IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

April Bott Moore,	:	
Plaintiff-Appellant,	:	No. 25AP-171 (C.P.C. No. 16DR-209)
v.	:	(REGULAR CALENDAR)
Robert Dean Moore,	:	
Defendant-Appellee.	:	

D E C I S I O N

Rendered on August 27, 2026

On brief: *April Bott Moore*, pro se. **Argued:** *April Bott Moore*.

On brief: *Eugene R. Butler*; *Baker Hostetler LLP*, and *James A. Loeb*, for appellee. **Argued:** *Eugene R. Butler*.

APPEAL from the Franklin County Court of Common Pleas, Division of Domestic Relations

DINGUS, J.

{¶ 1} Plaintiff-appellant, April Bott Moore ("April"), appeals a judgment from the Franklin County Court of Common Pleas, Division of Domestic Relations, which determined various marital property and child support issues on remand after we reversed the court's May 2021 divorce decree in part in *Moore v. Moore*, 2022-Ohio-1862 (10th Dist.). For the reasons that follow, we affirm the trial court's decision regarding marital property, we affirm the court's decision regarding child support as it applied to the period between January 2020 and May 2021, but we reverse the court's decision regarding child support as applied to the period after May 2021.

I. Facts and Procedural History

{¶ 2} This is the sixth time the Moore divorce has visited this court. *See Moore v. Moore*, No. 18AP-866 (10th Dist. Dec. 31, 2018) (Journal Entry of Dismissal) ("*Moore I*"); 2022-Ohio-1862 (10th Dist.) ("*Moore II*"); No. 23AP-399 (10th Dist. Aug. 24, 2023) (Journal Entry of Dismissal) ("*Moore III*"); No. 23AP-516 (10th Dist. Oct. 6, 2023) (Journal Entry of Dismissal) ("*Moore IV*"); 2024-Ohio-5692 (10th Dist.) ("*Moore V*"). We would like to be brief with the background to the extent possible. But, because the issues in this appeal span the entirety of the case's history, brevity is not a particularly obtainable goal.

A. 2013-2016: marriage, child, and divorce

{¶ 3} April and defendant-appellee, Robert Dean Moore ("Robert") were married in 2013 and had a child in 2014. The parties maintained separate residences during their short marriage, with April residing in Dublin, Ohio ("the Dublin home") and Robert residing in Belmont, Ohio ("the Belmont home"). April owned a home in Vero Beach, Florida prior to the marriage ("April's Vero Beach home"), and the parties bought a second home in Vero Beach in 2014 ("Robert's Vero Beach home"). The parties bought an additional home in New Albany, Ohio ("the New Albany home") in mid-2015, and they began to take steps toward ending the marriage soon thereafter. In January 2016, April sued for divorce, and Robert counterclaimed for divorce.

{¶ 4} Pursuant to an agreed temporary support order, Robert was responsible for any routine expenses related to the parties' various residences in Ohio and Florida, insurance for the parties' many vehicles, health insurance, and all the child's routine expenses. April was responsible for her own personal expenses. Robert was obligated to pay $15,000 per month directly to April, with $7,500 designated as general child support, and $7,500 as reimbursement for the child's nannies.

B. 2016-2021: divorce trial and pre-decree proceedings

{¶ 5} In October 2016, April dismissed her divorce complaint and stipulated that she would not seek spousal support. The parties agreed to parent the child pursuant to the terms of a shared parenting plan, which the court adopted in a shared parenting decree. The matter proceeded to trial on Robert's counterclaim over the course of a few dozen days from October 2016 to October 2017. Toward the end of the trial proceedings, April filed a motion for temporary and permanent spousal support in August 2017.

{¶ 6} Post-trial proceedings languished while the parties filed dozens upon dozens of motions and attempted to pursue an interlocutory appeal, which this court dismissed for lack of a final appealable order in *Moore I*. A fair portion of the post-trial litigation focused on disestablishing Robert's parentage of April's new baby and cross accusations of contempt or requests for sanctions. During these protracted proceedings, the parties filed motions to modify the 2016 agreed temporary support order. In January 2020, a magistrate granted each party's motion in part and adjusted Robert's temporary support obligation. The magistrate's changes were focused on mitigating the impact of the parties' inability to collaborate on bill payment or reimbursement.

{¶ 7} Among other changes to the temporary support order, the magistrate removed Robert's obligation to reimburse April for the unspecified costs of the child's routine expenses. Instead, the court increased Robert's monthly support from $15,000 to $19,000 and ordered him to pay $10,000 in monthly child support through the Franklin County Child Support Enforcement Agency ("CSEA"), and to pay $9,000 per month directly to April to pay for nannies and other child-related expenses. The magistrate held that the new support order would be effective January 1, 2020. The magistrate also removed Robert's obligation to reimburse April for the payment of all bills and routine costs associated with the marital properties; instead, April became responsible for all routine costs associated with the Dublin home and one Vero Beach home, and Robert became similarly responsible for the New Albany and Belmont homes, along with the other Vero Beach home. April filed various motions to set aside the January 2020 order or to modify the temporary support order anew, all of which were eventually mooted by the May 2021 divorce decree.

{¶ 8} As for issues related to property division, one of the pre-divorce decree matters still relevant to this appeal is the sale of the New Albany home. The parties purchased the home in May 2015 for $1.65 million in cash, from an account that was later determined to be 95.04 percent marital property and 4.96 percent Robert's separate property. Toward the beginning of the divorce proceedings in 2016, Robert filed motions requesting permission to sell the New Albany home, stating that the property was vacant and that April would not allow him access into the home. The parties eventually stipulated that Robert would sell the property.

{¶ 9} The New Albany home remained on the market from 2017 to 2019, during which time April would not agree to reduce the sale price below $1.65 million. April eventually relented on the price, and in 2020 the house sold for $1.2 million, resulting in net proceeds of $1,116,485.03. Robert claimed he spent $223,203.00 toward the sale of the property. The parties stipulated that Robert would be reimbursed $35,000.00 for repair expenses related to the sale. The parties had previously stipulated that April would pay Robert $30,000.00 in attorney fees related to April's attempt to disqualify Robert's attorneys in October 2016. The court ruled that the $30,000.00 would be subtracted from April's share of the sale proceeds. Ultimately, of the $1,116,485.03 in proceeds, the court awarded $59,520 to Robert for his separate interest and $35,000.00 for his repair expenses, the remaining $1,021,965.03 was equally divided, and $30,000.00 from April's side of the ledger was moved to Robert's side, totaling $480,982.52 to April and $635,502.51 to Robert.

{¶ 10} The parties' litigation ended with a divorce decree filed May 4, 2021. The trial court set a de facto termination date of the marriage as January 30, 2016. The trial court determined the parties' separate and marital interests in assets that included three residences in Ohio, additional residential real estate, two residences in Florida, millions of dollars contained in various bank accounts, approximately ten vehicles, personal property, retirement accounts, and Robert's various multi-million dollar bonuses, stock shares, and dividends. The trial court also determined the parties' separate and marital obligations in debts, including April's 2013 tax liability, debt for private jet services, and debts or expenses related to residential properties. The court denied April's motion for spousal support, noting that April had expressly waived spousal support in October 2016. The trial court denied April's request for Robert to reimburse April for certain bills she had paid during the course of the divorce, reasoning that Robert had paid most of the marital property expenses since 2016. The court further noted that April had improperly demanded that Robert reimburse her for her own personal expenses as well as expenses that Robert himself had originally paid, which the court described as "a frivolous double dip that demonstrates [April's] lack of respect for this Court's ethics and intelligence." (May 4, 2021 Jgmt. Entry – Decree of Divorce at 87.)

{¶ 11} The court noted that it had already entered a shared parenting decree back in December 2016, and it finalized the shared parenting plan by addressing certain outstanding financial decisions, including child support. The court determined that Robert's annual income for purposes of child support was $7,478,043. The court determined that April's reported income, earned from self-employment through her own law firm, lacked credibility. The court pointed out various inconsistencies and improprieties in the law firm's bookkeeping and noted April's efforts to withhold information about her law firm's alleged expenses. Because April had not provided credible evidence of her income, the trial court estimated her income by looking to the yearly cash flows reflected in her personal bank statements.[1] From those figures, the trial court determined that April's annual income for purposes of child support was $359,687.

{¶ 12} The trial court believed that it was required to determine its support order for the parties' child by plugging their incomes into its basic child support schedule worksheet. From its worksheet calculations, the court determined that Robert's basic child support obligation was $37,710.49 per month. It rejected Robert's argument that child support should be set at $0 to $7,500.00 per month, finding that Robert did not have an accurate understanding of the cost of the child's needs or lifestyle. It rejected April's argument for $100,000.00 per month, noting that April failed to provide documentation to support her "extraordinary" budget, which the trial court found to be "more related to how [April] would like to live than how [the child] actually lives." (May 4, 2021 Jgmt. Entry – Decree of Divorce at 67.) The court noted that April's budget included only $2,600 in monthly expenses specific to the child, apart from $10,300.00 per month for nannies.

