

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Kelsey Sly,	:	
Plaintiff-Appellant,	:	
v.	:	No.25AP-841 (C.P.C. No. 24DR-0519)
Remel Barbee,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

D E C I S I O N

Rendered on October 20, 2026

On brief: *Richard B. Parry*, for appellant.

On brief: *Heather B. Sobel*, for appellee.

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

BOGGS, P.J.

{¶ 1} Plaintiff-appellant, Kelsey Sly, appeals the September 29, 2025 “Judgment Entry/Decree of Divorce” issued by the Franklin County Court of Common Pleas, Division of Domestic Relations, granting her a divorce from defendant-appellee, Remel Barbee. For the following reasons, we affirm the trial court’s judgment.

I. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} Sly and Barbee were married on June 6, 2015. The parties have three minor children, one of whom was born prior to the marriage and two of whom were born during the marriage. The children are S.B., born January 14, 2015; D.B., born October 27, 2017, and M.B., born June 12, 2019. The parties separated in February 2024, and Sly filed her complaint for divorce on February 16, 2024. Although Barbee did not file an answer to the complaint, his attorney filed a notice of appearance on February 26, 2024, and Barbee fully participated in the divorce proceedings. A guardian ad litem (“GAL”) for the minor children was appointed in May 2024.

{¶ 3} A trial court magistrate issued temporary orders in June 2024. The temporary orders named Sly the residential parent and legal custodian of the children and ordered shared parenting on a week-on/week-off schedule. Pursuant to the temporary orders, Sly was responsible for paying the expenses, including the mortgage, associated with the marital residence. The parties unsuccessfully participated in two sessions of court-ordered mediation in early 2025. On July 29, 2025, Sly filed a motion asking the trial court to conduct an in-camera interview of the children to determine their wishes regarding custody. The trial court did not rule on Sly’s motion for an in-camera interview prior to trial.

{¶ 4} This matter went to trial on August 18, 19, and 20, 2025, by which point the parties had lived separate and apart for more than one year. At the outset of trial, the parties submitted three sets of stipulations, referred to as “Exhibit Agreed Entry/Stipulations,” “Financial Agreed Entry/Stipulations,” and “Child-Related Agreed Entry/Stipulations,” all of which the trial court accepted. The Exhibit Agreed Entry/Stipulations addressed the authenticity of third-party documents. The Financial Agreed Entry/Stipulations resolved matters related to spousal support and the allocation of assets and liabilities, except for the marital home, attorney fees, and GAL fees. The Child-Related Agreed Entry/Stipulations resolved matters related to the allocation of parental rights and responsibilities, except for the following issues that were reserved for trial: residential parent and legal custodian, school-placement parent, school-year parenting time, summer parenting time, child support, and decision-making. At the outset of trial, the parties agreed that the issues remaining for trial were “custody, the marital home, attorney fees, [and] GAL fees.” (Aug. 18, 2025 Tr. at 30.) Sly, Barbee, and the GAL testified at trial, and the trial court admitted multiple exhibits and the GAL report and recommendation into evidence.¹ Afterward, the trial court ordered the parties to submit proposed findings of fact and conclusions of law regarding the outstanding issues. On August 21, 2025, the trial court ordered that the marital home be listed for sale by September 8, 2025.

¹ Sly also called her father, Dayton Sly, as a rebuttal witness, but he was quickly dismissed without offering any substantive testimony when it was determined that any information he had concerned a time that predated the parties’ marriage.

{¶ 5} Although the trial court stated at trial that it was denying Sly's pre-trial motion for it to interview the children, the court nevertheless scheduled an in-camera interview, which it conducted on September 15, 2025. The GAL was present for the in-camera interview.

{¶ 6} The trial court issued its Judgment Entry/Decree of Divorce, which incorporated the Financial Agreed Entry/Stipulations and Child-Related Agreed Entry/Stipulations, on September 29, 2025. As relevant here, the trial court ordered that the parties have equal parenting time, on a week-on/week-off basis, and ordered Sly to pay attorney fees in the amount of \$15,610, representing half of Barbee's outstanding attorney fees.

