

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

RAGENNA DANIELS

Plaintiff

and

LORAIN COUNTY CHILD SUPPORT
ENFORCEMENT AGENCY

Appellant

v.

CLIFF BURNETT

Appellee

C. A. No. 09CA009566

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 92JB54571

DECISION AND JOURNAL ENTRY

Dated: September 30, 2009

MOORE, Presiding Judge.

{¶1} Appellant, Lorain County Child Support Enforcement Agency, appeals from the decision of the Lorain County Court of Common Pleas. This Court reverses the trial court's decision.

I.

{¶2} Mother, Ragenna Daniels, gave birth to R.D. on August 17, 1991. She was unmarried at the time. Paternity later established Cliff Burnett as the Father. On April 14, 1992, Father was ordered to pay child support to Mother for their daughter, R.D. See Lorain Cty. Juv. Case No. 92 JB 54571. The court held in abeyance the child's birth expenses totaling \$4,296.44, pending Father's gainful employment. On March 24, 1994, the court granted custody of R.D. to

Lorain County Children's Services and ordered Mother to pay child support to Children's Services. See Lorain Cty. Juv. Case No. 93 JC 60353. The trial court also redirected Father's child support payments in the paternity case to Children's Services. Custody of R.D. was awarded to Grandmother, Augustine Johnson, on February 1, 1996. At that time, the court redirected Mother's child support payments to Grandmother in the Children's Services case and similarly redirected Father's child support payments to Grandmother in the paternity case.

{¶3} Grandmother retained custody of R.D. until January of 2008 when the trial court granted custody to Father. At the trial court's behest, CSEA established a new child support order against Mother to be paid to Father in the Children's Services case. However, as of January of 2008, Mother had not paid any support pursuant to this order. Once Father obtained custody of R.D., the trial court terminated his child support in the paternity case, effective June 1, 2007. This resulted in an overpayment to Grandmother. However, Father still owed an arrearage to the State stemming from the child's birth expenses. Consequently, CSEA intervened in the paternity case to continue Father's support by seeking an arrears order against Father. On February 11, 2008, the trial court ordered Father to pay \$100/month to CSEA to defray past due support and \$5/month in birth expense arrears owed to the state in the paternity case, until both were paid in full.

{¶4} CSEA addressed Father's overpayment to Grandmother in the paternity case by sending the trial court a "CSEA-1" notification on August 18, 2008. As part of CSEA's duties, it provides the court with CSEA-1 notifications to process routine child support matters. Once the court receives these notifications, it notifies the caretaker that it will hold a hearing on the matter.

The record reflects that Father was notified of the hearing but Mother was not.¹ In its CSEA-1 notification, CSEA requested that the court transfer Father's overpayment to Grandmother for the support of R.D. to arrears Father owed Grandmother for the support of R.D.'s elder sister.

{¶5} On September 10, 2008, the court held a hearing on CSEA's request to offset Father's child support arrears. Father was present but Mother was not. No CSEA legal representative was present at the hearing. First, the trial court ordered that Father's overpayment to Grandmother in R.D.'s case be applied to R.D.'s elder sister's case. Then, the trial court took an additional step, apparently at Father's request, and assigned to the state the \$1,462.61 in arrears Mother owed Father in the Children's Services case. The court then ordered that this \$1,462.61 be credited against the \$2,455.22 in birth expenses Father owed the state in the paternity case. Lastly, the court ordered CSEA to adjust its records to reflect that Mother now owes the state \$1,462.61 for the birth expenses.

{¶6} CSEA timely filed objections to the magistrate's decision and filed a motion for leave to file additional objections upon receipt of the transcript. However, the trial court could not prepare a transcript because of technical failure of the recording equipment. Consequently, CSEA filed a brief in support of its objections that addressed only the law, not the facts. The trial court issued a decision dated March 17, 2009, in which it overruled CSEA's objections and upheld the magistrate's decision assigning Mother's arrears to the state in partial satisfaction of Father's birth expense arrears owed to the state in a separate case.

¹ CSEA indicated that it was unable to locate Mother and that she was no longer living at her last known address.

{¶7} CSEA has raised four assignments of error for our review.

II.

ASSIGNMENT OF ERROR I

“THE TRIAL COURT’S DECISION ASSIGNING MOTHER’S \$1462.61 IN ARREARS TO THE STATE TO OFFSET FATHER’S UNPAID BIRTH EXPENSES IN A SEPARATE CASE IS INSUFFICIENT AS A MATTER OF LAW.”

{¶8} In its first assignment of error, CSEA asserts that the trial court’s decision assigning Mother’s \$1,462.61 in arrears to the state to offset Father’s unpaid birth expenses in a separate case is insufficient as a matter of law. We agree.