{¶ 13} The court held that the worksheet amount was presumed to be the proper amount pursuant to R.C. 3119.03. After considering the needs and lifestyle of the child, the court concluded that the worksheet amount was not inappropriate or unjust and that no deviations were appropriate, save for a monthly reduction of $30.77 for cash medical support. The court ordered that Robert would pay for the child's private school tuition and health insurance. The court ordered that the parties should split the cost of the child's other school and extracurricular expenses, as well as any extraordinary medical expenses, with

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[1] The trial court used the term "imputed" when determining April's income. As we discuss below in April's third assignment of error, the trial court's use of the term "imputed" was improper, but the substance of its analysis was proper.

Robert paying 70 percent and April paying 30 percent. At the beginning of the trial court's May 2021 decision, it indicated that the support order would not be retroactive, but by the end of the decision, it held that the effective date of the child support order would be January 1, 2020.

C. 2021-2022: appeal of the divorce decree

{¶ 14} Both parties appealed. Robert raised three assignments of error regarding the trial court (1) calculating child support at $37,710.49 per month and making it retroactive to January 1, 2020, (2) awarding April half of the full appraised value of Robert's Vero Beach property rather than awarding her half of the stipulated marital portion of the property, and (3) awarding $775,000.00 in attorney fees to April. April's 18 assignments of error covered topics including (1) potential judicial bias, (2) setting the de facto marriage termination date at January 30, 2016, (3) the overall adequacy of the division of marital property and the designation of separate or marital property and expenditures, (4) the calculation of each party's income, (5) the categorization of approximately $1 million kept in a custodial account for the child's benefit, (6) the valuation and award of certain personal property, (7) the decision to award Robert ownership of his Vero Beach property, (8) the allocation of marital debt related to the parties' private jet services, (9) the calculation of April's repayment to Robert related to April's 2013 federal taxes and money that she moved from a marital account to a personal account in late 2015, and (10) the valuation of the parties' New Albany home and the allocation of proceeds from its sale. In a separate filing, April additionally argued that this court lacked jurisdiction over the appeal because the trial court failed to fully address and divide all of the parties' property as required by Civ.R. 75(F).

{¶ 15} This court sustained Robert's assignments of error regarding child support and the amount of the award to April for Robert's Vero Beach property, and we overruled his assignment of error regarding attorney fees. *Moore II* at ¶ 93, 95, 104. Regarding Robert's Vero Beach property, we held that the trial court mistakenly awarded April half the value of the $2.6 million property instead of half the value of the $1.7 million marital interest in the property. We noted that the court agreed with the parties' stipulation to the marital value, and it made no findings indicating that it would divide the marital interest unevenly. *Id.* at ¶ 95. We reversed and remanded this discrete portion of the property division with instructions for the trial court to correct the award amount. *Id.* at ¶ 96. We rejected April's argument that such a reversal would require the trial court to re-evaluate and divide the entirety of the parties' marital property. *Id.*

{¶ 16} We held that both the calculation and the effective date of the child support award were problematic. The trial court's calculation of $37,710.49 per month in child support was contrary to law because it was controlled by the rubric provided for combined incomes up to a maximum of $150,000.00 (now $336,467.04) in R.C. 3119.021 and was not determined based on the unique facts of the specific case under R.C. 3119.04 for combined incomes exceeding the statutory maximum. *Id.* at ¶ 75. We noted points at which the trial court indicated that the child's needs and standard of living were far less than $37,710.49 per month. *Id.* at ¶ 83-88. Because the court's case specific analysis of the child's and parents' needs and standard of living bore little to no relationship with the chosen amount of child support, we concluded that the court would have to revisit its child support decision on remand using the proper analysis. *Id.* at ¶ 91, 93. As for the start date of the child support obligation, we noted that the retroactive date of January 1, 2020 conflicted with the court's earlier pronouncement in the decree that its child support order would not be retroactive. *Id.* at ¶ 92. We did not address the appropriateness of any particular starting date for the child support order, and we simply indicated that the court should resolve its conflicting statements. *Id.*

{¶ 17} This court sustained April's assignments of error regarding the allocation of debt related to the parties' private jet debt, the payment of April's 2013 taxes, and April's withdrawals from a marital account in late 2015, as well as the allocation of funds from the New Albany home. *Id.* at ¶ 43, 49-54, 56, 63-66. Because we sustained Robert's assignment of error regarding child support, we mooted April's argument regarding the calculation of her income. *Id.* at ¶ 72. We overruled April's remaining assignments of error, and we rejected her suggestion that the May 2021 divorce decree was not a final appealable order. *Id.* at ¶ 13, 105.

{¶ 18} Regarding the allocation of debt, we agreed with April that the trial court incorrectly made April responsible for 100 percent, rather than 50 percent, of the $435,695.22 jet services debt, the $36,670.36 payment toward April's 2013 tax liability, and April's withdrawal of $20,459.99 from a marital account. *Id.* at ¶ 43, 56, 66. Our partial reversal and remand instructed the court to correct these errors. *Id.* at ¶ 105. Regarding the New Albany residence, the court valued it at the time of the sale in 2020 rather than determining its value as of the de facto marriage termination date of January 1, 2016. We reversed and remanded this additional discrete portion of the property division with instructions for the trial court to "establish a value for the New Albany property as of the de facto termination date and adjust the related allocations as it then finds appropriate." *Id.* at ¶ 54.

D. 2022-2023: proceedings on remand

{¶ 19} Before the trial court was able to address issues on remand pursuant to our instructions, it had to deal with the dozen or so motions that the parties filed while the appeal was pending and after this court's remand. Pertinent to the present appeal, April filed motions in February 2022 and January 2023 to compel Robert to respond to discovery requests related to child support, Robert's financial information, and other matters. In June 2022, Robert filed a motion to suspend or escrow his monthly child support obligation. Later in June 2022, April filed a motion asking the court to modify its temporary child support order and establish its final child support order. April argued that the parties' incomes had changed since the last calculation of temporary child support in January 2020, and that the court should hold a hearing to modify the temporary child support order and to establish an ongoing child support order. The magistrate, considering the motion, allowed the parties to submit narrative affidavits and exhibits to support their positions on temporary child support. The magistrate also held that "issues that were remanded" by this court in *Moore II* would be determined based on the trial record "and consistent with the instructions from the 10th Appellate District - Ohio Court of Appeals set forth in its Decision." (Nov. 18, 2022 Order at 1.)

{¶ 20} Among the evidence that April provided regarding child support, she included documentation indicating that Robert may have earned over $10 or 11 million per year in 2017, 2019, and 2020, and over $16 million in 2018. She argued that Robert should be compelled to respond to her discovery requests to verify Robert's more recent income. April reported that her income was $58,810 in 2019, $38,484 in 2020, and $160,470 in 2021 according to tax documentation prepared by a licensed CPA. She became a W-2 employee on October 24, 2022, with an annual salary of $160,000 plus a monthly vehicle stipend. April asserted that support and maintenance for the child required $13,400 per month for shelter, $4,200 per month for a nanny, and $3,000 per month for food, for a total of $20,600 per month. She asserted that additional amounts should be awarded at the trial court's discretion based on the lifestyle of the child and the parties. She argued that additional discovery was needed to assess Robert's lifestyle, but she noted that Robert and the child regularly travel by private jet.

{¶ 21} Robert asserted that April's evidence from the 2016-2017 trial showed that the child's monthly expenses totaled around $12,500, most of which was for nanny expenses. He argued that consideration of current income is unnecessary, as the focus in R.C. 3119.04 on families earning over $150,000 (now $336,367 per year under R.C. 3119.021) is based on the needs and living standards of the child and the parents.

{¶ 22} The magistrate set temporary child support at $14,200 per month, effective January 1, 2023. The magistrate calculated the statutory baseline for child support based on evidence of the parties' incomes from the 2016-2017 trial record, and it noted that considering current income would have only a negligible effect on the baseline amount. The magistrate determined that it should award more than the baseline amount based on the current information about the child's expenses, as well as consideration of "the substantial disparity in the parties' respective incomes." (Feb. 21, 2023 Mag.'s Decision at 1.)

{¶ 23} April moved to set aside the magistrate's decision and moved for a full hearing regarding child support. The trial court denied these and other motions in a June 7, 2023 judgment entry. It held that the magistrate's temporary support order was "fair and reasonable and will be approved as the Order of this Court." (June 7, 2023 Jgmt. Entry at 4.) However, it held that the final order of child support would be based exclusively on the trial record. The court denied April's motions related to updated financial information for child support, reasoning "there has not yet been a final order since the support issue is pending remand from the Court of Appeals. . . . There cannot be a change of circumstances for which discovery could be appropriate until a final order is issued." (June 7, 2023 Jgmt. Entry at 3.)

