[Cite as *In re Adoption of S.N.W.*, 2026-Ohio-3427.]

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

IN RE:
THE ADOPTION OF S.N.W. & N.N.J.W.

C.A. Nos. 31771
31772

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE Nos. 2022 AD 00093
2022 AD 00094

DECISION AND JOURNAL ENTRY

Dated: September 2, 2026

HENSAL, Judge.

{¶1} Appellant, J.L. ("Mother"), appeals from a judgment of the Summit County Court of Common Pleas, Probate Division, that held that her consent to the adoption of her two minor children was not required because she failed to pay sufficient maintenance and support as required by former Section 3107.07(A) of the Ohio Revised Code. This Court previously reversed a decision by the trial court on the same issue and remanded the case for the trial court to consider Mother's seized income tax refund as a payment of child support on each child's Child Support Enforcement Agency ("CSEA") account and determine whether those payments were sufficient to preserve her parental right to consent. Because the trial court failed to follow the law of the case and exceeded the scope of the remand, this Court must again reverse and remand for the trial court to make the necessary factual findings and conclusions of law.

I.

{¶2} In *In re Adoption of S.N.W.*, 2025-Ohio-1994 (9th Dist.), this Court detailed the relevant facts and issues in this case, but will briefly reiterate them here. Mother is the biological mother of the children at issue in this adoption case: S.N.W., born September 1, 2012; and N.N.J.W., born January 16, 2011. The Summit County Juvenile Court placed both children in the legal custody of K.W. ("Custodian") during 2016.

{¶3} On October 5, 2022, Custodian filed petitions to adopt both children. She alleged that Mother's consent to the adoptions was not required under former Section 3107.07(A), which was then in effect, because Mother had failed "without justifiable cause . . . to provide for the maintenance and support of the minor [children] as required by law or judicial decree for a period of at least one year immediately preceding . . . the filing of the adoption petition[.]" The next day, Custodian filed July 2022 statements from each child's CSEA account to support her allegation that Mother had failed to provide maintenance and support for the children as required by the statute. Mother filed objections to Custodian's adoption petitions.

{¶4} The case proceeded to a hearing before a magistrate on the issue of whether Mother had provided sufficient "maintenance and support" during the lookback period to preserve her parental right to consent to the adoption of her children under former Section 3107.07(A). Custodian had never sought or obtained a court order for Mother to pay child support, and the parties did not dispute that Mother provided minimal financial support directly to Custodian or the children. Instead, the focus of the consent hearing was on whether Mother had sufficiently complied with her obligation to pay monthly child support of $25 per child (plus a processing fee) to CSEA, for an annual support obligation of approximately $300 per child. The actual CSEA orders were not introduced into evidence, but the parties agreed that Mother owed such a child support obligation to CSEA, as reflected in statements from each child's CSEA account.

{¶5} The parties did not present CSEA statements that specifically included the relevant one-year lookback period (October 5, 2021 - October 5, 2022), however. Custodian relied solely on the CSEA statements she filed the day after she filed her adoption petitions. Those statements indicate that they were printed on July 21, 2022, but include payments only through June 30, 2022, more than three months before the end of the lookback period. Custodian's documents demonstrate that, as of June 30, 2022 (more than half-way through the lookback period), Mother had made no payments to the CSEA accounts since August 2021, and was in arrears on each child's account by over $500.

{¶6} On the other hand, Mother submitted CSEA statements from each child's account for January 1, 2022, through December 5, 2023. Her exhibits demonstrate that, near the end of the relevant one-year lookback period, Mother's income tax refund was seized and applied to each child's CSEA account. On September 20, 2022, a payment of $503.23 was deposited into one child's account and $508.95 was applied to the other child's account. Mother's exhibits further indicated that those payments were applied to past-due child support (arrearages) on each account.

{¶7} Custodian argued in the trial court that the seized income tax refund should not be considered as payment of child support because Mother did not pay child support voluntarily. The magistrate agreed and refused to consider the seized income tax refund as a payment of child support for purposes of former Section 3107.07(A). The magistrate further emphasized that Mother's September 2022 payments were applied to arrearages, not current support, and found that Mother did not have justifiable cause for her failure to provide child support. Consequently, the magistrate decided that Mother's consent was not required under the statute.

