

[Cite as *E.O.W. v. L.M.W.*, 2021-Ohio-2040.]

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

E.O.W.,	:	
Plaintiff-Appellee/ Cross-Appellant,	:	
v.	:	No. 109713
L.M.W.,	:	
Defendant-Appellant/ Cross-Appellee.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: June 17, 2021

Civil Appeal from the Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. DR-16-360863

Appearances:

E.O.W., *pro se*.

Stafford Law Co., L.P.A., Joseph G. Stafford, and Nicole A.
Cruz, *for appellant/cross-appellee*.

MICHELLE J. SHEEHAN, J.:

{¶ 1} Plaintiff E.O.W. (“Husband”) filed a complaint for divorce in the Domestic Relations Division of the Cuyahoga County Court of Common Pleas.

Defendant L.M.W. (“Wife”) appealed from the judgment entry of divorce issued by the court. This court affirmed the judgment in part, reversed in part, and remanded the case. *Woyt v. Woyt*, 8th Dist. Cuyahoga Nos. 107312, 107321, and 107322, 2019-Ohio-3758. Upon remand, the court issued a modified judgment entry of divorce. Wife filed an appeal from that judgment, and Husband filed a cross-appeal.

{¶ 2} Wife’s appeal concerns the child support amount and raises the following two assignments of error for our review:

I. The trial court erred as a matter of law and abused its discretion by failing to follow the appellate court’s remand instructions for the determination of child support.

II. The trial court erred as a matter of law and abused its discretion in its determination of child support pursuant to the Ohio Revised Code Section 3119.04(B).

{¶ 3} Husband’s cross-appeal concerns the deadline for his payment to Wife for her share of his capital account and Wife’s counsel’s conduct in filing an objection to his proposed Qualified Domestic Relations Order (“QDRO”) for his retirement plan. The cross-appeal raises the following two assignments of error for our review:

I. The trial court erred as a matter of law and abused its discretion in its determination of the deadline of January 31, 2021 for the payment by [Husband] to Wife for Wife’s interest in Husband’s capital account.

II. The trial court erred as a matter of law and abused its discretion in its failure to impose sanctions against [Wife’s] attorneys in connection with the QDRO Objection filed by [Wife] on July 19, 2018.

{¶ 4} Having reviewed the record and applicable law, we find no merit to Wife's appeal and Husband's cross-appeal and, therefore, affirm the trial court's judgment.

{¶ 5} Husband and Wife were married in May 2008. They have two children. Husband filed a complaint for divorce in 2016. On May 22, 2018, the trial court entered a judgment entry of divorce. In a lengthy 51-page decision, the court allocated parenting time, divided marital property, ordered spousal and child support, and awarded attorney fees.

{¶ 6} In Wife's first appeal, she challenged the trial court's order regarding the parental time schedule, the involvement of a forensic case manager, Husband's premarital equity in the marital home, the distribution of her share of Husband's capital account with his employer, his interest in her retirement account, spousal support, child support, and attorney fees. This court overruled her assignments of error regarding the forensic case manager, Husband's interest in her retirement account, spousal support, and attorney fees, but sustained her claims regarding the parental time schedule, Husband's premarital interest in the marital home, the distribution of Wife's share of Husband's capital account, and child support. *Woyt*, 8th Dist. Cuyahoga Nos. 107312, 107321, and 107322, 2019-Ohio-3758. On remand, the trial court issued a modified judgment entry of divorce on May 6, 2020, that is the subject of this appeal.

Wife's Appeal

{¶ 7} In the 2018 judgment entry of divorce, the trial court awarded Wife \$2,344.17 in child support per month. One of the assignments of error raised in Wife's appeal concerned the amount of the child support. Wife argued the trial court abused its discretion in calculating Husband's child support obligation. This court sustained the assignment of error. On remand, the trial court again awarded \$2,344.17 in child support.

{¶ 8} Under her first and second assignments of error, Wife claims the trial court failed to follow the remand instructions and abused its discretion in determining the child support amount, respectively. Because the two assignments of error are related, we address them together.