{¶9} This appeal arises from the trial court’s adoption of the magistrate’s decision. Generally, this Court reviews a trial court’s action with respect to a magistrate’s decision for an abuse of discretion. *Fields v. Cloyd*, 9th Dist. No. 24150, 2008-Ohio-5232, at ¶9. Under this standard, we must determine whether the trial court’s decision was arbitrary, unreasonable, or unconscionable – not merely an error of law or judgment. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219. “In so doing, we consider the trial court’s action with reference to the nature of the underlying matter.” *Tabatabai v. Tabatabai*, 9th Dist. No. 08CA0049-M, 2009-Ohio-3139, at ¶18. This assignment of error challenges the trial court’s application of the law. We review such legal determinations de novo, affording no deference to the conclusion of the trial court. *Jefferson Cty. Child Support Enforcement Agency ex rel. Brown v. Horkulic*, 7th Dist. No. 02 JE 43, 2003-Ohio-1242, at ¶12.

{¶10} The trial court has cited no authority in its decision to assign Mother’s arrears to the State. A review of pertinent law reflects that the only provisions that authorize state assignment of child support (excluding medical support) apply to Ohio Works First (“OWF”)

and Foster Care Maintenance (“FCM”) participants. O.A.C. 5101 governs the Ohio Department of Jobs and Family Services (“OJDFS”). When payments are made to satisfy child support or birth expenses, the administrative code provides a hierarchy in the allocation of collections. The definitions set forth in the administrative code limit assignment of arrears to OWF or FCM assignment. On-going medical support is treated separately and is assigned pursuant to a Medicaid assignment. O.A.C. 5101:12-80-10.

{¶11} Pursuant to the latter definitions, assignment of support arrears is narrowly defined to include only cases involving OWF, FCM or Medicaid. The record reflects that none of Mother’s arrears that the trial court assigned to the state are medical support arrears. Further, there is nothing in the record to suggest that R.D. was a part of the foster care system at any time. Consequently, the only other way that Mother’s child support arrears could be assigned to the state is through Mother’s participation in OWF.

{¶12} O.A.C. 5101:1-3-10 and R.C. 5107.20 provide the rule-making powers of the OWF program and state, in pertinent part, that

“Participation in Ohio works first constitutes an assignment to the department of job and family services of any rights members of an assistance group have to support from any other person, excluding medical support assigned pursuant to section 5101.59 of the Revised Code. The rights to support assigned to the department pursuant to this section constitute an obligation of the person who is responsible for providing the support to the state for the amount of cash assistance provided to the assistance group.” R.C. 5107.20.

{¶13} Again, there is nothing in the record to suggest that either Mother or Father participated in OWF during the time period in which the arrears at issue in this case accumulated. Consequently, these arrears cannot be assigned under O.A.C. 5101:1-3-10(A) or R.C. 5107.20. The trial court erred as a matter of law in assigning to the state the \$1,462.61 in arrears Mother owed Father. It follows, therefore, that if the trial court lacked authority to assign

this amount, it also lacked authority to credit the \$1,462.61 against the \$2,455.22 in birth expenses Father owed the state. CSEA’s first assignment of error is sustained.

ASSIGNMENT OF ERROR II

“THE TRIAL COURT ERRED AS A MATTER OF LAW BY HOLDING THAT R.C. 3123.19 REQUIRES CSEA TO PURSUE ARREARS OWED TO FATHER BY MOTHER AND TO APPLY THEM TO BIRTH EXPENSES FATHER OWES TO THE STATE.”

ASSIGNMENT OF ERROR III

“THE TRIAL COURT’S DECISION MILITATES AGAINST PUBLIC POLICY.”

ASSIGNMENT OF ERROR IV

“THE TRIAL COURT COMMITTED PLAIN ERROR BY ORDERING MOTHER TO INDEMNIFY FATHER FOR A DEBT HE OWES THE STATE WITHOUT GAINING JURISDICTION OVER MOTHER.”

{¶14} Our disposition of CSEA’s first assignment of error renders its remaining assignments of error moot.

III.

{¶15} CSEA’s first assignment of error is sustained. CSEA’s remaining assignments of error are rendered moot. The judgment of the Lorain County Court of Common Pleas is reversed and the cause is remanded for proceedings consistent with this opinion.

Judgment reversed,
and cause remanded.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Lorain, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellee.

CARLA MOORE
FOR THE COURT

CARR, J.
WHITMORE, J.
CONCUR

APPEARANCES:

ANGELA A. WU, Legal Counsel for (CSEA) and LCSJFS), Appellant.

CLIFF BURNETT, pro se, Appellee.