{¶ 24} A few days later, the trial court entered judgment adjusting aspects of its May 4, 2021 divorce decree in accordance with this court's instructions in *Moore II*. The court reduced April's obligations regarding jet services, tax payments, and account withdrawals to $217,847.61, $18,355.18, and $10,229.99, respectively. It reduced April's award for Robert's Vero Beach property from $1.3 million to $863,448.00. Regarding the New Albany property, the court determined that Robert had a separate property interest of $81,840.00 and was owed additional funds from the sale proceeds in the amount of $35,000.00 for sale-related improvements and $30,000.00 for attorney fees. The court noted that although the property was valued at $1.65 million in 2016, "appraisals are estimates of valuation and not necessarily supported by market conditions." (June 12, 2023 Jgmt. Entry – Decision upon Remand at 3.) The court found that it would not be "equitable to blindly shift the burden of any market loss, or to award the benefit of any market gain, to a particular party." (June 12, 2023 Jgmt. Entry – Decision upon Remand at 3.) Of the $1,116,485.03 in net proceeds, the court awarded $484,822.52 to April, and $631,662.51 to Robert. (June 12, 2023 Jgmt. Entry – Decision upon Remand at 3.)

{¶ 25} The trial court re-evaluated the appropriate amount of child support pursuant to this court's guidance in *Moore II*. It noted that the standard monthly child support obligation for the statutory maximum combined income level of $150,000.00 was $1,239.00 per month, and that the same for the maximum combined income level of $336,467.04 is $1,926.00 per month. The court noted that if it wanted to award less than $1,239.00 (or $1,926.00) per month in this case, it would be required under R.C. 3119.04(B) to hold that such a high amount would be against the best interest of one or more parties, and it would be required to include findings to support such a determination. The court held that there was no reason to award less than the statutory amount, and that the facts supported an upward deviation.

{¶ 26} The court considered the list of expenses that April provided in Exhibits BB,[2] XXX, and YYY from the 2016-2017 trial. As with the original 2021 decree, the court noted that Exhibit BB only included $2,600 in monthly expenses that were specific to the child, apart from the $10,300 for two nannies. The court subtracted the cost of one nanny and concluded that April had established monthly expenses of $7,750 for the child. Relative to the cost of living, the court held that it was equally plausible that the child would have lived in Franklin County or Belmont County had the parties remained married. The court

[2] The court referred to Exhibit PP, which is a summary of Robert's net income from 2015 to 2017, but the cited information appears in Exhibit BB.

concluded that Robert's child support obligation should be $8,500 per month, along with payment of 100 percent of the child's school tuition and health insurance, and 70 percent of the child's school expenses, extracurricular activities, and health care expenses. The court determined the child support order should maintain the effective date of January 1, 2020, and it further determined that all remaining portions of the original decree were incorporated, unchanged.

{¶ 27} In a separate entry filed on June 21, 2023, the trial court modified a portion of the divorce decree relating to a restraining order to allow the custodian of two custodial accounts to withdraw up to $1,005,000 from the accounts and dismissed him as a party to the action.

E. 2023-2024: a series of attempted appeals

{¶ 28} Robert appealed the June 12, 2023 judgment entry, and April appealed all three of the court's June 2023 judgment entries. This court dismissed the parties' appeals for lack of a final appealable order under R.C. 2505.02. *Moore III*. We held that the June 12, 2023 judgment entry was not a final appealable order because the court had retained jurisdiction to allow the CSEA to recalculate child support and to resolve any ensuing disputes about overpayment. We further held that the June 6, 2023 judgment entry was clearly interlocutory, and April failed to establish that the June 21, 2023 judgment entry affected a substantial right that would not be protected absent an immediate appeal. We docketed our dismissal of the appeals on August 24, 2023.

{¶ 29} Meanwhile, Robert filed a motion to reduce the final property division award from the June 12, 2023 judgment entry to a lump sum judgment. The trial court granted Robert's motion on August 21, 2023 and held that April owed Robert a total of $261,342. The court denied April's request to redesignate a portion of Robert's childcare-related payments to April as a gift rather than child support. April appealed the decision. We once again dismissed the appeal for lack of a final appealable order, noting that the court had not yet resolved the issue of an overpayment of child support. *Moore IV*.

{¶ 30} More motions lined up at the trial court. Robert moved to reduce his child support overpayment to a lump sum judgment, and April moved for a comprehensive de novo valuation and division of marital property. On November 21, 2023, the court reviewed the records of the CSEA and determined that Robert's overpayments totaled $303,470.81.

The court denied Robert's request for a lump sum judgment and instead ordered that Robert's monthly child support obligation would be reduced by $3,000 until the overage was satisfied. It denied April's motion for full reconsideration of the parties' property division, noting that the court's jurisdiction to alter the property division was limited to the matters on remand from *Moore II*.

F. 2024-2025: one more attempted appeal and further trial court proceedings

{¶ 31} April appealed the trial court's November 2023 judgment entry. Yet again, we dismissed the appeal for lack of a final appealable order. *Moore V*. We determined that although the trial court had resolved the outstanding overpayment issue, the court needed to incorporate all its piecemeal judgments into one final judgment, as required by Civ.R. 75(F), to create a final appealable order.

{¶ 32} Back at the trial court, April filed a motion for the court to reconsider its June 2023 calculation of child support, and to hold an evidentiary hearing for updated information on the finances, needs, and lifestyles of the parents and child. Robert argued that consideration of new information was outside the mandate from this court in *Moore II*. The court denied April's motion, holding that the June 12, 2023 judgment entry was a final order not subject to reconsideration—contrary to this court's holding in *Moore III* that the June 12, 2023 judgment entry was *not* a final appealable order. It further held that reconsideration was not warranted because "the record on remand was clear that the original trial record would be the factual basis for the decision following remand." (Jan. 3, 2025 Jgmt. Entry at 2.)

{¶ 33} The trial court filed a notice asking the parties to propose a solution to the problem of creating a final appealable order. The court asked the parties to cooperate in drafting a proposed final order, or to file separate proposals in the absence of an agreement. Unsurprisingly, the parties did not reach an agreement on crafting a final appealable order. April's proposed order stated that the May 2021 divorce decree would be vacated in full, the parties would conduct discovery and proceed to an evidentiary hearing on child support, the trial court would conduct a proper, comprehensive division of marital assets and debts, and the court would include the foregoing information along with a variety of other findings and orders in a future judgment entry. Robert's proposed order simply stated that it fully incorporated the judgment entries from June 7, 12, and 21, 2023, August 21 and November 21, 2023, and January 3, 2025, as well as all portions of the May 4, 2021 divorce decree that were unaffected by subsequent entries. The court's ultimate order followed Robert's proposal and incorporated the undisturbed portions of the 2021 divorce decree and all subsequent entries by reference.

{¶ 34} April filed a timely notice of appeal, and the matter is now before this court.

II. Assignments of Error

{¶ 35} April assigns the following seven assignments of error for our review:

> [I.] The Trial Court Erred By Failing to Consider the Current Income, Needs and Lifestyle as Required by R.C. 3119 and Failing to Hold Evidentiary Hearings.
>
> [II.] The Trial Court Erred by Failing to Apply the Correct Version of R.C. 3119.04 and Failing to Follow the Statute's Procedural Requirements.
>
> [III.] The Trial Court Erred by Setting Child Support at $8,500 Per Month Without Considering All of Requirements of R.C. 3119.04.
>
> [IV.] The Trial Court Erred by Applying Its Child Support Decrease Backward in Time and Granting Robert Repayment of the More than $300,000 in Child Support and $153,000 in Other Support.
>
> [V.] The Trial Court Erred by Failing to Award Ownership of the New Albany Home to Robert and Failing to Establish a *de facto* Date Marital Value.
>
> [VI.] The Trial Court Erred by Modifying Property Division Awards Set Out in the Decree and Did So While the Court Lacked Jurisdiction to Do So.
>
> [VII.] The Trial Court Erred by Failing to Comprehensively Divide All Property as Required by R.C. 3105.171 and by Awarding an Inequitable Property Division to April Without Justification.

III. Discussion

{¶ 36} We note that although April has identified seven assignments of error in her brief, some of her assignments of error contain collections of independent legal arguments that would have been appropriate to present as separate assignments of error. We emphasize that our "role is to rule on assignments of error, not mere arguments." *State v. Tarver*, 2025-Ohio-1190, ¶ 25 (10th Dist.). We will exercise our discretion to address April's extraneous arguments where we see fit.

