

IN THE SUPREME COURT OF OHIO

MERCY BREW,)	CASE NO: _____
)	
Appellee,)	Court of Appeals No. C-220140
)	
)	
-vs.)	Trial Court No. DR2001217
)	
BENJAMIN BREW,)	
)	
Appellant.)	

NOTICE OF APPEAL OF BENJAMIN BREW

Respectfully Submitted:

/s/ Benjamin Brew
BENJAMIN BREW
Plaintiff in Pro Se
13 Colts Neck Drive
Sicklerville, NJ 08081
Telephone: (513) 394-1517
Email: benbbrew@gmail.com

NOTICE OF APPEAL OF BENJAMIN BREW

Appellant, Benjamin Brew, hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Hamilton County Domestic Relations Division and the Court of Appeals, the First Appellate District of Ohio, Hamilton County, Appeals Case No: C-220140 entered on May 3, 2023. This case raises a substantial constitutional question involving child custody standards as well as proper application of Ohio Statutory Law. A true and correct copy of the appeal decision is attached herein.

Respectfully Submitted:

/s/ Benjamin Brew
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Plaintiff in Pro Se
13 Colts Neck Drive
Sicklerville, NJ 08081
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**EXPLANATION OF WHY THIS IS A CASE OF PUBLIC OR GREAT GENERAL
INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTION QUESTION.**

The trial court abused its discretion by issuing the child custody order in the instant matter based on the facts and circumstances of the case including but not limited to Appellee Mercy Brew's multiple child endangerment criminal history which is a legitimate ground for termination of Mercy's parental rights, thereby directly infringing on the fundamental constitutional rights of Appellant Benjamin Brew to the due process of law.

The judgments entered in this case directly implicate equality in the justice system and the rights of Fathers such as Benjamin to be treated equally in the justice system; in any other case where the Father might have pled guilty in a criminal court to child endangerment charges; the Father's shared parenting rights would have been instantly terminated; and yet the Trial Court still designated Mercy as both the Legal and Residential Custodian of the minor child; whereas Mercy had previously expressly pled guilty in Criminal Court to multiple child endangerment charges, although Benjamin has no prior criminal history whatsoever. Such a clear contradiction directly implicates the fundamental due process rights of Benjamin which warrants the supervisory authority of this Court.

Similarly, the trial court abused its discretion by issuing the child support order in the instant matter and ordering Benjamin to pay child support while refusing to award alimony and spousal support to Benjamin in the instant matter based on the facts and circumstances of the case including but not limited to Mercy regularly earning more than double Benjamin's income

thereby directly infringing on the fundamental constitutional rights of Benjamin to the due process of law.

The judgments entered in this case directly implicate equality in the justice system and the rights of Fathers such as Benjamin to be treated equally in the justice system; in any other case where the Father makes more than double the income of the Mother there would be an award of alimony whereas here the Mother makes more than double the income of the Father and yet no alimony is awarded. Such a clear contradiction directly implicates the fundamental due process rights of Benjamin which warrants the supervisory authority of this Court.

STATEMENT OF THE CASE AND FACTS

Plaintiff and Defendant had a previous case in the Domestic Relations Division in Hamilton County, Ohio. The case number was DR2001217. A final hearing for this matter was heard on February 2, 2022 and February 7, 2022, before Judge Susan Tolbert. This matter came on for the final hearing upon the complaint for divorce with children which was originally filed by Mercy on August 14, 2020. In the divorce court proceedings held February 2, 2022 and February 7, 2022, Mercy made statements that Benjamin caused her to be in trouble with criminal proceeding and with the restraining order. Additionally, stated that Benjamin was the cause of her endangering their child, however this statement is false in addition to being libelous and constitutes potential perjury and fraud upon the court because it is Mercy that acquired criminal charges as a result of her reckless endangerment of the minor in the instant matter.

All of the criminal charges and restraining orders against Mercy were due to her own acts and not the acts of Benjamin. Benjamin did not cause Mercy to do anything against their child. Mercy was arrested for child endangerment (Exhibit A). In the criminal proceedings in the Butler County (Ohio) Area III Criminal Court, Defendant Mercy Brew did not once blame Benjamin for the endangerment of their son, however, in the divorce proceeding, Mercy blamed Benjamin for the endangerment of their son. In addition, to the child endangerment complaints, there were domestic violence complaints against Mercy (Exhibit B). In this complaint, it was determined that Mercy knowingly caused visible injury to her husband at the time, Benjamin.