{¶ 9} "Ohio has adopted what is known as the 'income shares' model for child support — a model that presumes that a child should receive the same proportion of parental income as he or she would have received if the parents lived together." *Phelps v. Saffian*, 8th Dist. Cuyahoga No. 103549, 2016-Ohio-5514, ¶ 7. The "income shares" model is based on expected child rearing costs and on the parents' incomes. *Id.* To aid the court in calculating child support under this model, R.C. 3119.021 ("Basic child support schedule") provides numerical guidelines. Under that statute, the amount of child support is based on the income of the parents and the number of children. When the parents' income is greater than \$150,000, however, the numerical guidelines no longer apply. Instead, R.C. 3119.04(B) governs the trial court's determination. It states, in relevant part:

If the combined gross income of both parents is greater than one hundred fifty thousand dollars per year, the court, with respect to a court child support order, * * * 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. The court or agency shall compute a basic combined child support obligation that is no less than the obligation that would have been computed under the basic child support schedule and applicable worksheet for a combined gross income of one hundred fifty thousand dollars, unless the court or agency determines that it would be unjust or inappropriate and would not be in the best interest of the child, obligor, or obligee to order that amount. If the court or agency makes such a determination, it shall enter in the journal the figure, determination, and findings.¹

{¶ 10} As this court explained in *Cyr v. Cyr*, 8th Dist. Cuyahoga No. 84255, 2005-Ohio-504, ¶ 54, the statute eliminated the requirement in the prior version of the child support statute that the court extrapolate to determine the amount of child support when the parents' income exceeds \$150,000. Instead, "the statute leaves the determination entirely to the court's discretion, unless the court awards less than the amount of child support listed for combined incomes of \$150,000." *Id.* In that event, the court is required to "enter in the journal the figure, determination, and findings." *Id.*, quoting R.C. 3119.04(B).

{¶ 11} Under the statute, "the trial court is free to determine any amount above the guideline maximum without providing any reasons." *Pruitt v. Pruitt*, 8th Dist. Cuyahoga No. 84335, 2005-Ohio-4424, ¶ 44. The statute "neither contains nor

¹ We note that R.C. 3119.04 was recently amended. Effective March 28, 2019, instead of \$150,000, a case-by-case determination is now triggered by "the maximum annual income listed on the basic child support schedule established pursuant to section 3119.021 of the Revised Code."

references any factors to guide the court's determination in setting the amount of child support; instead, the court must determine child support on a case-by-case basis." *Siebert v. Tavaréz*, 8th Dist. Cuyahoga No. 88310, 2007-Ohio-2643, ¶ 30. The only requirement is that the court considers "the needs and the standard of living of the children * * * and of the parents." R.C. 3119.04(B); *In re J.M.G.*, 8th Dist. Cuyahoga No. 98990, 2013-Ohio-2693, ¶ 28.

Analysis

{¶ 12} In the 2018 judgment entry of divorce, the trial court applied the extrapolation method to arrive at Husband's child support obligation of \$2,344.17 per month. Regarding this amount, the court's analysis states, in its entirety:

[Husband] owes a duty of support for the two minor children. The Court calculates child support to be \$2,344.17 per month, based upon [Husband's] income of \$340,000 and [Wife's] income from spousal support of \$78,000. This amount is an extrapolation beyond the guidelines pursuant to R.C. 3119.04(B), as the combined income of the parties exceeds \$150,000.

{¶ 13} Nothing in the statute prohibits the court from using the extrapolation method to determine the amount of support due in high income cases; it merely no longer mandates that the court use this method. *Cyr, supra*, at ¶ 56. However, this court has expressed doubts "whether the court fulfills its statutory duty to determine child support on a case-by-case analysis as required by R.C. 3119.04(B) when it by rote extrapolates a percentage of income to determine child support." *Id.* at ¶ 34.

{¶ 14} In the prior appeal, this court, citing *Siebert*, 8th Dist. Cuyahoga No. 88310, 2007-Ohio-2643, at ¶ 34, and the requirement of R.C. 2119.04(B) that the trial court must “consider the needs and standard of living of the children * * * and of the parents” on a case-by-case basis, sustained Wife’s assignment of error regarding the award of child support. *Woyt*, 8th Dist. Cuyahoga Nos. 107312, 107321, and 107322, 2019-Ohio-3758, at ¶ 51. This court stated that, in light of Husband’s annual income of \$340,000, the spousal support being Wife’s only source of income, and the grant of full custody of the children to Wife, the trial court’s child support order “fails to adequately consider the needs and standard of living of the children and parents” and, “[i]n failing to craft a support order based on the unique facts and circumstances in this case, we find the trial court abused its discretion.” *Woyt* at ¶ 52.