{¶ 37} April's first four assignments of error address the trial court's calculation of child support, and the remaining three assignments of error address the court's division of certain marital property following this court's decision in *Moore II*. It is axiomatic that a trial court has the broad discretion to determine what is equitable in divorce proceedings. *Booth v. Booth*, 44 Ohio St.3d 142, 144 (1989); *Cherry v. Cherry*, 66 Ohio St.2d 348 (1981), paragraph two of the syllabus, *superseded in part by statute on other grounds*. A determination of equity depends on the totality of unique circumstances, which defies rigid rules. *Briganti v. Briganti*, 9 Ohio St.3d 220, 221-22 (1984). We apply an abuse of discretion standard of review to child support orders. *Wolf-Sabatino v. Sabatino*, 2011-Ohio-6819, ¶ 87 (10th Dist.); *Boone v. Holmes*, 2015-Ohio-2242, ¶ 6 (10th Dist.); *Thaher v. Hamed*, 2010-Ohio-5257, ¶ 4 (10th Dist.). Likewise, the division of marital property in a divorce decree is subject to an abuse of discretion standard of review. *Hayden v. Hayden*, 2004-Ohio-6483, ¶ 21-23 (12th Dist.). An abuse of discretion connotes a decision that is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). However, the trial court does not have the discretion to apply the law incorrectly. *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 38.

A. Determination of child support based on updated information

{¶ 38} In her first assignment of error, April asserts the trial court's calculation of child support in its June 12, 2023 judgment entry (hereinafter the "June 2023 decision") was erroneous because it was based on the parties' financial information from 2012 to 2015 and evidence of their needs and lifestyles as of 2016 to 2017 rather than their financial status and circumstances during later years up to the time of the proceedings on remand. April asserts that the court should have held an evidentiary hearing to update the evidence of the parties' incomes and the child's needs and standard of living.

{¶ 39} When focusing on child support, the trial court's review of financial and other relevant information is not limited to periods prior to trial; the court generally has the authority to review the parents' "income over a reasonable period of years."

R.C. 3119.05(H). If a trial court's calculation of income needs to include bonuses, the court must consider bonuses within a period of either one or three years "immediately prior to the time when the person's child support obligation is being computed." R.C. 3119.05(D)(1) and (2).

{¶ 40} The trial court's second order of ongoing child support, which it finalized in February 2025, reached back a considerable amount of time to January 1, 2020. Various procedurally significant events occurred during that period of time, including (1) the magistrate's modification of temporary child support, effective January 1, 2020; (2) various efforts to revisit the January 2020 order from June 2020 to April 2021; (3) the first divorce decree, journalized on May 4, 2021; (4) this court's reversal and remand on June 2, 2022; (5) April's motion to establish child support and modify temporary support on June 28, 2022; (6) the trial court's temporary child support order, effective January 1, 2023; (7) the trial court's determination of ongoing child support on June 12, 2023; (8) April's December 2024 motion for reconsideration of child support; and (9) the second divorce decree, journalized on February 6, 2025.

{¶ 41} To begin with, we note that according to the magistrate's scheduling entry in November 2022, the parties agreed that matters within the scope of this court's decision in *Moore II* would be decided based exclusively on the trial record. *Moore II* addressed trial matters up to the time of the May 2021 divorce decree. Accordingly, April has forfeited any error regarding the age of the evidence supporting the trial court's child support decision as it applies to the period from January 2020 to May 2021. *See State v. Hessler*, 90 Ohio St.3d 108, 121 (2000) (a party's agreement to a particular procedure waives all but plain error). Moreover, although we found error in the trial court's application of child support law to the facts of the case in *Moore II*, we did not find error in the trial court's consideration of the particular facts that were before it at the time of its May 2021 decision. *Moore II* at ¶ 75, 78. Accordingly, it was not an abuse of discretion for the court, in June 2023 and February 2025, to consider that same set of facts for its determination of Robert's child support obligation from January 2020 to May 2021. We discern no error in the limited evidentiary scope of the trial court's decision for that period, plain or otherwise.

{¶ 42} As for Robert's child support obligation from May 2021 onward, the trial court rejected April's repeated requests to consider updated information. The court reasoned that because the May 2021 child support order had been vacated, "[t]here has not yet been a final order," and it held that "[i]n the absence of a final order, there cannot be a change of circumstances." (June 7, 2023 Jgmt. Entry at 6.) The court concluded that it must determine child support based on the original record at trial. The court cited no legal authority supporting its conclusion that it could not consider information arising during the years' long interval between the divorce trial and the entry of the final order of child support, and we find none.

{¶ 43} Although the basis of the trial court's reasoning is not clear, it appears that the court was referencing the language of R.C. 3119.79, which is a statute that allows a court to modify an already existing order of child support based on a subsequent, substantial change of circumstances. *See Depalmo v. Depalmo*, 78 Ohio St.3d 535, 539 (1997) (discussing R.C. 3119.79, previously codified at R.C. 3113.215(B)(4)). However, the existence of R.C. 3119.79 does not prevent a trial court from considering updated information when entering a child support order after a reversal and remand of the original order. The standards in R.C. 3119.79 are a mechanism for a trial court to invoke the limited jurisdiction it retains to modify child support after a final order. *See Bright v. Collins*, 2 Ohio App.3d 421, 423 (10th Dist. 1982); *N.W. v. M.W.*, 2019-Ohio-1775, ¶ 22 (8th Dist.), citing *Phelps v. Saffian*, 2016-Ohio-5514, ¶ 11 (8th Dist.). Here, the court was already exercising jurisdiction over the child support matter. The reversal restored the court's jurisdiction to enter a new child support order consistent with the appellate mandate. In that posture, the trial court was not invoking limited continuing jurisdiction to modify an untouched final order; rather, it was exercising the full jurisdiction that had been returned to it by the appellate court's mandate. A court need not satisfy a threshold designed to unlock jurisdiction it already possesses. Accordingly, the court's reliance on R.C. 3119.79 to reject April's requests to consider updated information was misplaced. The court erred in holding that the lack of a final order prevented the court from considering changes in circumstances affecting one or more periods between May 2021 and the time of the trial court's second final order on remand.

{¶ 44} When there is a years' long interval between a request to set or modify child support and a decision on that request, a trial court has the discretion to take new information regarding any circumstances that have changed in the interim. *See, e.g.*, *Wells* *v. Wells*, 2014-Ohio-5646, ¶ 14, 17-22, 32 (9th Dist.) (when a trial court is ordered on remand to redetermine child support in compliance with statute, the court may take evidence relevant to the previous determination as well as evidence relevant to the current determination of child support); *Kendall v. Kendall*, 2009-Ohio-4067, ¶ 57-58 (6th Dist.) (after eight years of litigation over child support, multiple appeals, and in light of the parties' complex finances, trial court did not abuse its discretion in ordering a six-year forensic financial investigation). It is not unusual to provide different support obligations for different time periods, based on the circumstances, when a child support case returns to the trial level after one or more appeals. *See, e.g.*, *Kenney v. Carroll*, 2021-Ohio-1911, ¶ 9 (9th Dist.); *Phelps v. Saffian*, 2018-Ohio-4329, ¶ 42 (8th Dist.).

{¶ 45} Ideally, a court should have up-to-date information at the time of calculating child support to ensure that it will properly determine the best interests of a child. *See Basista v. Basista*, 2014-Ohio-2828, ¶ 8 (6th Dist.); *Lawrence v. McCraw*, 2011-Ohio-6334, ¶ 9 (9th Dist.). In protracted litigation where the trial court's ultimate child support decision reaches back retroactively over a period of multiple years, it can be inequitable for the trial court to fail to consider significant changes to the parties' circumstances along the way. *See Child Support Enforcement Agency ex rel. Hunter v. Harrison*, 2007-Ohio-402, ¶ 19-21 (8th Dist.); *Allen v. Allen*, 2005-Ohio-431, ¶ 26 (2d Dist.); *Phelps*, 2018-Ohio-4329, at ¶ 28-29 (8th Dist.). In circumstances similar to those in this case, a court's redetermination of child support on remand can apply retroactively, but it must also apply prospectively. For a long overdue child support order to also be valid and equitable as a prospective order, it should be based on the parties' current income, as well as the current needs and lifestyles of the parties and the child. *See Simmons v. Simmons*, 1981 Ohio App. LEXIS 13155, *6 (2d Dist. Aug. 27, 1981).

{¶ 46} Robert essentially argues that further consideration was not necessary in this case because the circumstances of the parties did not actually change between the 2016-2017 divorce trial and the 2022-2025 proceedings on remand. However, we conclude that April adequately raised an issue requiring the trial court's consideration. April provided information indicating that her income may have significantly decreased, that Robert's income may have significantly increased, that Robert's lifestyle may have become more extravagant, and that Robert's other children and loved ones may have been enjoying a higher standard of living compared to the parties' child, any of which could serve as a proper basis to modify child support. *See Montgomery v. Montgomery*, 2015-Ohio-2976 (3d Dist.) (decrease in obligee's income); *Haun v. Haun*, 2019-Ohio-5408, ¶ 12 (11th Dist.) (increase in obligor's income); *Phelps*, 2016-Ohio-5514, at ¶ 52 (8th Dist.) (increase in obligor's income); *Wells* at ¶ 28-30 (increase in obligor's standard of living, and in the standard of living of stepchildren from obligor's subsequent remarriage). Whether April's claims have merit, and whether the parties' circumstances have in fact changed, are matters for the trial court to decide when entertaining the merits of April's requests to increase child support.