{¶8} Mother objected to the magistrate's decision, but the trial court overruled her objections. The trial court also found that Mother had failed to pay child support during the lookback period. It explicitly agreed with the magistrate's reasoning on the voluntariness issue and the significance of the fact that the payments were applied to past-due support. Consequently, for both of those reasons, the trial court held that Mother's consent to the adoption of her children was not required.

{¶9} Mother appealed to this Court. Her first assignment of error explicitly challenged the trial court's refusal to consider the seized income tax refund as child support payments made during the lookback period for purposes of whether Mother had retained her right to consent to her children's adoption under former Section 3107.07(A). *See In re Adoption of S.N.W.*, 2025-Ohio-1994, at ¶ 12 (9th Dist.). This Court sustained Mother's first assignment of error on the voluntariness issue, emphasizing that nothing in former Section 3107.07(A) or controlling Ohio case law required that a parent voluntarily pay child support to avoid losing her right to consent under the statute. *Id*. at ¶ 19-23. Therefore, this Court held that the trial court erred by failing to consider the seized income tax refund as a payment of child support for purposes of former Section 3107.07(A). *Id*. at ¶ 24.

{¶10} While this Court further questioned the trial court's additional reasoning that Mother's seized income tax refund should not be considered as support paid during the lookback period because it was applied to past-due support, not current support, it did not determine that this was in error. *Id*. at ¶ 26. After reviewing the divided decision of the Ohio Supreme Court in *In re Adoption of A.C.B.*, 2020-Ohio-626, this Court emphasized that there was no clear Ohio guidance on "whether [Section] 3107.07(A) pertains to a parent's child support arrearages from prior to the statutory one-year lookback period . . . or . . . whether a parent's payment of a much more significant portion of the annual child support obligation . . . would be sufficient to preserve parental rights under [Section] 3107.07(A)." *In re Adoption of S.N.W.*, 2025-Ohio-1994, at ¶ 31 (9th Dist.).

{¶11} In other words, the dissent notwithstanding, the majority took no position on either of those issues and did not determine for the first time on appeal how much support a parent must pay or whether arrearages from prior years are relevant to the probate court's Section 3107.07(A) determination. *Id*. Nevertheless, based on the evidence before the trial court, we emphasized that Mother's $500 payments were made near the end of the lookback period and likely would have covered her arrearages from prior years and a significant portion of the current child support that accrued during the lookback period. *Id*. at ¶ 26.

{¶12} Because the trial court had not considered the seized income tax payments as child support, it had not made the necessary financial calculations of how much support Mother paid during the lookback period, nor had it made the legal determination of whether Mother paid enough support to preserve her parental rights under the statute. As a reviewing court, this Court deferred to the trial court to make those determinations in the first instance. *Id*. at ¶ 24. Consequently, this Court reversed and remanded the matter for the trial court to exercise its discretion in making those factual findings and legal conclusions. *Id*. at ¶ 24, 26, 32.

{¶13} On remand, following an oral hearing, the trial court again found that Mother's consent to the adoption of her children was not required because she failed to pay maintenance and support during the lookback period pursuant to former Section 3107.07(A). Its specific reasoning is not entirely clear from its judgment entry, but it questioned the legal soundness of this Court's holding and mandate on remand to consider the seized income tax refund as payments of child support for purposes of former Section 3107.07(A). The trial court then shifted its focus to the fact that Custodian did not receive any of the CSEA payments and that the payments would have first been applied to past-due support from prior years.

{¶14} Notably, the trial court did not calculate the extent to which Mother had satisfied her current and/or past-due CSEA child support obligation during the lookback period, nor did it make the legal determination of whether Mother had made sufficient payments during the lookback period to preserve her right to consent to her children's adoptions under former Section 3107.07(A). Mother appeals and raises two assignments of error.

II.

ASSIGNMENT OF ERROR I

THE TRIAL COURT ABUSED ITS DISCRETION IN CONCLUDING [MOTHER'S] CONSENT TO ADOPTION WAS NOT REQUIRED.

{¶15} Mother's first assignment of error asserts that the trial court exceeded the scope of the mandate on remand. This Court agrees.

{¶16} The doctrine of the law of the case limits the ability of a trial court to rule in a way that is inconsistent with a decision of a reviewing court in the same case, and "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." (Citations omitted.) *Nolan v. Nolan*, 11 Ohio St.3d 1, 3 (1984).