The Trial Court abused its discretion in considering the totality of the facts and circumstances pertaining to the instant matter. An abuse of discretion is described as a decision that was arbitrary, unconscionable, or the product of an unsound reasoning process. State v. Darmond, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34. The Supreme Court of

Ohio, however, has recently clarified this standard of review noting that all "courts lack the discretion to make errors of law, particularly when the trial court's decision goes against the plain language of a statute or rule." Johnson v. Abdullah, 166 Ohio St.3d 427, 2021-Ohio-3304, ¶ 39. In issuing the child custody designation to Mercy and refusing to issue alimony in support of Benjamin in the instant matter, the Trial Court's decision was entirely arbitrary, unconscionable, and a product of an unsound reasoning process thereby constituting an abuse of discretion.

There does not appear to be any precedent in case history where a Defendant, who has been charged and convicted in criminal court for child endangerment charges was made the residential and legal custodian of the child she abused; and unless this learned Appellate Court can point to any case where this has taken place, it is clear that the Trial Court erred. In fact, criminal conviction is one of the legitimate grounds for termination of parental rights pursuant to O.R.C. Section 3109.04 "Allocating Parental Rights and Responsibilities For Care of Children - Shared Parenting" which states "If the court determines that either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being a neglected child, that either parent previously has been determined to be the perpetrator of the neglectful act that is the basis of an adjudication that a child is a neglected child, or that there is reason to believe that either parent has acted in a manner resulting in a child being a neglected child, the court shall consider that fact against naming that parent the residential parent and against granting a shared parenting decree." which means that the Court committed legal error by not following the above referenced statute.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

A. THE COURT FAILED TO FOLLOW LEGAL STANDARDS PERTAINING TO ALIMONY

O.R.C. § 5105.18(C) recites as follows on the issue of spousal support: (1) In determining whether spousal support is appropriate and reasonable, and in determining the nature, amount, and terms of payment, and duration of spousal support, which is payable either in gross or in installments, the court shall consider all of the following facts;

- (a) The income of the parties, from all sources, including, but not limited to , income derived from property divided, disbursed, or distributed or distributed under Section 3105.171 of the revised code;
- (b) The relative earning abilities of the parties...
- (c) The duration of the marriage
- (d) The extent to which it would be inappropriate for a party, because he will be custodian of a minor child of the marriage, to seek employment outside of the home
- (e) The standard of living of the parties established during the marriage...
- (f) The relative assets and liabilities of the parties including but not limited to any Court-ordered payments by the parties...
- (g) The tax consequences for each party of an award of spousal support...
- (h) Any factor that the Court expressly finds to be relevant and equitable.

In the instant matter, the Trial Court entirely abused its discretion in consideration of these factors and went against the letter of the law in considering each of these factors to the prejudice and the detriment of Benjamin in the instant matter.

First, the Court utilized the fact that Mercy has no income as a factor in deciding not to award spousal support in favor of Benjamin because the mother voluntarily left employment as a Pediatrician earning \$173,380.48 per year as a reason against spousal support but what the Court failed to consider is that Mercy expressly stated that, in the context of obtaining child custody, Mercy stated that she was “expecting to be employed within a month”.

This clear and blatant contradiction demonstrates the abuse of discretion of the Trial Court in refusing to award child custody to Benjamin. When it was in the favor of Mercy to be employed or demonstrate prospects of being employed, Mercy used the factor of expecting to be employed as a Medical Doctor within a month in their favor. However, when the factor of employment went against Mercy, the Trial Court used Mercy’s lack of employment in their favor *in the same order*.

Clearly such a contradiction within the same order constitutes an abuse of discretion that is arbitrary, unconscionable, or the product of an unsound reasoning process constituting an abuse of discretion pursuant to the standards in *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34.

The prejudice does not end there; another factor to consider in the awarding of spousal support is:

(g) the standard of living of the parties established during the marriage

Here, Benjamin specifically stated that the reason for spousal support was for the reason of being able to maintain ordinary standard of living expenses as the basis for issuing the spousal support. A failure to award spousal support directly impacts the ability of Benjamin to be employed if property were to foreclose and maintain these properties that were acquired directly as a result of

the standard of living of the parties at the time of the marriage during which Mercy earned substantially more (more than double) the income of Benjamin as a physician.

The Trial Courts complete disregard of this factor also constitutes an abuse of discretion that is arbitrary, unconscionable, or the product of an unsound reasoning process constituting an abuse of discretion pursuant to the standards in *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34.