{¶ 47} We do not want to ignore the obvious real-world context of the trial court's decisions below, especially given the litigious nature of the parties. A trial court must resolve disputes while preserving judicial resources and promoting judicial economy. *Hale v. State*, 55 Ohio St. 210, 213 (1896). It is understandable that the trial court would be hesitant to give these parties so much as an inch of leeway lest they overrun the court with endless motions and new disputes. However, the best interest of the child is paramount and should be the focus of a child support decision, no matter how litigious the parents may be. Given all the foregoing, the court should have entertained the merits of April's request for an increase in child support, both for the period from May 2021 until the trial court's June 2023 and February 2025 decisions, as well as prospectively. We provide no views on how, procedurally, the court should move forward in considering the merits, including whether the court should or should not require any particular kind of briefing, discovery, or hearings. We only note that the court should proceed in a manner consistent with the child's best interests, equity, judicial economy, and any applicable laws.

{¶ 48} We therefore overrule April's first assignment of error, in part, as it relates to the trial court's reliance on the 2016-2017 trial record to determine Robert's child support obligation for January 2020 through May 2021. We sustain April's first assignment of error, in part, as it relates to the trial court's summary rejection of April's requests to consider updated information relative to Robert's child support obligation from May 2021 onward.

B. Applicability of changes to the child support statutory scheme in 2019

{¶ 49} In her second assignment of error, April asserts the trial court's calculation of child support was erroneous because the trial court considered the version of R.C. 3119.04 in effect prior to March 2019 rather than the version in effect at the time of the June 2023 decision.

{¶ 50} The statute in question, R.C. 3119.04, governs the determination of child support when the parents' combined income falls outside the range set by the basic child support schedule. At the close of the trial proceedings in 2017, the statute applied if the parents' combined income was below $6,600.00 or above $150,000.00. *See* former R.C. 3119.04, 1999 S.B. No. 180 (effective Mar. 22, 2001). Following amendments that became effective on March 28, 2019, the statute applies when the parents' combined income is greater than the maximum or less than the minimum annual income included in the basic child support schedule set forth in R.C. 3119.021. R.C. 3119.04. The current minimum and maximum incomes included in the basic child support schedule are $8,400.00 and $336,467.04. R.C. 3119.021(B).

{¶ 51} Although the 2019 amendments changed the income threshold at which R.C. 3119.04 is triggered, they did not change the statute's operative effect. Under either version, when the parents' income exceeds the schedule's maximum amount, the trial court "shall determine the amount of the obligor's child support obligation on a case-by-case basis and shall consider the needs and the standard of living of the children who are the subject of the child support order and of the parents." R.C. 3119.04; *see also* former R.C. 3119.04(B). The resulting obligation may not be set lower than the maximum standard amount in R.C. 3119.021 unless the court makes specific findings that "it would be unjust or inappropriate and therefore not in the best interest of the child, obligor, or obligee" to order a higher amount. R.C. 3119.04. No comparable findings are required, however, when the trial court sets the obligation at or above the maximum standard amount in R.C. 3119.021, nor is it required to complete a standard child support worksheet. *Moore II* at ¶ 76, 80. *See also Kenney v. Carroll*, 2025-Ohio-597, ¶ 11 (9th Dist.); *V.C. v. O.C.*, 2022-Ohio-1506, ¶ 8 (8th Dist.).

{¶ 52} In reaching its decision, the trial court applied the version of R.C. 3119.04 that was in effect in 2016. The maximum standard child support amount under the old version of the statute was $1,239 per month. The court also noted that the maximum standard amount under the new version of the statute would be $1,926 per month. The court held that it should not award less than the maximum standard amount of $1,239 per month, and it proceeded to determine that Robert's child support obligation should be $8,500 per month based on the specific facts and circumstances of the case.

{¶ 53} Irrespective of which version of R.C. 3119.04 should have applied to the trial court's June 2023 decision, the result would be the same. The trial court's determination of child support far exceeded the maximum standard amount of child support under either version of R.C. 3119.021. Above that maximum standard amount, the court's calculus is not tethered to the standard schedule provided in R.C. 3119.021 or to any worksheet associated with the standard schedule. *Moore II* at ¶ 80. Instead, the court's calculus is tethered to its assessment of "the needs and the standard of living of the children who are the subject of the child support order and of the parents." R.C. 3119.04. April's argument is based entirely on the general notion that a trial court's decisions must be statutorily compliant, and not on any case-specific assertion of prejudice. As no prejudice is apparent in April's argument or in our review of the record and the trial court's decision, we overrule April's second assignment of error.

C. Assessment of needs and standard of living under R.C. 3119.04

{¶ 54} In her third assignment of error, April asserts that the trial court's calculation of child support was erroneous because it did not properly assess the needs and lifestyle of the child or of the parties. April argues that the court based its determination on a limited category of expenses rather than the totality of all relevant facts and circumstances. Within this assignment of error, April includes a dozen or more sub-arguments about specific evidence that the court considered, did not consider, incompletely considered, or incorrectly considered. We have taken all these sub-arguments into account but find it unnecessary to respond to each one individually in our analysis. Additionally, given our resolution of April's first assignment of error, her third assignment of error is moot to the extent that it relates to the trial court's calculation of child support for the period from May 2021 onward. Our analysis is therefore limited to the child support order as it relates to the period from January 2020 to May 2021.

{¶ 55} As explained above, for families with combined incomes exceeding the maximum amounts in R.C. 3119.021, a trial court "shall determine the amount of the obligor's child support obligation on a case-by-case basis and shall consider the needs and the standard of living of the children who are the subject of the child support order and of the parents." R.C. 3119.04. For high income families, the amount of child support is largely based on "supplying the child with a standard of living the child may enjoy if her parents were married." *Boone v. Holmes*, 2015-Ohio-2242, ¶ 16 (10th Dist.).

{¶ 56} When determining child support in May 2021, the trial court provided extensive examination of the lifestyles of the parties and child as established at trial. The trial court noted the following: April lived in a Franklin County residence valued at $1.12 million, and Robert lived in a Belmont County residence valued at $500,000. Each party owned a vacation home in Vero Beach, Florida. April submitted a budget that showed $12,900 in monthly expenses specific to the child, with $10,300 for the cost of two nannies, $2,000 for clothing, $500 for extracurricular activities,[3] and $100 for school supplies. The court noted that April failed to provide any supporting basis for the child's claimed clothing expenses. The child had begun to attend private school full-time, and Robert was responsible for paying private school tuition as well as the child's health insurance.[4] Robert flew extensively by private jet for work purposes. The parties used both private jets and commercial airlines for vacation travel. According to Robert's testimony, he lived a modest lifestyle and wanted the same for the child. According to April's testimony, the family lived an extravagant lifestyle.

{¶ 57} The court determined that the child's travel needs could be satisfied by commercial air travel costing approximately $5,200 per year. Given the child's attendance at school, the trial court determined that the child only needed half of the $10,300 monthly nanny expenses. The trial court found April's testimony regarding the family's lifestyle to be less credible than Robert's, noting that April failed to provide documentary evidence of various alleged extravagant expenditures on belongings, activities, or events. Moreover, despite the court's requests, April did not provide "specific information as to what [the child's] needs are, and what needs are not presently being met." (May 4, 2021 Jgmt. Entry — Decree of Divorce at 64.)

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[3] It is unclear if April's budget represents the full cost of the child's extracurriculars, or if it represents April's 30 percent share of the cost.

[4] According to the parties' evidence, the child's tuition was approximately $23,000 per year.

{¶ 58} On remand in June 2023, the trial court considered the same evidence that was before it at the time of the May 2021 divorce decree. Similarly to the court's original decision, it found that the child would not necessarily have lived an extravagant lifestyle had the parties stayed married. The court considered April's $7,750 in monthly expenses specific to the child, which included the cost of one nanny, and it noted that April had not itemized additional expenses. Among other factors, the trial court considered that Robert would pay for 100 percent of the child's private school tuition and 70 percent of the cost of the child's extracurricular activities. The court concluded that Robert should pay $8,500 per month in child support.

{¶ 59} April argues that the trial court failed to consider that the parties presented evidence that their need-based expenses are $32,000 to $44,000 per month, rather than $8,500 per month. However, the trial court explicitly addressed the parties' budgets in its May 2021 decision, and it commented that April's alleged budget "is more related to how [April] would like to live than how [the child] actually lives." (May 4, 2021 Jgmt. Entry — Decree of Divorce at 67.) The budget summary that April submitted into evidence at trial as Exhibit BB focuses on expenses such as the vacation home mortgage, property taxes, utilities, lawn services, and April's personal expenses. The parents' needs and lifestyles are certainly relevant to a determination of child support under R.C. 3119.04. *See Ellis v. Ellis*, 2009-Ohio-4964, ¶ 81 (7th Dist.). But even though the parents' needs and lifestyles are relevant, the amount chosen for child support is to fund the needs and lifestyle of the child—not the obligee parent. *See Phelps*, 2016-Ohio-5514, at ¶ 23 (8th Dist.). There may be some line connecting April's obligation to pay her own bills and her inability to support her child's lifestyle, but April failed to draw that line for the trial court or for this court on appeal. *Compare McRae v. Salazar*, 2019-Ohio-4638, ¶ 23 (10th Dist.) (obligee established that she had to liquidate assets to maintain the child's high standard of living); *Wells*, 2014-Ohio-5646, at ¶ 21, 30 (9th Dist.) (obligee established she was unable to both save for retirement and maintain the children's high standard of living).

