

COURT OF APPEALS  
STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

WENDY GLOBOKAR	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
Plaintiff-Appellee	:	Hon. Sheila G. Farmer, J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	
	:	Case No. 2009-CA-00138
JOSEPH GLOBOKAR	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Civil appeal from the Stark County Court of Common Pleas, Domestic Relations Division, Case Nos. 2008DV00086 & 2008DR00018

JUDGMENT: Affirmed

DATE OF JUDGMENT ENTRY: April 19, 2010

APPEARANCES:

For Plaintiff-Appellee

JOSEPH GLOBOKAR PRO SE  
6394 N. Nickleplate Ave.  
Louisville, OH 44641

For Wendy Greco-Globokar

EUGENE O'BYRNE  
101 Central Plaza South  
Suite 500  
Canton, OH 44702

For Globokar Children – Guardian Ad Litem

MELISSA PITINII  
101 Central Plaza S., Ste. 1000  
Canton, OH 44702

*Gwin, P.J.*

{¶1} Defendant-appellant Joseph Globokar appeals a judgment of the Court of Common Pleas, Domestic Relations Division, of Stark County, Ohio, which granted a divorce to appellant and plaintiff-appellee Wendy Globokar, divided the assets and debts of the marriage, allocated parental rights, and set child support. Appellant assigns five errors to the trial court:

{¶2} “I. THE LOWER COURT ERRED IN ITS ABUSE OF DISCRETION IN FINDINGS (sic) THAT BONDS BOUGHT BY THIRD PARTY, TRUSTEE EDWARD GLOBOKAR, FOR HIMSELF AND JOSEPH GLOBOKAR, BEFORE AND DURING MARRIAGE, WERE CONSIDERED IN THEIR ENTIRETY AS MARITAL PROPERTY, AND AWARDED TO PLAINTIFF AS PART OF DIVORCE SETTLEMENT.

{¶3} “II. THE LOWER COURT ERRED IN ITS ABUSE OF DISCRETION (sic) ASSIGNING ALL OF THE GAL FEES TO THE DEFENDANT.

{¶4} “III. THE LOWER COURT ERRED IN ITS ABUSE OF DISCRETION (sic) IN GENERATING RESPONSIBILITIES ASSIGNED TO GAL AS WELL AS ALLOWING FEES THAT WERE EXCESSIVE AND NOT REASONABLE FOR STANDARD OF CARE.

{¶5} “IV. THE LOWER COURT ERRED IN ITS ABUSE OF DISCRETION BY NOT HOLDING A HEARING OR PROVIDE PARTIES AN OPPORTUNITY TO QUESTION GAL FEES FOR SERVICES RENDERED, BUT INSTEAD CREATED AN ATMOSPHERE THAT BY NOT PAYING WOULD RESULT IN JAIL TIME FOR CONTEMPT (sic).

{¶16} “V. THE LOWER COURT ERRED IN PERMITTING GUARDIAN AD LITEM (GAL) TO REPRESENT THE GLOBOKAR CHILDREN WHEN SHE SHOULD HAVE DISQUALIFIED HERSELF, AS AN OFFICER OF COURT WAS EXTREMELY BIASED AND PREJUDICE IN THE COURSE OF CARRYING OUT HER RESPONSIBILITIES AND AS SUCH COULD NOT HAVE DONE IT WITH THE BEST INTEREST OR WELL BEING OF GLOKOKAR CHILDREN IN MIND.”

{¶17} The trial court made findings of fact in the final entry of divorce entered May 8, 2008. The court found the parties had been married eight and one-half years, and had three children, a daughter, age 7 and twins, age 5 at the time of the hearing. The trial court named appellee the residential parent with visitation to appellant. The trial court established child support, but did not order spousal support or award attorney fees to either party.

{¶18} Our standard of reviewing decisions of a domestic relations court is generally the abuse of discretion standard, see *Booth v. Booth* (1989), 44 Ohio St. 3d 142. The Supreme Court made the abuse of discretion standard applicable to alimony orders in *Blakemore v. Blakemore* (1983), 5 Ohio St. 3d 217, 450 N.E.2d 1140; to property divisions in *Martin v. Martin* (1985), 18 Ohio St. 3d 292; to custody proceedings in *Miller v. Miller* (1988), 37 Ohio St. 3d 71; and to decisions concerning child support, see *Dunbar v. Dunbar*, 68 Ohio St 3d 369, 533-534, 1994 -Ohio- 509, 627 N.E.2d 532. The Supreme Court has repeatedly held the term “abuse of discretion” implies the court’s attitude is unreasonable, arbitrary or unconscionable, *Blakemore*, supra, at 219. When applying the abuse of discretion standard, this court may not

substitute our judgment for that of the trial court, *Pons v. Ohio State Med. Board*, (1993), 66 Ohio St.3d 619, 621, 614 N.E.2d 748.