In essence, the Trial Court completely disregarded the rights and interests of Benjamin as set forth in O.R.C. § 5105.18(C) thereby constituting an abuse of discretion warranting reversal of the refusal to issue spousal support.

B. THE COURT FAILED TO FOLLOW LEGAL STANDARDS PERTAINING TO CHILD CUSTODY

Again, when the factor of Mercy's voluntary lack of employment as a Physician earning \$173,380.48 was in her favor in terms of alimony and spousal support, the Court provided credit to Mercy in this regard.

However, when the factor of lacking employment went against the interests of Mercy as well as their excessive A.D.H.D (Attention Deficit and Hyperactivity Disorder), Mercy and Trial Court merely relied on the premise that Mercy claims to be expecting employment within a month.

Then, in the issuance of child support, again Mercy's lack of employment is used against Benjamin when the Court issued child support obligations against Benjamin in the amount of \$326.26 per month when in fact Mercy earns *more than twice* the income of Benjamin.

This clearly contradictory and double standard constitutes an abuse of discretion in the highest sense of the term.

Not only is Benjamin burdened with additional living expenses as a result of the divorce without spousal support to compensate for this standard of living enjoyed by the parties during their time of marriage where Mercy earned more than double the income of Benjamin, but Benjamin is also burdened with child support payments in the amount of \$326.26 per month in the case where Mercy expressed that they are expecting to be employed within a month.

Clearly, as this Court should agree, the Trial Court completely abused its discretion in ruling as it did; Mercy cannot use lack of employment against Benjamin when it is convenient and then claim to be expecting employment within a month when it is convenient and favorable to her position.

Benjamin was treated highly unfavorably in the ruling issued by the trial court both in its failure to follow the letter of the law as well as the principles of equity.

As a result of the rulings of the Trial Court, Benjamin is burdened with obligations and responsibilities more than he is able to bear on his own while Mercy is able to enjoy, not only a standard of living on an income that is double of Benjamin's, but also with the added child support obligations imposed on Benjamin which constitutes inequity in the highest sense of the term.

The Trial Courts complete disregard of these factors constitute an abuse of discretion that is arbitrary, unconscionable, or the product of an unsound reasoning process constituting an abuse of discretion pursuant to the standards in *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34.

B. MERCY FAILED TO FOLLOW APPELLATE FILING STANDARDS THEREBY
WARRANTING MERCY'S INITIAL BRIEF TO BE STRICKEN

First, Mercy's initial brief of October 3, 2022 failed to conform to the rules and standards of Appellate Procedure which is one reason that brief was stricken. Mercy's Appeal brief, which looked like it was hastily put together, failed to conform to any of the filings standards and formatting requirements necessary for an acceptable filing in the Court of Appeals for Ohio. In fact, "pro se civil litigants are bound by the same rules and procedures as those litigants who retain counsel." *Heller v. Ohio Dept. of Jobs & Family Servs.*, 8th Dist. Cuyahoga No. 92965, 2010-Ohio-517, ¶ 18, quoting *Meyers v. First Natl. Bank of Cincinnati*, 3 Ohio App.3d 209, 210, 444 N.E.2d 412 (1st Dist.1981). "They are not to be accorded greater rights and must accept the results of their own mistakes and errors." *Id.* In the instant matter, where Mercy failed to comply with the rules, procedures, and standards for the filing of their brief, their brief must be stricken for failure to comply with the Ohio Rules of Appellate Procedure.

On October 3, 2022, Mercy filed a responsive brief that entirely failed to conform to the rules and standards for appellate filings which made the document entirely incomprehensible and impossible to respond to. The formatting was incorrect and the various sections of Mercy's brief were not broken in the sections required by the Ohio Rules of Appellate Procedure in a manner which Benjamin could provide comprehensive responses to. Instead, Mercy submitted one long and incoherent section of incoherent rambling where Mercy simply rambles on and on about random aspects of the case and goes as far as to make new false and defamatory allegations against Benjamin which were not considered in the trial court.

C. MERCY SOUGHT TO INTRODUCE NEW EVIDENCE NOT PROPERLY CONSIDERED IN THE TRIAL COURT WHICH ALSO REQUIRED STRIKING

Furthermore, Mercy went as far as introducing new evidence in their brief that was not considered in the original record. Rule 9.1 of the Ohio Rules of Appellate Procedure states “The Court of Appeals does not accept new evidence on appeal that is offered to expand upon the record of evidence heard by the trial court, or otherwise offered to support or rebut the adjudicative facts determined by the trial court.”. see *In re DeFronzo*, 49 Ohio St.2d 271, 274, 361 N.E.2d 448 (1977), Therefore, the additional evidence and claims included in Mercy’s brief not included in the original trial record is entirely in violation of the Ohio Rules of Appellate Procedure and must be disregarded and stricken from the record for this reason as well.