{¶ 15} On remand, the trial court issued a modified judgment entry pursuant to this court’s decision. Regarding child support, it now cited the requirement of R.C. 3119.04(B) for a case-by-case analysis and the requisite consideration of the needs and standard of living of the children when the parents’ income exceeds \$150,000. The trial court acknowledged that the baseline amount of child support for the parental income of \$150,000 would be \$1,830.92 per month, but Husband’s high income demanded an amount above the baseline amount. The court then noted that, despite the lengthy 15-day trial, “very little of it was devoted to ‘the needs and standard of living of the children’ as they may relate to child support.” Based on the limited evidence presented, the court found the family lived

in a “nice” home — valued at \$295,000 — in a “middle class” neighborhood; the children went to good public schools; and the parents were able to save for the children’s college education by contributing to a 529 plan. Also, the family had no credit card debts, did not purchase expensive clothing, and took just one nice vacation each year.

{¶ 16} In the child-support analysis, the court also discussed Wife’s living situation. She currently resided with her parents but would like to move to her own residence in the same community. The court noted that the significant property division award and spousal support (at \$6,500 per month) will help her purchase a home. Wife estimated her monthly expenses to be \$13,000, which included childcare costs of \$600, Wife’s own tuition costs at \$500 a month, and \$4,000 in attorney fees. The court, however, found these amounts should not be included as part of her monthly expenses for purposes of child support calculation: no child care expenses would be incurred because she does not expect to be fully employed for several years; significant spousal support was awarded to cover her re-education costs; and she received an award of attorney fees.

{¶ 17} After noting Wife’s request of monthly child support of \$2,759.08 and Husband’s request of \$999.23, the court calculated the child support amount to be \$2,344.17, based on Husband’s income of \$242,960 and Wife’s income of \$6,500 in spousal support, based on the Child Support Guidelines Worksheet. The court reasoned that the combined spousal and child support of \$8,844 would be sufficient to meet Wife’s living expenses as presented to the court. The court held that, based

on the evidence presented, the extrapolated figure of \$2,344.17 accounts for the needs and standard of living of the children pursuant to R.C. 3119.04(B).

{¶ 18} Wife now claims the trial court failed to follow this court’s remand instructions and abused its discretion in determining the child support amount, citing the doctrine of the law of the case. The doctrine of the law of the case provides that “the decision of a reviewing court in a case remains the law of that case on the legal questions involved for all subsequent proceedings in the case at both the trial and reviewing levels” and “the doctrine functions to compel trial courts to follow the mandates of reviewing courts.” *Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984).

{¶ 19} In *Woyt*, this court emphasized that the trial court is free to determine any amount above the guideline maximum but R.C. 3119.04(B) requires the trial court to consider the needs and standard of living of the children and of the parents on a case-by-case basis. *Id.*, 8th Dist. Cuyahoga Nos. 107312, 107321, and 107322, 2019-Ohio-3758, at ¶ 51.

{¶ 20} Wife, however, reads paragraph ¶ 51 of this court’s decision cited above as mandating the trial court to increase the child support amount, arguing that an increase in the amount is mandated by the law-of-the-case doctrine. We disagree with Wife’s narrow reading of this court’s decision and find the trial court’s decision on remand is consistent with this court’s analysis regarding the child support.

{¶ 21} This court considered the trial court’s exclusive reliance on the extrapolation method to arrive at Husband’s child support obligation to be an abuse of discretion because it failed to “adequately consider the needs and standard of living of the children and parents” as required by R.C. 3119.04(B). *Id.* at ¶ 52. Whereas the 2018 judgment did not set forth any analysis regarding Husband’s child support obligation, the trial court on remand provided a detailed analysis for the child support amount of \$2,344.17 it awarded. When the income of the parents is greater than \$150,000, the proper standard for calculating child support is the amount necessary to maintain for the children the standard of living they would have enjoyed had the marriage continued. *Berthelot v. Berthelot*, 154 Ohio App.3d 101, 2003-Ohio-4519, 796 N.E.2d 541, ¶ 24 (9th Dist.). The court on remand specifically considered the standard of living the children would have enjoyed had the marriage continued — in this case, a middle-class life where the children go to good public schools and the parents are able to save for their college educations, with niceties such as one “very nice” vacation per year but without extravagances such as expensive clothes.