{¶ 7} Sly filed a timely notice of appeal.

II. ASSIGNMENTS OF ERROR

{¶ 8} Sly raises the following two assignments of error for this court's review:

[1.] The trial court erred and abused its discretion by awarding attorney fees to [Barbee].

[2.] The trial court denied [Sly] a fair divorce trial through procedural and evidentiary errors.

III. DISCUSSION

A. Assignment of Error No. 1

{¶ 9} In her first assignment of error, Sly argues that the trial court erred by ordering her to pay half of Barbee's outstanding attorney fees. She contends that neither the law nor the evidence supports the attorney-fee award, and that the trial court failed to perform the required analysis for determining reasonable attorney fees and to explain how it calculated the amount awarded.

{¶ 10} In a divorce action, a trial court may award all or part of reasonable attorney fees to either party if it finds such an award to be equitable. R.C. 3105.73(A). "In determining whether an award is equitable, the court may consider the parties' marital assets and income, any award of temporary spousal support, the conduct of the parties, and any other relevant factors the court deems appropriate." *Id.* "An award of attorney fees may be predicated on one party causing the other party to incur unnecessary, substantial fees or when one party is responsible for much of the litigation." *Benzle v. Benzle*, 2026-Ohio-2838, ¶ 17 (10th Dist.), citing *Grosz v. Grosz*, 2005-Ohio-985, ¶ 27 (10th Dist.). An

award of attorney fees under R.C. 3105.73 is separate from an award of attorney fees under other statutes. R.C. 3105.73(C); *Ryan v. Ryan*, 2024-Ohio-5691, ¶ 103 (10th Dist.).

{¶ 11} The decision to award attorney fees under R.C. 3105.73 lies within the trial court's sound discretion, and we will not reverse that decision absent an abuse of discretion. *Benzle* at ¶ 17, citing *Thaher v. Hamed*, 2010-Ohio-5257, ¶ 14 (10th Dist.), citing *Huffer v. Huffer*, 2010-Ohio-1223, ¶ 19 (10th Dist.). An abuse of discretion implies the trial court's attitude was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶ 12} Here, the trial court considered each of the factors listed in R.C. 3105.73(A) and determined that awarding Barbee a portion of his attorney fees was equitable, based largely on conduct by Sly and her counsel throughout these proceedings. In its discussion of attorney fees, the trial court noted its prior findings regarding the parties' respective incomes, which were relatively similar, and it stated that, except for the sale proceeds of the marital residence, neither party was receiving assets of substantial value, and each party was retaining his or her own debt. The trial court also acknowledged that no temporary spousal support had been awarded. The trial court's discussion of attorney fees focused primarily on the conduct of the parties—and particularly that of Sly and her counsel.

{¶ 13} Barbee testified that a significant portion of his attorney fees were incurred because of conduct by Sly and her counsel, and the trial court spent more than three pages of its judgment entry addressing that factor in relation to the question of attorney fees. The trial court agreed with Barbee that Sly's "conduct resulted in a significant increase in time spent in [t]rial." (Sept. 29, 2025 Jgmt. Entry/Decree of Divorce Including Findings of Fact and Conclusions of Law at 23.) For example, the trial court stated that, while testifying, Sly repeatedly refused to answer direct questions from Barbee's counsel, even after the court instructed her to do so. With respect to Sly's counsel, the trial court stated:

During [t]rial, [Sly]'s counsel was often unprepared – his exhibits were not properly marked, or were not the same for the witness, the Court, and counsel. [He] did not have a copy of exhibits for the witness, despite a clear Case Management Order. A vast majority of questions and exhibits presented by [Sly]'s counsel were irrelevant or inadmissible for other reasons. Despite numerous objections by [Barbee's] counsel that were sustained by the Court, [Sly]'s counsel continued to

try to re-ask the question, at times “objecting” to the Court when an objection by [Barbee]’s counsel was sustained.