Mercy went as far as accusing Benjamin of conspiring with local law enforcement officials about her charge of child abuse and neglect when this type of assertion is extremely serious and entirely defamatory to Benjamin without a shred of evidence of the same; as well as not a part of the original proceedings. Therefore, the additional evidence and claims included in Mercy’s initial brief not included in the original trial record is entirely in violation of the Ohio Rules of Appellate Procedure and must be disregarded and stricken from the record for this reason as well. Mercy is merely frustrated that they were criminally charged with child neglect and abuse and they have to bear the burden and consequences of their criminal acts. Instead of accepting responsibility, Mercy becomes frustrated and attempts to shift responsibility on Benjamin for their own actions of criminal neglect and abuse.

D. MERCY DOES NOTHING TO REBUT THE LEGAL ISSUES CITED BY BENJAMIN IN THEIR ORIGINAL BRIEF

Mercy's brief does nothing to rebut the affirmative points of law cited by Benjamin in their original brief about the Court abusing its discretion with regards to the findings in the instant matter thereby warranting judgment in favor of Benjamin. Mercy, the Defendant in criminal court, who had been charged and convicted in criminal court for child endangerment charges was made the residential and legal custodian of the child she abused; criminal conviction is one of the legitimate grounds for termination of parental rights pursuant to O.R.C. Section 3109.04 "Allocating Parental Rights and Responsibilities For Care of Children - Shared Parenting" which states "If the court determines that either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being a neglected child, that either parent previously has been determined to be the perpetrator of the neglectful act that is the basis of an adjudication that a child is a neglected child, or that there is reason to believe that either parent has acted in a manner resulting in a child being a neglected child, the court shall consider that fact against naming that parent the residential parent and against granting a shared parenting decree." which means that the Divorce Court committed legal error by not following the above referenced statute.

Benjamin and Mercy had a previous case in the Domestic Relations Division in Hamilton County, Ohio. The case number was DR2001217. A final hearing for this matter was heard on February 2, 2022 and February 7, 2022, before Judge Susan Laker Tolbert. This matter came on for the final hearing upon the complaint for divorce with children which was originally filed by Mercy on August 14, 2020. In the divorce court proceedings held February 2, 2022 and February 7, 2022, Mercy and Mr. Jeremy Evans, her trial attorney as well as Mr. Patrick Magill, the Social

Worker appointed by the Court, at various times; directly or indirectly, made false and defamatory statements that Benjamin caused Mercy to be in trouble with criminal proceeding and with the restraining orders. Additionally, Mercy, Mr. Magill and Mr. Evans; directly or indirectly, stated that Benjamin was the cause of Mercy endangering the child, however this statement is false and potentially gives rise to the instant claim for fraud on the court. All of the criminal proceedings and restraining orders against Mercy were due to Mercy's own acts and not the acts of Benjamin. Benjamin did not cause Mercy to do anything against their child. Mercy was arrested for child endangerment (Exhibit A). In the criminal proceedings, Mercy and Mr. Evans did not once blame Benjamin for the endangerment of their son, however, in the divorce trial, Mercy, Mr. Magill and Mr. Evans; directly or indirectly, blamed Benjamin for the endangerment of the minor child. Exhibit A is a summary redaction of the hundreds of pages of Mercy's past Child Endangerment court records obtained from the Butler County Area III courts. The case numbers are CRA1901022, CRA1901043, CRB1901515A and CRB1901515B. In addition, to the child endangerment complaints, there were domestic violence complaints against Mercy (Exhibit B). In this complaint, it was determined that Mercy knowingly caused visible injury to her husband at the time, Benjamin. Exhibit B is a summary redaction of the hundreds of pages of Mercy's past Domestic Violence court records obtained from the Butler County Area III courts. The case numbers are CRB1400150 and CRB1901415.

