[Cite as *Shields v. Shields*, 2026-Ohio-3499.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF WAYNE	)	

CHRISTOPHER SHIELDS	C.A. No. 25AP0045
Appellee	
v.	APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF WAYNE, OHIO CASE No. 2021 DR-A 000227
HEATHER SHIELDS	
Appellant	

DECISION AND JOURNAL ENTRY

Dated: September 8, 2026

STEVENSON, Judge.

{¶1} Plaintiff-Appellant Heather Shields ("Wife") appeals from the judgment of the Wayne County Common Pleas Court. We affirm.

I.

{¶2} The background of this case is set forth in our previous decision, *Shields v. Shields*, 2024-Ohio-5979 (9th Dist.) ("*Shields I*"). In *Shields I,* this Court summarized the pertinent facts, procedural history, and disposition as follows:

> Wife and Plaintiff-Appellee Christopher Shields ("Husband") married on October 28, 2011, in West Virginia. One child was born of the marriage, R.S., in August 2013.
>
> Shortly before the parties married, Husband was seriously and permanently injured when he was hit by a truck alongside a highway. Husband's father was also injured in the accident. During the marriage, the parties filed a lawsuit related to the accident. Ultimately, the matter was settled. Wife settled her claims for a few hundred dollars and Husband settled his for several million dollars. Of the money Husband received, almost $1,500,000 was used to purchase a structured settlement. The remainder was placed in a Wells Fargo account in Husband's name.

> Over the course of the marriage, the parties relied almost exclusively on funds from the settlement and an inheritance Husband received to fund their daily lives and purchases. This included the purchase of two homes and multiple vehicles.
>
> In July 2021, Husband filed a complaint for divorce; Wife filed a counterclaim for divorce in September 2021. Both parties submitted proposed shared parenting plans. A guardian ad litem was appointed. The matter proceeded to a hearing in December 2022. The magistrate issued a decision in January 2023, and the trial court entered judgment accordingly the same day. Inter alia, Husband's settlement funds and the purchases made with the settlement funds were determined to be his separate property and Husband's shared parenting plan, as amended at trial, was adopted. Wife filed objections to the magistrate's decision, which were ultimately overruled by the trial court.

Id. at ¶ 2-5.

{¶3} Notably, *Shields I* is a fractured opinion. Judge Carr authored the lead opinion. Judge Hensal wrote separately and concurred in judgment only. Judge Stevenson also wrote separately, concurring in part and dissenting in part.

{¶4} In *Shields I*, Wife appealed and raised ten assignments of error. *Id*. at ¶ 6. However, the only relevant part of *Shields I* for purposes of this appeal is the analysis of Wife's sixth, seventh, and eighth assignments of error wherein she argued that the trial court erred in its characterization of the proceeds from Husband's personal injury lawsuit and the two homes purchased during the marriage as Husband's separate property, and certain items gifted to Wife as marital property. *Id*. at ¶ 24, 41. In addressing those assignments of error, the lead opinion first specified the correct standard to apply in determining whether those assets were separate property; that is, that Husband, as the party seeking to have those assets declared separate property, had the burden of proving which portion represented his separate property. *Id*. at ¶ 29. The lead opinion sustained Wife's sixth assignment of error because the trial court's determination that the settlement proceeds were Husband's separate property "[was] not supported by the weight of the evidence." *Id*. at ¶ 39. The lead opinion also sustained Wife's seventh assignment of error as to the two houses because they were purchased with the settlement proceeds. *Id*. at ¶ 40. Judge Hensal concurred in judgment only with respect to the sixth and seventh assignments of error, noting that she would sustain those assignments of error on a different basis than the lead opinion. *Id.* at ¶ 48. Judge Stevenson dissented from the lead opinion as to the sixth and seventh assignments of error regarding Husband's separate property claim. *Id*. at ¶ 56.

{¶5} The three-judge panel sustained Wife's eighth assignment of error, noting that while the trial court properly awarded the jewelry and other gifts to Wife, it "incorrectly characterized them as marital property." *Id.* at ¶ 43. In remanding to the trial court, the panel noted specifically the importance of the gifts being characterized as Wife's separate property but gave no specific designation as to the settlement proceeds and houses, noting only that "the trial court must reconsider the characterization of [those assets]." *Id*.

{¶6} Wife argued in her ninth and tenth assignments of error that the court erred in its division of marital and separate property and by determining that spousal support was not warranted, but we held that based on our resolution of Wife's sixth, seventh, and eighth assignments of error, those assignments of error were not properly before us and declined to address them. *Id*. at ¶ 46.

{¶7} On remand, the parties submitted briefs to the magistrate on the issues of the classification of property as marital or separate, the subsequent division of that property, and spousal support. The magistrate concluded that Husband met his burden of proving that all the settlement monies were his separate property and that none of the funds were for lost wages. The magistrate also found that Husband successfully traced all the funds used to purchase and maintain the parties' two homes from his personal injury settlement and/or his inheritance and that the two homes were Husband's separate property. The magistrate concluded that the parties had $0 in marital assets and that spousal support was not appropriate or reasonable.