Id. The trial court remarked that, although Sly disagreed with the GAL’s consistent recommendation of shared parenting with an equal week-on/week-off schedule, she offered no testimony or evidence to establish that such a schedule was not in the best interests of the children.²

{¶ 14} The trial court stated that Sly “was highly focused on presenting a case regarding domestic violence/physical abuse by” Barbee, which the trial court ultimately found to be “unfounded.” *Id.* at 11, 22. Sly testified that, “on and off during the entirety of the marriage,” she was the victim of domestic violence by Barbee, and that some instances of domestic violence occurred in the presence of the children. (Aug. 18, 2025 Tr. Vol. I at 59.) The trial court sustained an objection to testimony from Sly about what the children saw or heard. It also sustained an objection to Sly’s testimony about “[t]he one time [she] remember[ed] specifically,” because that instance had previously been a basis for Sly’s motion for a civil protection order, which the trial court denied. *Id.* at 60. Contrary to Sly’s vague and conclusory testimony, the children consistently reported to the GAL that they had not seen Barbee commit any violent acts and that they are not afraid of him. Barbee likewise denied the children had ever been exposed to domestic violence. Sly did not allege that Barbee had ever been violent toward the children, and she testified that during her military deployment from June 2023 to January 2024, she reported she was not afraid of the children being with Barbee when he served as their primary caregiver. She also testified that since the filing of this case, Barbee had not made any threatening statements or movements toward her at child-related events the parties attended.

{¶ 15} The trial court indicated that Sly’s conduct outside of trial also resulted in an increase in litigation costs. At Sly’s request, the GAL met with the minor children more times than he normally would have, despite no change in the children’s requests for equal parenting time, on a week-on/week-off schedule. Further, disorganized discovery responses from Sly required Barbee’s counsel to spend extensive time reviewing and

² Sly argues that her disagreement with the GAL does not constitute bad faith, but the trial court was not required to find bad faith to award attorney fees under R.C. 3105.73(A). Further, the trial court did not rely solely on Sly’s disagreement with the GAL’s recommendation, but on her failure to offer any contrary evidence to establish that the recommendation was not in the children’s best interests.

organizing those responses. Billing statements revealed that Barbee was charged for approximately 20 hours spent by a paralegal reviewing and organizing Sly's discovery responses. The trial court also noted testimony from both Barbee and the GAL that Sly and her counsel spent a majority of the court-ordered mediation reviewing documents that had been provided to them in advance.³ While the parties spent approximately seven hours working on settlement and stipulations the week before trial, including a stipulation to list the marital home for sale, Sly ultimately refused to sign the stipulation regarding the sale of the marital residence, because there was no agreement as to the division of the sale proceeds, an issue expressly reserved in the stipulation for trial.⁴ The trial court also noted that Barbee's counsel prepared all the parties' joint stipulations, and that Barbee was billed for that work.

{¶ 16} As another factor relevant to the issue of attorney fees, the trial court cited Barbee's testimony that he lacked any source of funds, other than the proceeds from the eventual sale of the marital home, from which to pay his attorney fees. On the other hand, Sly offered no testimony or evidence regarding her own attorney fees or the amount of fees she still owed. The trial court's factual findings included multiple instances of conduct by Sly and her counsel that were detrimental to progress in the case, discouraged settlement of outstanding issues, and required Barbee to incur additional attorney fees. Given the trial court's consideration of the factors set out in R.C. 3105.73(A) in relation to its factual findings, we conclude that the trial court did not abuse its discretion in determining that an award of attorney fees to Barbee was equitable.