{¶ 60} April additionally argues that the trial court did not properly calculate the parties' respective incomes. She asserts that the court's calculation of Robert's average income should have included one additional year's worth of bonuses. She asserts that the court erred in imputing income to her without first finding that she was voluntarily unemployed or voluntarily underemployed as required by R.C. 3119.01(C)(17). April does not articulate how the alleged income inaccuracies affected the trial court's assessment of needs and standards of living under R.C. 3119.04, and she instead stresses that the trial court's approach did not comply with the basic income calculation guidelines in R.C. 3119.05. April has not demonstrated prejudice from the alleged errors. *Compare A.S. v. J.W.*, 2019-Ohio-2473, ¶ 7 (miscalculation of income caused a difference in the amount of child support awarded).

{¶ 61} We do note, however, that the trial court erroneously used the term "imputed" when determining April's income in the May 2021 decree, and it repeated the error in its June 2023 decision. A trial court may impute income to a party only after determining that the party is voluntarily unemployed or voluntarily underemployed. R.C. 3911.01(C)(17); *Ayers v. Ayers*, 2024-Ohio-1833, ¶ 1. However, the trial court's actual analysis in the May 2021 decree, which was adopted in full in the June 2023 decision, was premised on the understanding that April was in fact employed but simply not forthcoming about her actual income. The trial court resorted to other means of determining April's income due to April's lack of credibility rather than her lack of employment. In such a scenario, a trial court may use other available evidence to determine the parent's income without first finding that the parent is voluntarily unemployed or underemployed. *See Cullimore v. Cullimore*, 2022-Ohio-3208, ¶ 33 (4th Dist.); *Snider v. Snider*, 2025-Ohio-77, ¶ 51 (3d Dist.); *Meifert v. Meifert*, 2015-Ohio-801, ¶ 19 (6th Dist.); *Massey v. Lambert*, 2011-Ohio-1341, ¶ 58 (7th Dist.); *Cole v. Cole*, 2007-Ohio-54, ¶ 20 (5th Dist.); *Bach v. Bach*, 1999 Ohio App. LEXIS 4191, *21-22 (2d Dist. Sept. 10, 1999). Accordingly, the trial court's terminology was incorrect, but we conclude that its analysis was proper.

{¶ 62} April further points out various facts that do not support the trial court's conclusion that the family would have lived a modest lifestyle had the parents stayed married. We emphasize that we must defer to a trial court's findings of fact, and we are not to disturb its decision even if we might have ruled differently, so long as the trial court did not abuse its discretion. *Westlake Civ. Serv. Comm. v. Pietrick*, 2015-Ohio-961, ¶ 36. The trial court must walk a fine line to ensure that the child is able to maintain the lifestyle she otherwise would have enjoyed, while not also providing de facto spousal support or relieving the residential spouse of her own common-law duty to support the child. *See*

Phelps, 2016-Ohio-5514, at ¶ 23 (8th Dist.); *Crandall v. Crandall*, 2020-Ohio-625, ¶ 80 (11th Dist.); *Bryant v. Bryant*, 1999 Ohio App. LEXIS 752, *21 (5th Dist. Jan. 28, 1999); *Ohlemacher v. Ohlemacher*, 2005-Ohio-474, ¶ 36 (9th Dist.). And it is difficult to conceive of an appropriate method to allow a child to live a millionaire's lifestyle in the home of a non-millionaire. Such difficulty is exactly why it is important that trial courts have broad discretion in setting child support for incomes above the standard maximum threshold. While it may be a close issue, and while this court might have come to a different conclusion about the family's lifestyle, the trial court's decision was adequately tied to the record, and it does not reach the high threshold of being an abuse of discretion.

{¶ 63} April's argument is moot in part, and it is otherwise not well-taken. We therefore overrule in part and moot in part April's third assignment of error.

D. Retroactive imposition of child support

{¶ 64} In her fourth assignment of error, April primarily asserts that the trial court erred in imposing the decreased child support amount retroactively to January 1, 2020. She asserts that nothing was pending that would allow the court to pick such a date, that the court provided no reasoning to justify its decision, and that due process forbids the retroactive application of child support modifications.

{¶ 65} April did not previously take issue with the court's May 2021 decision to make its child support order effective in January 2020. In fact, she argued in favor of the January 2020 effective date during the parties' 2021 appellate proceedings and pointed out that both parties had requested effective dates that were far earlier than 2020. *See Moore II* at ¶ 92. We therefore conclude that April invited any error in the retroactivity of the child support order to January 2020.

{¶ 66} Within her assignment of error, April includes some add-on arguments regarding the specific amount of child support overage identified in the February 2025 judgment entry, and the classification of a certain $153,000.00 of the alleged overage as child support. First, April asserts that because the trial court's February 2025 judgment entry incorporated its November 2023 child-support-overage decision by reference without providing an updated overage balance of $243,834.77, the February 2025 judgment entry impliedly and erroneously holds that the balance of Robert's child support overage with the CSEA remains at $303,470.81. We disagree that the trial court's failure to provide updates from the CSEA allows for such an inference. April does not argue that the trial court's failure to include an updated balance in February 2025 had any effect on the actual balance of Robert's overage with CSEA. Moreover, the trial court may need to recalculate Robert's overage or arrearage yet again after our remand, which would render the issue moot.

{¶ 67} Next, April argues that the trial court should not have credited Robert $153,000 toward his child support obligation that he previously "paid outside the CSEA system." In an August 21, 2023 judgment entry, the court balanced the parties' respective debits and credits that resulted from the court's June 2023 decision. Among other things, the trial court determined that April owed $153,000 to Robert as a credit "for 'other payments' of support." (Aug. 21, 2023 Jgmt. Entry at 3.) April argues that Robert paid the $153,000 directly to her, and even if it could be considered support for the child, Robert's payment outside the CSEA system rendered the payment a gift.

{¶ 68} The $153,000 originates from the original January 2020 modified temporary support order, which obligated Robert to pay child support partially through the CSEA system, with $10,000 per month going through CSEA and $9,000—for what was previously designated as nanny expenses—going directly to April. Robert's obligation under the modified temporary order lasted for 17 months, and so Robert's direct payments of $9,000 per month to April for nanny expenses totaled $153,000 for that period.

{¶ 69} April points out that in certain scenarios, payments for a child's expenses outside of the CSEA may be considered a gift. *See Ruark v. Smith*, 2005-Ohio-3370, ¶ 10 (10th Dist.), discussing R.C. 3121.45. However, such payments are not considered a gift if they were made pursuant to some other obligation. *Id.* Direct payments may be considered as child support if there is evidence proving that the payments were made to satisfy a support obligation. *Miller v. Miller*, 2008-Ohio-4297, ¶ 37 (9th Dist.). Here, Robert's direct payments were pursuant to the court's temporary child support order and therefore not a gift. Subsequent to Robert's payments under the temporary order, the trial court made clear in its May 2021 decree that it contemplated the payment of nanny expenses as part of Robert's child support obligation. Accordingly, the amount of $153,000 that Robert paid directly to April from 2020 to 2021 qualified as child support, and it was affected by the trial court's redetermination of child support in June 2023.[5]

{¶ 70} We find that April's argument in support of her fourth assignment of error is moot in part and otherwise lacks merit, and her additional arguments lack merit as well. We therefore overrule in part and moot in part April's fourth assignment of error.

E. Valuation of certain marital property

{¶ 71} In her fifth assignment of error, April asserts that the trial court improperly divided the value of the parties' third Ohio residence, located in New Albany. She argues that the court should have awarded the residence to Robert as of the de facto marriage termination date of January 30, 2016, awarded April her share of the $1.65 million appraised value as of that date, and made Robert fully responsible for his post-2016 expenditures to prepare the house for sale. In addition to failing to do these things, the court calculated Robert's 4.96 percent separate property interest based on the $1.65 million valuation but divided the marital interest based on the $1.1 million value of the net sale proceeds.