{¶17} Under the doctrine of law of the case, the parties established that the relevant "maintenance and support" at issue was each child's CSEA account. At the original consent hearing, Custodian had the burden of proving, by clear and convincing evidence, that Mother had failed to pay "maintenance and support" during the lookback period. *In re Adoption of S.N.W.*, 2025-Ohio-1994, at ¶ 25 (9th Dist.). She chose to focus on the children's CSEA accounts and that was the relevant "child support" that was litigated in the trial court and on appeal to this Court.

{¶18} Further, this Court also determined in the prior appeal that the trial court was required to consider the seized income tax refund as payments of child support on each child's CSEA account and determine whether those payments were sufficient to satisfy Mother's CSEA obligation for purposes of former Section 3107.07(A). The scope of the remand did not permit the parties to question that holding or shift the relevant "maintenance and support" focus to whether Custodian received any of the CSEA payments.

{¶19} Moreover, despite Mother's argument to the contrary, this Court did *not* determine that Mother had paid sufficient child support to preserve her parental rights under former Section 3107.07(A) because she paid more than her current support obligation that accrued during the lookback period. This Court explained in the prior appeal that it would not usurp the role of the trial court by making factual findings that the trial court should make in the first instance (the necessary financial calculations on each child's CSEA account). It also did not answer the legal question of how the trial court should consider arrearages that accrued before the lookback period, as Ohio case law on that issue is unclear.

{¶20} At the oral hearing on remand, the parties did not focus on the narrow issue on remand: whether the September 2022 payments in excess of $500 to each child's CSEA account during the lookback period were sufficient to satisfy the requirements of former Section 3107.07(A). Instead, there was a discussion about the legal soundness of this Court's holding that the probate court was required to consider the seized income tax refund as a payment of child support. The trial court also shifted the focus to whether Custodian had received any of the CSEA payments.

{¶21} It was not within the trial court's discretion on remand to disagree with and/or reject this Court's reasoning that the trial court was required to consider Mother's involuntary child support payments. The law of the case had also established that Mother's CSEA obligation to each child was the "maintenance and support" that was at issue for purposes of former Section 3107.07A).

{¶22} Because the trial court ignored the law of the case and did not follow this Court's mandate on remand, this Court must again reverse its judgment. Mother's first assignment of error is sustained to that extent.

ASSIGNMENT OF ERROR II

> EVEN IF [MOTHER] HAD FAILED TO PAY THE REQUISITE SUPPORT, THE TRIAL COURT ERRED IN FINDING [SHE] LACKED JUSTIFIABLE CAUSE FOR THAT FAILURE.

{¶23} Mother's second assignment has been rendered moot by this Court's disposition of her first assignment of error. Consequently, it will not be addressed on the merits.

III.

{¶24} Mother's first assignment of error is sustained as explained above. Her second assignment of error was not addressed on the merits. The judgment of the Summit County Court of Common Pleas, Probate Division, is reversed and remanded for the trial court to consider Mother's seized income tax refund as payments of child support on each child's CSEA account during the relevant lookback period and to determine whether those payments were sufficient payments of support to preserve her parental right to consent to her children's adoptions under former Section 3107.07(A).

Judgment reversed
and cause remanded.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellee.

JENNIFER HENSAL
FOR THE COURT

SUTTON, J.
CONCURS.

FLAGG LANZINGER, P. J.
DISSENTING.

{¶25} I respectfully dissent. As I explained in my dissenting opinion in the original appeal, the trial court properly relied on Ohio Supreme Court precedent to conclude that Mother failed to provide for the maintenance and support of the children as required by former R.C. 3107.07(A). *In re Adoption of S.N.W.*, 2025-Ohio-1995, at ¶ 41(9th Dist.) (Flagg Lanzinger, P.J., dissenting), citing *In re Adoption of A.C.B.*, 2020-Ohio-629. Although the majority faults the trial court for considering additional evidence and legal theories on remand, none of that was relevant to the matter originally appealed to this Court. At the consent hearing, the evidence was not disputed that Mother was in arrears on her child support obligation for each child during the relevant lookback period.

{¶26} Although the majority does not reach the issue of justifiable cause, I also agree with the trial court that Mother lacked justifiable cause for her failure to provide support, as stated in my prior dissent. *Id*. at ¶ 46-52. I would affirm the trial court's decision that Mother's consent to the adoption of her children was not required.

APPEARANCES:

JOSEPH SHELL, Attorney at Law, for Appellant.

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