Reasonable minds would most likely come to the conclusion that Mr. Evans, who at the time of the Divorce trial was Mercy's Attorney in her Criminal proceedings, appeared to have orchestrated the misrepresentation of material facts relating to Benjamin, as well as suppression of evidence of Mercy's prior criminal history, not only in judicial proceedings but also with regards to evidence that was prepared outside of judicial proceedings in preparation for

presentation to the court, thereby constituting fraud upon the court as described in *Coulson v. Coulson*, 5 Ohio St. 3d 12, 15, 448 N.E.2d 809, 812 (1983).

Similarly, reasonable minds would most likely come to the conclusion that Mr. Magill, appeared to have acted in collusion with Mercy and her then Attorney Jeremy J. Evans in the misrepresentation of material facts relating to Mr. Brew; as well as the suppression of evidence of Mercy's past criminal history, that resulted in Mr. Magill's decision to neither investigate Mercy's past criminal history nor interview Mr. Evans who had been Mercy's Attorney for several years prior, nor interview anyone at the Butler County Area III criminal court/Police Precinct, thereby constituting negligence and fraud upon the court as described in *Coulson v. Coulson*, 5 Ohio St. 3d 12, 15, 448 N.E.2d 809, 812 (1983). Mr. Magill's recommendation that Mercy be made the residential and legal custodian of the minor child must be reversed and Benjamin respectfully requests the Appeals Court that Benjamin be made the residential and legal custodian of the minor child.

Furthermore Mr. Magill's negligent conduct as well as recommending Mercy to be the legal and residential custodian of the minor child, appears not to be in the best interest of the minor child and also appears to infringe on the constitutional rights of Benjamin in denying Benjamin legal and residential custody of the minor child. Similarly, Mr. Magill's conduct appears to infringe on the Civil and Human Rights of the minor child as a result of Mercy being made the legal and residential custodian of the same minor child she had previously neglected. The minor child is entitled to live free of the fear of being neglected again by Mercy.

O.R.C. § 5105.18(C) recites as follows on the issue of spousal support: (1) In determining whether spousal support is appropriate and reasonable, and in determining the nature, amount,

and terms of payment, and duration of spousal support, which is payable either in gross or in installments, the court shall consider all of the following facts;

- (a) The income of the parties, from all sources, including, but not limited to , income derived from property divided, disbursed, or distributed or distributed under Section 3105.171 of the revised code;
- (b) The relative earning abilities of the parties...
- (e) The duration of the marriage
- (f) The extent to which it would be inappropriate for a party, because he will be custodian of a minor child of the marriage, to seek employment outside of the home
- (g) The standard of living of the parties established during the marriage...
- (i) The relative assets and liabilities of the parties including but not limited to any Court-ordered payments by the parties...
- (l) The tax consequences for each party of an award of spousal support...
- (n) Any factor that the Court expressly finds to be relevant and equitable.

In the instant matter, the Trial Court entirely abused its discretion in consideration of these factors and went against the letter of the law in considering each of these factors to the prejudice and the detriment of Benjamin in the instant matter.

First, the Court utilized the fact that Mercy has no income as a factor in deciding not to award spousal support in favor of Benjamin because Mercy voluntarily left employment earning \$173,380.48 per year as a reason against spousal support but what the Court failed to consider is that Mercy expressly stated that, in the context of obtaining child custody, Mercy stated that she was “expecting to be employed within a month”.

This clear and blatant contradiction demonstrates the abuse of discretion of the Trial Court in refusing to award child custody to Benjamin. When it was in the favor of Mercy to be employed or demonstrate prospects of being employed, Mercy used the factor of expecting to be employed within a month in their favor. However, when the factor of employment went against the Mercy, the Trial Court used the Mercy's lack of employment as a Physician in their favor *in the same order*.

Clearly such a contradiction within the same order constitutes an abuse of discretion that is arbitrary, unconscionable, or the product of an unsound reasoning process constituting an abuse of discretion pursuant to the standards in *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34.

The prejudice does not end there; another factor to consider in the awarding of spousal support is:

(g) the standard of living of the parties established during the marriage

Mercy makes more income than Benjamin annually as a Doctor making about \$173,380.48 per year whereas Benjamin makes \$88,000.00 per year. Benjamin requested \$3,000.00 per month in spousal support per the affidavit of income and expenses filed with the Trial Court; it was determined that spousal support of \$3,000.00 would be sufficient for Benjamin's everyday living expenses. Also, due to Benjamin's occupation as an underwriter, it would be a hardship to Benjamin's re-employment opportunities if either one of the two properties should foreclose; hence Benjamin's decision to keep both properties. Finally, the Trial Court erred in not considering the fact that one of the properties in the instant matter is a rental property and therefore the notion that Benjamin wants to live an expensive lifestyle is an error; Benjamin lived in the other property which is the marital home in order to maintain the same living

situation, the autistic child grew up in with minimal changes to the minor child. Furthermore, Mercy earns more than Benjamin, and this has a substantial impact on the ability of Benjamin to maintain the properties that are going to be retained by Benjamin in the instant matter.