{¶ 17} Sly also argues that the trial court erred in determining the reasonableness of Barbee's attorney fees. Barbee testified that he had incurred approximately \$30,000 in attorney fees and that, as of trial, he had paid a total of \$3,920. From the exhibits submitted, the trial court found that Barbee's outstanding attorney fees as of August 18, 2025 were \$31,220. Barbee testified that the attorney fees he had been charged were reasonable and necessary in light of the circumstances, even while he maintained that he

³ Sly's counsel initially objected to questions about what happened in mediation, but he did not reassert that objection when Barbee's counsel clarified, "I don't want you to discuss anything that was said in the mediation." (Tr. at 255.)

⁴ Despite being required to do so under the temporary orders, Sly had not paid the mortgage on the marital residence for any month in 2025. As of trial, the overdue balance exceeded \$18,000.

incurred a significant portion of those fees because of conduct by Sly and her counsel. Based on its familiarity with the fees and costs associated with divorce actions in Franklin County, knowledge of the experience and reputation of the parties' attorneys, and review of the case file, the trial court found Barbee's attorney fees "substantially reasonable and necessary." (Jgmt. Entry/Decree of Divorce at 26.) A trial court may evaluate the work an attorney has performed in a domestic-relations action and "may use its own knowledge and experience to determine the reasonableness of the amount claimed." *Groza-Vance v. Vance*, 2005-Ohio-3815, ¶ 44 (10th Dist.), citing *Ward v. Ward*, 1985 Ohio App. LEXIS 8124 (10th Dist. June 18, 1985). Therefore, we reject Sly's argument that the trial court abused its discretion by determining that Barbee's attorney fees were reasonable and that ordering her to pay half of Barbee's outstanding attorney fees was equitable. Accordingly, we overrule Sly's first assignment of error.

B. Assignment of Error No. 2

{¶ 18} In her second assignment of error, Sly broadly argues that "several procedural and evidentiary errors deprived her of a fair trial." (Appellant's Brief at 12.)

{¶ 19} Sly's first complaint under this assignment of error concerns the trial court's post-trial, in-camera interview of the children. R.C. 3109.04(B)(1) states, in part:

In determining the child's best interest for purposes of making its allocation of the parental rights and responsibilities for the care of the child and for purposes of resolving any issues related to the making of that allocation, the court, in its discretion, may and, upon the request of either party, shall interview in chambers any or all of the involved children regarding their wishes and concerns with respect to the allocation.

An interview under R.C. 3109.04(B)(1) "shall be conducted in chambers, and no person other than the child, the child's attorney, the judge, any necessary court personnel, and, in the judge's discretion, the attorney of each parent shall be permitted to be present in the chambers during the interview." R.C. 3109.04(B)(2)(c). The trial court interviewed the children on September 15, 2025.

{¶ 20} Sly complains that the trial court erred by not recording the in-camera interview of the children. She maintains that the lack of a record denied her due process in that it "prevented meaningful review of what occurred during the interview and prevented [her] from contesting any statements attributed to the children." (Appellant's Brief at 12.)

R.C. 3109.04(B)(2)(c) does not expressly require an in-camera interview be recorded or transcribed. Nevertheless, some Ohio courts have held that a “trial court must make a record of any R.C. 3109.04 in camera interview with a child.” *Purvis v. Purvis*, 2002-Ohio-570, 2002 Ohio App. LEXIS 521, *25 (4th Dist. Feb. 4, 2002), citing *In re Markham*, 70 Ohio App.3d 841 (4th Dist. 1990). In *In re E.G.*, 2007-Ohio-3658, ¶ 10 (10th Dist.), this court recognized a split among Ohio appellate courts regarding whether in-camera interviews of children must be recorded, but it did not answer that question itself. Yet we noted that, even if a trial court is required to record an in-camera interview, a failure to do so may be harmless error if it does not affect a substantial right of the parties. *Id.*; *Purvis* at *26.