{¶ 22} Wife argues the trial court on remand failed to consider the needs of the children concerning their psychological health. However, under the judgment entry of divorce, Husband is already responsible for all medical needs of the children. While Wife’s counsel presented a great deal of testimony on the impact of the couple’s conflict on the children’s emotional health at trial, as the trial court observed on remand, little evidence was presented regarding the needs of the

children in relation to the amount of child support. In other words, despite Wife's claim that the child support award was inadequate to meet their needs concerning their emotional wellbeing, she did not present evidence at trial to demonstrate the monetary amount that would be required to meet their need in this regard. *Crandall v. Crandall*, 11th Dist. Geauga No. 2019-G-0202, 2020-Ohio-625, ¶ 81 (mother failed to demonstrate what monetary amount would cover the needs of the children that the current child support order does not cover).

{¶ 23} Citing *Birath v. Birath*, 53 Ohio App.3d 31, 558 N.E.2d 63 (10th Dist.1988), Wife also claims that "R.C. 3109.05 requires the court to consider all relevant factors, including the financial resources of the child, the financial resources and needs of the custodial parent, the standard of living the child would have enjoyed had the marriage continued, and the educational needs of the child and the educational opportunities that would have been available to him [or her] * * *." *Id.* at 37. However, *Birath* does not concern "high-income" parents and therefore is not applicable here. Rather, R.C. 3119.04(B) "neither contains nor references any factors to guide the court's determination in setting the amount of child support." *Siebert*, 8th Dist. Cuyahoga No. 88310, 2007-Ohio-2643, at ¶ 30. Pursuant to R.C. 3119.04(B), "domestic relations courts have more discretion in computing child support when the parents' combined income is greater than \$150,000." *Abbey v. Peavy*, 8th Dist. Cuyahoga No. 100893, 2014-Ohio-3921, ¶ 25, quoting *Macfarlane v. Macfarlane*, 8th Dist. Cuyahoga No. 93012, 2009-Ohio-6647, ¶ 17.

{¶ 24} On remand, the court engaged in the requisite case-by-case analysis and considered the needs of the children and the standard of living of the family based on the limited evidence presented at trial. Although it arrived at the same amount of child support as in the prior decision, we cannot conclude its consideration and analysis of the evidence in this case pursuant to R.C. 3119.04(B) constituted an abuse of discretion. The first and second assignments of error are without merit.

Husband's Cross-Appeal

{¶ 25} Husband's cross-appeal raises two cross-assignments of error. The first cross-assignment of error relates to the January 31, 2021 deadline set by the trial court for the distribution of Wife's share of Husband's capital account in the 2020 judgment entry of divorce. The second cross-assignment of error relates to Wife's objection to Husband's proposed QDRO for his retirement plan.

{¶ 26} The background for these two claims is as follows: Regarding Husband's capital account in the law firm where he is a partner, the trial court determined in its 2018 decision that Husband's capital account had a value of \$132,817.53 as of the date of the trial. Finding the entire account to be marital property, the court determined Wife was entitled to \$66,409. As to the terms of the distribution of Wife's share of \$66,409, the trial court found it equitable for Husband to compensate Wife for her 50 percent share at the same time he receives his distributions from the law firm, until she has received a total amount of \$66,409.

{¶ 27} In her first appeal to this court, Wife argued the trial court erred in ordering an indefinite term of distribution of her share of the capital account. This court sustained the assignment of error, finding that the indefinite term of distribution inequitable because, under the terms of distribution ordered by the trial court, whether and when Wife receives her share is determined entirely by Husband's law firm. Wife, however, is currently at a significant financial disadvantage because she has not been employed since 2008 and would require training before reentering the work force, and the financial disadvantage prevented her from her goal of moving from her parents' home, where she and the children are residing. This court concluded that there was no reasonable justification to order an indefinite term for the distribution of Wife's share of Husband's capital account and found the trial court to have abused its discretion.