The Trial Court's complete disregard of this factor also constitutes an abuse of discretion that is arbitrary, unconscionable, or the product of an unsound reasoning process constituting an abuse of discretion pursuant to the standards in *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34.

In essence, the Trial Court completely disregarded the rights and interests of Benjamin as set forth in O.R.C. § 5105.18(C) thereby constituting an abuse of discretion warranting reversal of the refusal to issue spousal support.

Again, when the factor of Mercy's voluntary lack of employment as a Pediatrician earning \$173,380.48 was in Mercy's favor in terms of alimony and spousal support, the Court provided credit to Mercy in this regard.

However, when the factor of lacking employment went against the interests of Mercy as well as their excessive A.D.H.D (Attention Deficit and Hyperactivity Disorder), Mercy and the Trial Court merely relied on the premise that Mercy claims to be expecting employment within a month.

Then, in the issuance of child support, again Mercy's lack of employment is used against Benjamin when the Court issued child support obligations against Benjamin in the amount of \$326.26 per month when in fact Mercy earns *more than twice* the income of Benjamin.

This clearly contradictory and double standard constitutes an abuse of discretion in the highest sense of the term.

Not only is Benjamin burdened with additional living expenses as a result of the divorce without spousal support to compensate for this standard of living enjoyed by the parties during their time of marriage where Mercy earned more than double the income of Benjamin, but Benjamin is also burdened with child support payments in the amount of \$326.26 per month in the case where Mercy expressed that they are expecting to be employed within a month.

Clearly, as this Court should agree, the Trial Court completely abused its discretion in ruling as it did; Mercy cannot use lack of employment against Benjamin when it is convenient and then claim to be expecting employment within a month when it is convenient and favorable to her (Mercy's) position.

Benjamin was treated highly unfavorably in the ruling issued by the trial court both in its failure to follow the letter of the law as well as the principles of equity.

As a result of the rulings of the Trial Court, Benjamin is burdened with obligations and responsibilities more than he is able to bear on his own while Mercy is able to enjoy, not only a standard of living on an income that is double of Benjamin's, but also with the added child support obligations imposed on Benjamin which constitutes inequity in the highest sense of the term.

The Trial Court's complete disregard of these factors constitute an abuse of discretion that is arbitrary, unconscionable, or the product of an unsound reasoning process constituting an abuse of discretion pursuant to the standards in *State v. Darmond*, 135 Ohio St.3d 343, 2013-Ohio-966, 986 N.E.2d 971, ¶ 34.

As stated in Benjamin's original brief, Mercy appears to want to have everything both ways; they want to claim unemployment (as an unemployed Medical Doctor) when it is convenient for them but then claim that they are a Physician earning over \$170,000.00 per year

when it is convenient for them. The Trial Court also abused its discretion by finding against Benjamin in this regard by both not granting custody or alimony in favor of Benjamin while at the same time granting custody to Mercy on the basis that they are going to be employed soon. This type of double-dipping is entirely unacceptable and an abuse of discretion warranting reversal in this appeal in favor of Benjamin.

CONCLUSION

For these reasons, as well as the others included in Benjamin's brief, it is hereby respectfully requested that judgment be entered in favor of Benjamin for the reasons stated therein and herein.

WHEREFORE, Benjamin hereby respectfully requests that this Honorable Court REVERSE the final order of the trial court and REMAND the instant matter for further proceedings.

DATED: June 16, 2023

Respectfully Submitted,

/s/ Benjamin Brew
BENJAMIN BREW
Plaintiff in Pro Se
13 Colts Neck Drive
Sicklerville, NJ 08081
Telephone: (513) 394-1517
Email: benbbrew@gmail.com

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was served by electronic mail, this 16th day of June, 2023, on the following:

Mercy Brew
8747 Wales Drive
Cincinnati, OH 45249
Brewmercy99@gmail.com

DATED: June 16, 2023

Respectfully Submitted,

/s/ Benjamin Brew
BENJAMIN BREW
Plaintiff in Pro Se
13 Colts Neck Drive
Sicklerville, NJ 08081
Telephone: (513) 394-1517
Email: benbbrew@gmail.com