{¶ 21} In *Rani v. Rana*, 2018-Ohio-5363 (10th Dist.), this court rejected a father’s challenge to the trial court’s denial of his request for transcripts of in-camera hearings of his minor children. We stated that R.C. 3109.04(B)(2)(c) prohibits parents’ presence during an in-camera interview, and we found persuasive the reasoning in *Lawson v. Lawson*, 2013-Ohio-4687, ¶ 57 (5th Dist.), that an in-camera interview is confidential and is not to be disclosed to the parents. *See also In re A.M.R.*, 2017-Ohio-9178, ¶ 17 (8th Dist.) (citing cases that “have routinely held that R.C. 3109.04(B) precludes parents from accessing the transcript of their child’s in camera interview”). In *Lawson*, the Fifth District “reasoned that the overriding concern of courts in custody cases is the best interests of the child, which may, at times, conflict with the due process rights of parents.” *Rani* at ¶ 40. “To allow parents access to the transcript of their child’s in camera interview defeats the statute’s purpose to foster candor and also exposes the child to a parent’s potentially hostile reaction to the child’s words.” *Chapman v. Chapman*, 2007-Ohio-2968, ¶ 28 (2d Dist.). In line with the reasoning expressed in *Lawson* and adopted by this court in *Rani*, even if the trial court had recorded the in-camera interview, Sly would not have been entitled to review it. *See Lawson* at ¶ 52 (noting the transcript would be available only to the courts to review).

{¶ 22} Even were we to conclude the trial court erred by not recording its in-camera interview with the children, as requested by Sly, any error in that regard would be harmless. The wishes of the children were already represented by the GAL, who consistently stated that the children wanted equal time with both parents and that, after living with a week-on/week-off schedule for more than one year, the children wished to keep that schedule in

place. *See Tucker v. Hines*, 2020-Ohio-1086, ¶ 15 (10th Dist.) (finding “there can be little prejudice” even in a *failure to conduct* an in-camera interview when “the children’s interests were already represented by” a GAL). Moreover, the children’s wishes were but one of many factors the trial court considered in determining their best interests. The absence of a transcript of the in-camera interview of the children, which would have been unavailable to Sly even if it had been created, cannot be said to have affected Sly’s substantial rights so as to deny her a fair trial.

{¶ 23} Sly’s next challenge under her second assignment of error is to the trial court’s refusal to admit as evidence a copy of a judgment entry in which Barbee was allegedly convicted of an unidentified felony in Michigan. Barbee stated he had been convicted of a felony in Michigan in 2013, before his marriage to Sly, but the trial court sustained an objection to questioning about that conviction based on relevance.⁵ The trial court refused to mark a purported copy of the judgment of conviction as an exhibit and ordered Sly’s counsel to “move on.” (Tr. at 35.) In her appellate brief, Sly states that the judgment entry of Barbee’s prior conviction was admissible under R.C. 2945.75(B) and Evid.R. 803(8) and (22), and that the trial court therefore erred by refusing to admit it. Beyond citing that statute and those rules, however, Sly offers no analysis of the alleged error. We review a trial court’s decision to admit or exclude evidence under an abuse-of-discretion standard. *Kirschbaum v. Dillon*, 58 Ohio St.3d 58, 66 (1991).

{¶ 24} Sly’s reliance on R.C. 2945.75(B) is misplaced. R.C. 2945.75(B)(1) states, “Whenever in any case it is necessary to prove a prior conviction, a certified copy of the entry of judgment in such prior conviction together with evidence sufficient to identify the defendant named in the entry as the offender in the case at bar, is sufficient to prove such prior conviction.” Title 29 of the Ohio Revised Code addresses criminal procedure, and R.C. Chapter 2945 governs criminal trials. R.C. 2945.75(B)(1) provides one way of establishing sufficient proof when “it is necessary to prove a prior conviction” as an element of a criminal offense. R.C. 2945.75(B)(1); *see also State v. Gwen*, 2012-Ohio-5046, ¶ 14; *State v. Johnson*, 2022-Ohio-4629, ¶ 60 (2d Dist.), citing *State v. Werfel*, 2003-Ohio-6958, ¶ 40 (11th Dist.). That its application is limited to criminal cases is evident from the