{¶ 28} On remand, the trial court, referring to this court's analysis on this issue, found that it would be equitable for Wife to be compensated for her share of the capital account "within a finite and short period of time" and ordered the payment to be made no later than January 31, 2021, more than eight months from the date of the trial court's judgment.

{¶ 29} Regarding Husband's proposed QDRO for his retirement plan, while Wife's first appeal, filed on June 12, 2018, was pending before this court, Husband submitted his proposed QDRO to the trial court on July 12, 2018. On July 19, 2018, Wife filed an objection to the proposed QDRO. Wife claimed the trial court lacked jurisdiction to issue a QDRO during the pendency of the appeal, citing the general

principle that the trial court loses jurisdiction in a matter after an appeal has been taken.

{¶ 30} On July 24, 2018, the trial court issued a judgment. It cited the principle that “once an appeal is perfected, the trial court is divested of jurisdiction over matters inconsistent with the reviewing court’s jurisdiction to reverse, modify, or affirm the judgment” and determined it was without jurisdiction to take any action on the QDRO submitted by Husband.

{¶ 31} Husband alleges that because of his hefty financial obligations under the judgment entry of divorce regarding property division and support obligations, he had planned to borrow money from his retirement plan — once the QDRO for his retirement plan was put into effect — to pay for Wife’s share of his capital account. He claims that, without the QDRO for his retirement plan, he was unable to pay Wife’s share of his capital account.

Date of Distribution of Wife’s Share in Husband’s Capital Account

{¶ 32} Under the first cross-assignment of error, Husband argues the trial court abused its discretion in ordering the deadline of January 31, 2021, for the payment of Wife’s share of his capital account without conducting an ability-to-pay analysis. He claims his payment of Wife’s share of the capital account should be conditioned on the issuance of the QDRO, instead of scheduled for a certain deadline.

{¶ 33} Husband claims he is unable to pay for Wife’s share of his capital account without borrowing from his retirement plan and, therefore, the trial court

should issue the QDRO first. Husband, however, fails to cite to any authority to support his claim that the trial court must engage expressly in an ability-to-pay analysis before ordering the term of distribution regarding his capital account. The lengthy judgment entry of divorce issued by the trial court reflects the court's awareness of Husband's sizable income and assets. While it may be ideal for Husband to be able to borrow from his own retirement plan and therefore pay interest to himself, as he suggests, we are unable to conclude the trial court abused its discretion in following the mandate of this court and setting a date — more than eight months from the judgment — for him to fulfill his obligation to pay Wife's share in his capital account. *Williams v. Williams*, 8th Dist. Cuyahoga No. 95346, 2011-Ohio-939, ¶ 8 (once the characterization of marital and separate property is made, the actual distribution of the property will not be disturbed absent an abuse of discretion). The first cross-assignment of error in Husband's cross-appeal is without merit.

QDRO

{¶ 34} Under the second cross-assignment of error, Husband argues the trial court abused its discretion in failing to sanction Wife's counsel for objecting to his proposed QDRO. Wife's objection to the proposed QDRO was grounded on the trial court's lack of jurisdiction to take any action regarding the QDRO while the appeal was pending. Husband asserts that, pursuant to this court's decision in *Ballinger v. Ballinger*, 8th Dist. Cuyahoga Nos. 100958, 101074, 101655, and 101812, 2015-Ohio-590 ("*Ballinger I*"), a case where Wife's counsel represented

appellant and therefore would have knowledge of, the trial court could exercise jurisdiction regarding the QDRO while Wife's appeal was pending. Husband claims Wife's counsel violated Prof.Cond.R. 3.3(a)(1) and (a)(2) for making a false statement of law to the tribunal and failed to disclose to the tribunal legal authority known to counsel.