{¶9} Appellant has failed to provide this court with a transcript of the trial, and as such, our review is limited to the written record before us. “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.” See *Knapp v. Edwards Laboratories* (1980), 61 Ohio St. 2d 197, 199, 400 N.E.2d 384.

I.

{¶10} In his first assignment of error, appellant argues the trial court abused its discretion in finding certain bonds were marital assets, and erred in its finding of the value of the bonds.

{¶11} The trial court found appellee has a custodial account for a daughter from a prior marriage, and appellant has certificates of deposit for two children from a prior marriage. The court did not include these assets as marital assets. However, the court found the parties had \$42,000 of savings bonds, of which appellant had contributed \$40,000 and appellee \$2,000. The court awarded appellant \$6,000 in the bonds, and \$36,000 to appellee. The court stated it considered all relevant factors in dividing the marital property, including the factors set forth in R.C. 3105.171.

{¶12} Appellant argues appellee did purchase some bonds but the remainder of the bonds were purchased by his father, some prior to the parties' marriage, and

some after. Appellant argues he and his father were joint owners. It does not appear appellant listed the bonds on his financial affidavit.

{¶13} The characterization of property as separate or marital is a mixed question of law and fact, and the trial court's ruling must be supported by sufficient credible evidence. See *Barkley v. Barkley* (1997), 119 Ohio App.3d 155, 159, 694 N.E.2d 989. We will not reverse the trial court's judgment as being against the manifest weight of the evidence if some competent, credible evidence supports the court's judgment. *C.E. Morris Co. v. Foley Construction. Co.* (1978), 54 Ohio St.2d 279, 376 N.E.2d 578, syllabus.

{¶14} However, even if the court has determined property as separate, it has discretion to distribute the property as it deems equitable. Reviewing courts evaluate a property division in its entirety, consider the totality of the circumstances, to determine whether the trial court abused its discretion when dividing the parties' marital assets and liabilities. *Briganti v. Briganti* (1984), 9 Ohio St. 3d 220, 222, 459 N.E.2d 896.

{¶15} There is meager evidence in the record regarding either the value or the ownership of the bonds, but there is evidence supporting the court's determination of the value of the bonds. We have reviewed the record, including the overall distribution of assets and debts, and we cannot find the trial court erred or abused its discretion.

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

## II.

{¶17} In his second assignment of error, appellant argues the trial court abused its discretion in assigning all the guardian ad litem fees to him in the final property division,

particularly because a week earlier, the court had ordered the parties to split the outstanding fee bill.

{¶18} Again, we must review the allocation of assets and debts in its entirety. According to the property division exhibits attached to the divorce decree, the court computed the net award to each party, subtracting the debts from the assets awarded to each. The court found appellee received \$18,435.00 and appellant \$18,434.00.

{¶19} We find the trial court did not err in its distribution of the marital debts, including the guardian ad litem fees.

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

### III, IV

{¶21} In his third assignment of error, appellant argues the guardian ad litem fees were excessive and unreasonable, and in his fourth assignment of error, he urges the trial court should have conducted a hearing or provided the parties with an opportunity to question the guardian ad litem fees. The record contains an affidavit and an extensive itemized accounting of the fees earned, including the rate of pay and the amount of time spent. This case involved extensive litigation over the allocation of parental rights and responsibilities for the children, and it appears the guardian ad litem spent an extensive amount of time on the case. The record does not demonstrate appellant objected to the guardian ad litem fees or asked for an evidentiary hearing.

{¶22} Appellant argues the court created an atmosphere that by not paying, the parties would be jailed for contempt. Trial courts possess the inherent authority to enforce their prior orders through contempt proceedings. *Dozer v. Dozer* (1993), 88 Ohio App.3d 296, 302, 623 N.E.2d 1272.

{¶23} The third and fourth assignments of error are overruled.

V

{¶24} In his fifth assignment of error, appellant argues the guardian ad litem should have disqualified herself because she was biased and prejudiced, and her actions were not in the best interest of the children. Appellee replies appellant raised no objections to the guardian ad litem's behavior until her final report recommended appellee be named the residential parent.

{¶25} We find the record does not substantiate appellant's allegations. The fifth assignment of error is overruled.

{¶26} For the foregoing reasons, the judgment of the Court of Common Pleas, Domestic Relations Division, of Stark County, Ohio, is affirmed.

By Gwin, P.J.,

Farmer, J., and

Delaney, J., concur

---

HON. W. SCOTT GWIN

---

HON. SHEILA G. FARMER

---

HON. PATRICIA A. DELANEY