⁵ Barbee initially testified that the felony conviction occurred when he was 17 years old, but the following day he admitted that was untrue and that it occurred in 2013.

requirement of evidence to prove that the defendant named in the entry of prior conviction is also “the *offender* in the case at bar.” (Emphasis added.) *Werfel* at ¶ 40. There is no “offender” in a civil case, including a divorce case. Further, even if the statute were not inapplicable to non-criminal cases, it would be inapplicable on its face because this is not a case in which it was “*necessary* to prove a prior conviction.” (Emphasis added.) R.C. 2945.75(B)(1).

{¶ 25} Sly’s citations to portions of Evid.R. 803 fare no better. Evid.R. 803 lists exceptions to the hearsay rule. Evid.R. 803(8) excepts from the rule against hearsay “[r]ecords . . . of public offices or agencies, setting forth . . . the activities of the office or agency[.]” Evid.R. 803(22) excepts from the rule against hearsay “[e]vidence of a final judgment . . . adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment.” Here, the trial court did not reject the copy of the prior conviction because it was hearsay; it rejected it as irrelevant to the issues remaining for trial. Irrelevant evidence is inadmissible even if it falls within an Evid.R. 803 hearsay exception. *See State v. Simpson*, 2011-Ohio-4578, ¶ 27 (1st Dist.). Sly’s counsel made no showing that Barbee’s prior conviction was relevant to any issue remaining before the court, and the court reasonably concluded that the prior conviction was irrelevant. Accordingly, the court did not abuse its discretion by excluding that evidence.

{¶ 26} Lastly, under the second assignment of error, Sly states, “The trial court also restricted questioning regarding prior incidents of domestic violence. Evidence of domestic violence is directly relevant to determining the best interests of the children in custody proceedings. Limiting this evidence prevented [Sly] from fully presenting her case.” (Appellant’s Brief at 13.) As to this argument, Sly has not complied with App.R. 16(A)(3) and (7). App.R. 16(A)(3) mandates that an appellant’s brief include “[a] statement of the assignments of error presented for relief, *with reference to the place in the record where each error is reflected*[.]” and App.R. 16(A)(7) requires the brief to include “[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, *with citations to the authorities, statutes, and parts of the record on which appellant relies*.” (Emphasis added.) An appellate court may disregard an assignment of error if the party raising it “fails

to identify in the record the error on which the assignment of error is based or fails to argue the assignment separately in the brief, as required under App.R. 16(A).” App.R. 12(A)(2). Sly does not identify in the record where the trial court allegedly erred by precluding testimony regarding alleged domestic violence, nor does she cite any legal authority or portions of the record in support of her argument.

{¶ 27} Even addressing this argument in the interest of justice, however, we conclude that Sly has not demonstrated that the trial court committed an abuse of discretion by restricting her counsel’s questioning regarding Sly’s allegations of domestic abuse. First and foremost, there has been no allegation of any violence directed at the children, which would have been relevant to the trial court’s determination of the best interests of the children. As we have discussed previously, the trial court sustained objections to specific questions based on relevance—particularly because it was not considering grounds for divorce—and because the court had previously found specific claims of domestic violence lacked credibility when it denied a civil protection order. Sly has not demonstrated that any of the trial court’s specific evidentiary rulings regarding her counsel’s attempts to elicit testimony regarding alleged domestic abuse were unreasonable, arbitrary, or unconscionable to constitute an abuse of discretion.

{¶ 28} Having now rejected each of Sly’s arguments under her second assignment of error, we overrule that assignment of error.

IV. CONCLUSION

{¶ 29} For the foregoing reasons, we overrule each of Sly’s two assignments of error and affirm the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations.

Judgment affirmed.

BEATTY BLUNT and MENTEL, JJ., concur.
