

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

CHRIS COSTIN

C.A. No. 11CA010025

Appellant

v.

CRYSTAL ATKINS

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 09JG27776

Appellee

DECISION AND JOURNAL ENTRY

Dated: December 27, 2011

CARR, Judge.

{¶1} Appellant, Chris Costin, appeals the judgment of the Lorain County Court of Common Pleas, Juvenile Division. This Court affirms.

I.

{¶2} Appellee, Crystal Atkins, and Mr. Costin have two minor children. Mr. Costin filed a complaint for custody of the children in the Lorain County Juvenile Court. The parties entered into a shared parenting agreement on May 4, 2010.

{¶3} On March 21, 2011, Ms. Atkins filed a motion to modify child support. Mr. Costin filed a brief in opposition to the motion. The matter proceeded to a hearing before the magistrate who issued a decision on May 26, 2011. The trial court adopted the magistrate's decision the same day, issued a child support order, but deferred ruling on the issue of arrearages. The magistrate held another hearing on June 20, 2011, on Ms. Atkins' motion to modify child support for the purpose of disposing of all unresolved issues. The magistrate issued

her decision on June 23, 2011. The trial court adopted the decision the same day, and ordered Mr. Costin to pay child support, all arrearages, and an additional amount for day care for the children. Mr. Costin filed a timely appeal in which he raises four assignments of error. This Court consolidates the assignments of error to facilitate review.

II.

ASSIGNMENT OF ERROR I

“THE TRIAL COURT ERRED BY NOT INCLUDING ALL THE INCOME OF [MS. ATKINS] IN THE CHILD SUPPORT COMPUTATION WORKSHEET PER [R.C.] 3119.01[.]”

ASSIGNMENT OF ERROR II

“THE TRIAL COURT ERRED BY NOT INCLUDING THE CHILD CARE COSTS IN THE CHILD SUPPORT COMPUTATION WORKSHEET PER [R.C.] 3119.023[.] INSTEAD, IT WAS CHARGED TO [MR. COSTIN] AS AN ADDITIONAL EXPENSE.’

ASSIGNMENT OF ERROR III

“THE TRIAL COURT ERRED BY ORDERING [MR. COSTIN] TO PAY CHILD CARE COSTS DIRECTLY TO THE CHILD CARE PROVIDER INSTEAD OF INCLUDING IT IN THE CHILD SUPPORT PAYMENT TO [MS. ATKINS].”

ASSIGNMENT OF ERROR IV

“THE TRIAL COURT ERRED BY ORDERING [MR. COSTIN] TO PAY DIRECTLY TO [MS. ATKINS] CHILD CARE COSTS INCURRED FROM FILING DATE OF [MS. ATKINS’] MOTION TO MODIFY CHILD SUPPORT.”

{¶4} Mr. Costin argues that the trial court erred in its calculation and disposition of child support issues. This Court disagrees.

{¶5} In cases where the matter was initially heard by a magistrate whose decision was adopted by the trial court, “[a]ny claim of trial court error must be based on the actions of the

trial court, not on the magistrate's findings or proposed decision." *Mealey v. Mealey* (May 8, 1996), 9th Dist. No. 95CA0093.

{¶6} Juv.R. 40(D)(3)(b)(i) allows a party to file written objections to a decision of the magistrate within fourteen days of the filing of the decision. Juv.R. 40(D)(3)(b)(iv) provides that "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 Juv.R. 40(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Juv.R. 40(D)(3)(b)." Where a party has failed to file any objections to the magistrate's findings or conclusions, that party has waived the right to challenge either the findings or conclusions on appeal. *Tawney v. Tawney*, 9th Dist. No. 02CA0018-M, 2002-Ohio-6122, at ¶15. Mr. Costin failed to file objections to either of the magistrate's decisions. Accordingly, he failed to preserve for appeal any issues arising out of the hearing on the motion to modify child support and has waived his right to challenge the trial court's judgment adopting the decision. Mr. Costin's assignments of error are overruled.

III.

{¶7} Mr. Costin's assignments of error are overruled. The judgment of the Lorain County Court of Common Pleas, Juvenile Division, is affirmed.

Judgment affirmed.

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 Appellant.

DONNA J. CARR
FOR THE COURT

BELFANCE, P. J.
DICKINSON, J.
CONCUR

APPEARANCES:

CHRIS COSTIN, pro se, Appellant.

JAMES SMITH, Attorney at Law, for Appellee.