference with respect to the amount of Linda's income, and we see none.

{¶ 12} Jeffery also argues that the trial court abused its discretion when it failed to credit Linda with an additional \$4,000 she earned from a real estate sales agency. Linda testified that she is required to repay that amount. The court could, if it believed Linda, as it apparently did, find that her obligation to repay the amount was a debit against any additional income in that amount that Linda therefore earned.

{¶ 13} The second assignment of error is overruled. The judgment of the trial court will be affirmed.

DONOVAN, P.J. and FAIN, J., concur.

Copies mailed to:

Linda Joy Nicole Damron

G.S. Weithman, Esq.

Hon. Roger B. Wilson