{¶ 72} When the trial court addressed the New Albany home in the May 2021 divorce decree, the court did not mention the value of the property as of the de facto termination date, and it divided the post-termination sale proceeds without providing an explanation to justify its use of the January 2020 sale value instead of the January 2016 appraised value. We concluded in *Moore II* that the court abused its discretion, citing to *Kramer v. Kramer*, 2019-Ohio-4865, ¶ 34 (10th Dist.), *Kachmar v. Kachmar*, 2010-Ohio-1311, ¶ 47 (7th Dist.), and *Crowder v. Crowder*, 1999 Ohio App. LEXIS 3550 (10th Dist. Aug. 5, 1999). *Moore II* at ¶ 51. Our cited authority stands for the proposition that a court cannot choose inconsistent dates for marriage-termination and valuation purposes without adequately explaining its reasons. *Kramer* at ¶ 34; *Kachmar* at ¶ 47.

{¶ 73} On remand, the trial court specified that the value of the New Albany home was $1.65 million as of the termination date of the marriage. Accordingly, the court did not

[5] Because the various decisions of the trial court caused Robert's child support obligation from January 2020 to May 2021 to increase from $10,000 plus $9,000 per month, to $37,000 total per month, to $8,500 total per month, the CSEA was repeatedly required to perform a few mathematical feats to calculate the proper balance. We assume that April did not end up repaying Robert the $153,000 a second time in the CSEA's mathematical shuffle, but we are unable to verify that assumption from the record.

choose inconsistent dates for the de facto termination date of the marriage and the date of property valuation. However, the parties stipulated that the home would be sold rather than awarded to either party. Compared to the marriage-termination-date value, the sale of the home for $1.2 million caused a loss of $450,000. The court indicated that the loss was due to market conditions rather than the actions of either party. The court concluded that it would be inequitable "to blindly shift the burden of any market loss, or to award the benefit of any market gain to a particular party." (June 12, 2023 Jgmt. Entry – Decision upon Remand at 3.) The court concluded that "[r]egardless of the valuation at trial for division purposes, the equitable division of the actual net proceeds accomplishes overall statutory requirements and goals of an equitable division articulated in the original trial decision." (June 12, 2023 Jgmt. Entry – Decision upon Remand at 3.)

{¶ 74} If a marital asset is valued at a certain amount at the marriage-termination date and then sold for less than that value, a trial court has the discretion to allocate the loss in an equitable manner considering the overall property division. *See Janosek v. Janosek*, 2007-Ohio-68, ¶ 65-66 (8th Dist.). The reasoning in *Janosek* did not apply to the trial court's analysis in the May 2021 decision, as the court failed to identify the value of the New Albany home as of the de facto marriage-termination date, and failed to adequately articulate its reasons for dividing the asset the way that it did. *See Moore II* at ¶ 52. We conclude that the trial court's reasoning in its June 2023 decision does not suffer from the same failures, and it is consistent with the general understanding that neither party to a divorce should profit at the other's expense. *See Berish v. Berish*, 69 Ohio St.2d 318, 320 (1982).

{¶ 75} We do find merit to April's assertion that the trial court should not have awarded Robert $81,840 for his 4.96 percent separate property interest. Robert's separate interest in the New Albany home should not have been shielded from the sub-value sale of the home; it should have been affected by the $450,000 total loss just as the marital interest in the property was affected. *See Woofter v. Woofter*, 2006-Ohio-5177, ¶ 43-44 (11th Dist.); *Zimon v. Zimon*, 2005-Ohio-271, ¶ 26 (9th Dist.).

{¶ 76} However, the trial court made an additional error in its June 2023 decision that worked in April's favor. Due to a previous ruling related to attorney fees, April was obligated to pay Robert $30,000.00 from her side of the ledger after the court determined its award to the parties from the New Albany home. The $30,000.00 was to be subtracted from April's award *after* dividing the gains, losses, and costs from the sale. However, the court's June 2023 decision subtracted the $30,000.00 in attorney fees from the net proceeds of the sale *prior* to dividing the remaining proceeds, resulting in an award of $484,822.52 for April and $631,662.51 for Robert. A proper calculation of the parties' interests would have resulted in an award of $480,982.52 for April and $635,502.51 for Robert.[6]

{¶ 77} In the end, the trial court may have made some errors in its calculations, but the compounded errors ultimately worked out in April's favor. If we were to sustain April's assignment of error, vacate this portion of the property division, and remand with instructions to properly calculate the distribution, April would lose about $4,000. April has failed to establish that the court's calculation errors resulted in prejudice, and it would not be in the interest of judicial economy or preservation of judicial resources to sustain her assignment of error in part on this point. Accordingly, we overrule April's fifth assignment of error.

F. August 2023 lump sum judgment amid interlocutory appeals

{¶ 78} In her sixth assignment of error, April asserts that the trial court erred in modifying its property division outside the scope of its jurisdiction. She focuses on a June 2023 motion by Robert to reduce previously awarded amounts into a "lump sum judgment." (June 16, 2023 Mot. at 1.) The court proceeded to judgment on that motion while one of the parties' many attempted appeals was pending at this court. She asserts that the court lacked jurisdiction to act at that time, and that its decision is void.

{¶ 79} On June 12, 2023, the trial court entered judgment on various property issues on remand after this court's reversal in *Moore II*. On June 16, 2023, Robert filed a motion asking the court to add up all the debits and credits from undisturbed portions of the May 2021 divorce decree along with the new debits and credits reflected in the June 2023 decision and award a lump sum. On July 6, 2023, April filed a notice of appeal from

[6] The court found that the property sold for $1.2 million, resulting in net proceeds of $1,116,485.03 after deducting the costs of sale. After deducting Robert's proper separate property interest of $59,520.00 and reimbursing him $35,000.00 in repair costs from those net proceeds, April should have received one-half of the resulting balance, $510,982.52, from which she was ordered to reimburse Robert $30,000.00 in attorney fees, leaving her with a total distribution from the sale of the house of $480,982.52.

multiple June 2023 judgment entries (*Moore III*), and she opposed Robert's motion. On August 10, 2023, the court proceeded to a hearing on Robert's motion, during which April made an unsuccessful oral motion to stay. On August 15, 2023, April filed a motion asking this court to stay the trial court's June 2023 entries without requiring a supersedeas bond. On August 21, 2023, the court balanced the various amounts previously awarded and determined that Robert had overpaid April $261,342, of which $108,342 related to the property division award and $153,000 related to direct payments of child support. The court held that April owed Robert the full amount of the overpayment. This court dismissed April's appeal of the June 2023 entries for lack of a final appealable order before ruling on her motion to stay, rendering the motion moot. *Moore III*. April filed a notice of appeal from the court's August 2023 judgment entry, which we dismissed for lack of a final appealable order. *Moore IV*. The court incorporated its August 2023 judgment, along with others, in its final combined judgment entry on February 6, 2025.

{¶ 80} Unless an appellant is exempt from posting a bond under R.C. 2505.12 or a court allows a substitute for supersedeas bond under R.C. 2505.11, "an appeal does not operate as a stay of execution until a stay of execution has been obtained . . . and a supersedeas bond is executed." R.C. 2505.09. *See also* Civ.R. 62(B). Because April did not post a supersedeas bond or otherwise obtain a stay of the June 2023 entries, her appeal did not stay execution of those entries. It is well-established that without a stay in place, a trial court retains jurisdiction to enforce its judgment and engage in proceedings in support of that judgment even when an appeal is pending. *State ex rel. Klein v. Chorpening*, 6 Ohio St.3d 3, 4 (1983); *State ex rel. Sullivan v. Ramsey*, 2010-Ohio-252, ¶ 19. And a trial court may take other action so long as it is not in conflict with the appellate court's jurisdiction. *Yee v. Erie Cty. Sheriff's Dept.*, 51 Ohio St.3d 43, 44 (1990).

{¶ 81} April argues that the August 2023 judgment entry did not merely enforce or aid in the execution of the June 2023 and May 2021 decisions because the August 2023 judgment entry involved "the exact issues (property division, support overage) under appeal." (Appellant's Brief at 50; Appellant's Reply Brief at 15.) April's argument identifies general subject matters rather than actual legal issues. The merits of a court's decision and the execution of its judgment are always going to relate to the same general subject matter. Her argument therefore lacks merit.

{¶ 82} April additionally argues that the trial court did not merely act in support of its previous judgments but instead modified portions of the May 2021 divorce decree. April argues that the August 2023 judgment entry (1) changed April's one-twelfth interest in Robert's 2016 bonus salary so that it applied to the before-tax amount of $5 million instead of the after-tax amount of $2.6 million, (2) changed April's interest in the Belmont County home from 50 percent of the full value to 50 percent of the marital value, (3) awarded Robert 50 percent of the marital value of April's business property when it previously did not award him anything, (4) awarded $474,237.00 to Robert for his separate property interest in April's business property and Dublin home when it previously awarded the home to April, and (5) made April responsible for 50 percent of the $435,695.22 bill from Flight Options without crediting her for her separate payment of $7,881.04 to Flight Options.