{¶ 35} As this court explained, a QDRO is not an independent judgment entry but rather an enforcement mechanism pertaining to the trial court's previous judgment entry of divorce; it implements a trial court's decision of how a pension is to be divided incident to divorce and does not constitute a further adjudication on the merits of the pension division because its sole purpose is to implement the terms of the divorce decree. *Ballinger v. Ballinger*, 8th Dist. Cuyahoga No. 105180, 2017-Ohio-7077, ¶ 6 ("*Ballinger II*"). When a QDRO is inconsistent with the final divorce decree it is void. *Id.* at ¶ 7. Furthermore, "when a divorce decree is appealed and there is no stay of the judgment pending appeal, the trial court is not divested of jurisdiction to issue a QDRO *consistent with the decree* because the order merely executes orders previously specified in the divorce decree." (Emphasis added.) *Ballinger I* at ¶ 67, quoting *State ex rel. Sullivan v. Ramsey*, 124 Ohio St.3d 355, 2010-Ohio-252, 922 N.E.2d 214, ¶ 19.

{¶ 36} We note that under the second cross-assignment of error, we are not presented with the question of whether Husband's proposed QDRO is consistent with the judgment entry of divorce or whether the court had jurisdiction to issue the QDRO while the first appeal was pending. Rather, Husband claims the trial court

abused its discretion in not imposing sanctions on Wife's counsel for filing the QDRO objection despite counsel's awareness of *Ballinger I*.

{¶ 37} Husband alleges that he was prevented from filing a motion for sanctions regarding Wife's counsel's conduct in filing the QDRO objection because the trial court had previously ruled that all motions for sanctions in this highly contentious divorce case would be stricken. The record reflects that in a judgment entry issued on January 3, 2018 — before the trial court issued the original judgment entry of divorce — it issued a judgment entry granting a motion in limine filed by Husband. Apparently out of frustration over the parties' conduct in this bitterly contested divorce matter, the court stated the following:

This Court previously admonished counsel for both parties to refrain from the personal attacks on each other that has permeated this case since trial commenced. Based on this latest round of motions, it appears that neither counsel for Plaintiff nor counsel for Defendant intend to adhere to any form of civility or professionalism so long as this case is pending.

* * *

This Court is not the forum to determine if the actions of either Defendant's counsel are violations of the Rules of Professional Conduct. Furthermore, this Court will not acknowledge the bad behaviors of all of the attorneys in this case by deciding who is more bad than the other. Therefore, all motions for sanctions will be denied and any further such motions (from now until conclusion of this case) will be immediately stricken.

{¶ 38} Husband claims that this order prevented him from filing a motion for sanctions regarding Wife's counsel's misconduct in claiming the trial court lacked jurisdiction to issue a QDRO during the pendency of the appeal. He claims

therefore that he could not have raised this issue before the trial court and the trial court abused its discretion for not sanctioning Wife's counsel's conduct on its own.

{¶ 39} We first note that Husband did not challenge the January 3, 2018 judgment entry in the first appeal. However, even if we were to review the propriety of the judgment entry, it appears that the court fully explained why it would not entertain any further motions for sanctions due to the conduct of counsel *on both sides* in this high-conflict divorce action. We cannot say the trial court abused the wide discretion afforded to it regarding sanctions matters.

{¶ 40} While Wife's counsel should have cited pertinent authority it was aware of — to wit, *Ballinger I* — to assist the trial court in deciding whether it could exercise jurisdiction regarding the QDRO pursuant to the prevailing case law, we note that Husband himself also failed to bring the case law authority to the trial court's attention before the court ruled on July 24, 2018, that it lacked jurisdiction.² The record reflects the trial court never had a proper opportunity to decide the issue of whether the trial court had jurisdiction to take action regarding Husband's proposed QDRO pursuant to *Ballinger I* or, pertinent to Husband's cross-appeal,

² The record here reflects Husband resubmitted his proposed QDRO on February 12, 2020 (after the conclusion of the first appeal but before the trial court issued the modified judgment entry of divorce on remand) with a citation to *Ballinger I*, and again moved for an entry of QDRO on May 13, 2020 (after the instant notice of appeal was filed), also citing *Ballinger I*. In neither filing did Husband allege that Wife's counsel was aware of the case but failed to cite it in bad faith. The trial court has not taken any action regarding either filing.

whether a sua sponte order of sanction would be warranted. Accordingly, the second cross-assignment of error in Husband's cross-appeal lacks merit.

{¶ 41} Judgment affirmed.

It is ordered that appellant and appellee share the costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court, domestic relations division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MICHELLE J. SHEEHAN, JUDGE

LARRY A. JONES, SR., P.J., and
EILEEN T. GALLAGHER, J., CONCUR