{¶ 83} The record readily reveals that April's arguments are patently meritless. Specifically, (1) the May 2021 decree awarded the one-twelfth interest pursuant to April's own trial exhibits, which reflected an after-tax amount; (2) the May 2021 decree awarded April 50 percent of the marital value of the Belmont County home, and later made a passing reference to a 50 percent award that April has taken far out of context; (3) the May 2021 decree identified the marital interest in April's business property and generally provided that the court would divide all marital interests equally unless the court determined that doing so would be inequitable; (4) the May 2021 decree both awarded April possession of the identified property *and* awarded Robert three amounts, totaling $474,237.00, for his separate interests in the property; and (5) neither of the decisions in May 2021 or June 2023 show that April requested or received a credit for her payment of $7,881.04 to Flight Options, and the record further shows that the $7,881.04 was in addition to, rather than part of, the $435,695.22 owed.

{¶ 84} April's arguments aside, we question the characterization of Robert's motion as a motion for a lump sum judgment. Normally, a lump sum judgment is something awarded as an alternative to ongoing, periodic payments. *See* R.C. 3105.171(A)(1) (distributive award from property division is "payable in a lump sum or over time"). But Robert's motion did not ask the court to convert any ongoing, periodic payments into a lump sum judgment in his motion. Rather, he noted that the trial court's June 2023 decision addressed the credits and debits for matters that were remanded, but it did not address the debits and credits from the May 2021 decision that remained valid. He asked the trial court to synthesize the judgments because the parties could not agree on all the amounts that were credited and debited in the end. In other words, the June 2023 decision was missing information that was crucial to a final appealable order, and the court's judgments were otherwise unclear. Robert's motion would be more properly characterized as a motion to clarify, or perhaps a motion for a final appealable order under Civ.R. 75(F), rather than a motion for a lump sum judgment.

{¶ 85} Regardless of how we characterize Robert's motion, the trial court's August 2023 order simply lined up a few previous holdings and did some math. The order was consistent with the previous judgment entries and did not alter their substance. The purpose of the order was to support the execution of the court's previous judgment entries, and the trial court's calculations did not otherwise conflict with this court's ability to review any substantive matters on appeal. Accordingly, the trial court did not lack jurisdiction to enter its August 2023 order. We overrule April's sixth assignment of error.

G. Incomplete and inequitable division of marital property

{¶ 86} In her seventh assignment of error, April asserts that in various 2023 judgment entries, incorporated into the February 2025 judgment entry, the trial court failed to fully and comprehensively divide the parties' property as required by R.C. 3105.171(C), and further failed to explain and justify its unequal division of property as required by R.C. 3105.171(F) and (G). April does not contend that these failures prevent the February 2025 judgment entry from being a final appealable order,[7] but she does contend that the court could not properly determine the remanded property-division issues without considering them in conjunction with the entirety of the parties' property

[7] Although April has not filed a motion to dismiss or otherwise presented a legal argument regarding the final appealable nature of the February 2025 judgment entry, she mentions in a footnote and in her reply brief that she believes the February 2025 judgment entry is not a final appealable order because it fails to explicitly incorporate the October 2016 shared parenting plan or the December 2016 shared parenting decree as required by Civ.R. 75(F)(2). April similarly mentioned that the original divorce decree might not be a final order for different reasons under Civ.R. 75(F)(1) in her appeal from the May 2021 judgment entry. We rejected her argument. *Moore II* at ¶ 2, 13. We decline to entertain April's current moving target as thoroughly as we did in *Moore II*. We simply note that the February 2025 judgment entry incorporated all aspects of the May 2021 divorce decree that were not affected by the partial reversal in *Moore II*. The May 2021 decree, in turn, referenced the December 2016 shared parenting decree, and indicated that it was finalizing the plan by addressing outstanding financial decisions. We conclude that the May 2021 decree, as well as the February 2025 judgment entry's incorporation of the May 2021 decree, was adequate to constitute a final appealable order.

addressed in the May 2021 divorce decree. In the context of the unique and complicated procedural history of this case, we find April's argument to lack merit.

{¶ 87} In *Moore II*, April raised approximately a dozen assignments of error alleging discrete problems in the trial court's division of property in the divorce decree. Rather than arguing that the trial court's overall division was an abuse of discretion, April argued that any error in the property division—even the failure to divide a minor item of marital debt—would require a full vacatur of the trial court's decision and instructions on remand to perform a property division de novo. Although we sustained some assignments of error related to certain assets and debts, we viewed the errors largely as oversights, and we disagreed with April's proposed solution. *Moore II* at ¶ 43, 54, 56, 66, 96. We reversed the May 2021 decree in part with a limited remand. *Id.* at ¶ 105.

{¶ 88} Most of our remand instructions regarding property division required the trial court to adjust its math and nothing more: the court had to award April half of the stipulated marital value of Robert's Vero Beach home, and it had to reduce by half April's responsibility for the private jet debt, the 2013 tax payment, and her withdrawal of funds from a marital account. *Id.* at ¶ 43, 56, 66, 94-95. In reversing the court's division of the New Albany home, we took issue with the court's failure to articulate a proper valuation date rather than its discretionary decision to divide the specific or overall marital assets in a particular way. *Id.* at ¶ 51. Our instructions on remand were that "the trial court should establish a value for the New Albany property as of the 2016 de facto termination date and adjust the related allocations as it then finds appropriate." *Id.* at ¶ 54. Toward the end of our decision, when discussing the portion of our limited remand regarding the marital value of Robert's Vero Beach property, we explicitly held that "this error does not require 'de novo' division of this or all the Moores' property." *Id.* at ¶ 96.

{¶ 89} April filed a motion asking us to reconsider our decision in *Moore II*, arguing for the first time that the trial court's overall division of property was unequal and inequitable, and that the court failed to provide adequate findings to justify its property-division decision as required by R.C. 3105.171(F) and (G). We rejected April's argument.

{¶ 90} On remand, in the trial court's June 2023 decision, the court evenly divided the marital interest in the New Albany home, albeit with a few errors that ultimately worked in April's favor. Thus, the court's division of the remanded property did not create any inequality in the division of marital assets or liabilities. The focus of April's current allegation of inequality and inequity, then, is on the portions of the May 2021 decree that remained undisturbed by our decision in *Moore II*. April argues that the division of property in the May 2021 decision was unequal and so inequitable that the court was obligated to remedy the problem in its June 2023 decision by "award[ing] the vast majority of the value of the remanded property assets to April." (Appellant's Reply Brief at 20.) We disagree that the trial court was obligated to do so.

{¶ 91} Had our disposition in *Moore II* been less limited, or had our remand instructions been broader or vaguer, then the trial court might have had the discretion or even the obligation to review the full property division de novo and redetermine whether the division as a whole was equitable. *Compare Clymer v. Clymer*, 1995 Ohio App. LEXIS 4303, *9-10 (10th Dist. Sept. 26, 1995) (after fully voiding the original property division, the trial court was obligated to fully redetermine the division of property); *Dennis v. Dennis*, 1992 Ohio App. LEXIS 4586, *8 (12th Dist. Sept. 8, 1992) (remand instructions to perform a "new, equitable distribution of the parties' property" implicitly allowed the trial court to determine all pertinent matters de novo, including new property valuations). However, our partial reversal in *Moore II* did not provide such broad or vague instructions.

{¶ 92} A trial court does not have the discretion to exceed the bounds of a remand, even in the context of the division of property in a divorce decree. *Nolan v. Nolan*, 11 Ohio St.3d 1, 3 (1984). This court is also confined by the bounds of the remand in our previous decision. *Id*. at 4. Further, courts should not consider "arguments at a retrial which were fully pursued, or available to be pursued, in a first appeal." *Hubbard ex rel. Creed v. Sauline*, 74 Ohio St.3d 402, 404-05 (1996). In *Moore II*, we explicitly held that our remand did not require a full re-evaluation and division of the entire property division. *Moore II* at ¶ 96. The trial court therefore did not have the power to right the alleged wrongs that could have been raised in April's original appeal or that were raised and overruled. *See White-Rhoades v. Rhoades*, 2014-Ohio-1790, ¶ 12 (3d Dist.) (trial court was limited on remand to reanalyze one specific asset and could not revisit other aspects of asset allocation in the original divorce decree).

{¶ 93} Given April's failure to properly raise the issue of the equity of the overall property division in her original appeal of the May 2021 divorce decree and, given the limited nature of our reversal and remand, we find no error in the trial court's disposition of the remanded property-division matters. We overrule April's seventh assignment of error.

IV. Disposition

{¶ 94} We overrule April's second, fifth, sixth, and seventh assignments of error, and we overrule in part and moot in part her third and fourth assignments of error. We overrule in part and sustain in part April's first assignment of error. We therefore affirm in part the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, related to its division of the parties' property and its calculation of child support for the period from January 2020 until the May 2021 divorce decree. We reverse the judgment in part and remand this case to that court to determine whether it should enter a different child support order for one or more periods after May 4, 2021.

Judgment affirmed in part and reversed in part;
cause remanded.

EDELSTEIN and LELAND, JJ., concur.