{¶8} The trial court adopted the magistrate's decision and issued a "Judgment Entry Decree of Divorce Upon Remand." The court concluded that Husband met his burden of proving that the settlement money and the two houses are Husband's separate property. The court also concluded that spousal support was not appropriate or reasonable.

{¶9} Wife objected to the magistrate's decision and Husband responded in opposition. The trial court overruled Wife's objections. Wife timely appealed and asserts three assignments of error for our review.

II.

ASSIGNMENT OF ERROR 1

THE TRIAL COURT ERRED AND ABUSED ITS DISCRETION BY FAILING TO FOLLOW THE LAW OF THE CASE AND THIS COURT'S FINDINGS IN THE DECEMBER 23, 2024, DECISION AND JOURNAL ENTRY AS TO [] HUSBAND'S PERSONAL INJURY SETTLEMENT FUNDS AND THE TWO HOMES THE PARTIES PURCHASED DURING THEIR MARRIAGE.

{¶10} As noted above, the lead opinion in *Shields I* concluded that Husband did not meet his burden of demonstrating "which portion of the settlement funds was marital and which portion was separate" and that in order for Husband to meet that burden, "'he had to trace it to the check.'" *Id.* at ¶ 38, quoting *Modon v. Modon*, 115 Ohio App.3d 810, 815-816 (9th Dist. 1996). The trial court was directed upon remand to reconsider its characterization of those assets because "[t]he trial court's conclusion that all of the settlement proceeds represented Husband's separate property [was] not supported by the weight of the evidence." *Shields I* at ¶ 39. Husband argued on remand that all the settlement proceeds were his separate property and no portion of it was for lost wages. The trial court reconsidered its previous decision and placed the burden on Husband to show that the settlement money and the two houses represented his separate property. In its written judgment entry, the court outlined the contents of the settlement statement, noting that Husband gave $300,000 to Wells Fargo, leaving him with $2,777,861.97; that the settlement statement was only in his name; that Husband used $1,440,592.52 of the remainder to purchase a structured settlement; that Wife was not listed on that assignment agreement; that the structured settlement was deposited into a First Merit bank account only in Husband's name and Wife had no access to that account; that after First Merit sold to Huntington Bank, no one was designated as a death beneficiary; and the Wells Fargo account was only in Husband's name and only contained funds from the settlement.

{¶11} The court then outlined how the settlement documents, tax returns and bank records demonstrated that the settlement funds were not for lost wages and were Husband's separate property, concluding that "Husband met his burden in proving that the settlement is his separate property" and also successfully traced those settlement funds to the purchase of the two homes. As for Wife's eighth assignment of error, the three-judge panel was specific that Husband's gifts to wife must be considered separate property, stating as follows:

> Husband testified about an exhibit, which was admitted as evidence, listing numerous gifts that he purchased for Wife. Husband testified that the items were gifts for Wife that he did not expect to get back. While the trial court ultimately did award these items to Wife, the trial court incorrectly characterized them as marital property. At first this may seem harmless; however, given that the trial court must reconsider the characterization of other property, it is important that, upon remand, these gifts be considered Wife's separate property.

Shields I at ¶ 43. Thus, the panel expressly required the trial court on remand to treat the gifts to Wife as her separate property but *only* the lead opinion directed the trial court to reconsider its findings on the settlement proceeds and the two homes.

{¶12} In this appeal, Wife argues that the trial court abused its discretion because "not only did the trial court not observe the law of the case on remand, but [its] findings were made on the same exact evidence in the record as the findings this Court found to be error" and "are opposite to the law of this case[.]" She also appears to be arguing that the law of the case was that the settlement money and the two homes purchased with those funds are definitively marital property and that we remanded for the trial court to find accordingly.

{¶13} An abuse of discretion means the trial court was unreasonable, arbitrary, or unconscionable in its ruling. *Blakemore v. Blakemore*, 6 Ohio St.3d 217, 219 (1983). When applying the abuse of discretion standard, this Court may not substitute its judgment for that of the trial court. *Pons v. Ohio State Med. Bd.*, 66 Ohio St.3d 619, 621 (1983).

{¶14} Wife's argument is predicated on the applicability of the law of the case doctrine. That doctrine "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." *Nolan v. Nolan*, 11 Ohio St.3d 1, 3 (1984). However, the law of the case doctrine does not apply here because as previously noted, *Shields I* was a fractured opinion without a mandate from the majority of the appellate panel regarding the issue raised by Wife in this assignment of error. Judge Carr's lead opinion, which was reported first, announced her judgment that the matter should be remanded as to Wife's sixth and seventh assignments of error, but no other judge joined in that opinion. Judge Hensal concurred in judgment only, noting that she would sustain Wife's sixth and seventh assignments of error, but for a different reason than Judge Carr's lead opinion. Judge Stevenson dissented as to those two assignments of error. Thus, there was no majority holding in *Shields I* regarding Wife's sixth and seventh assignments of error which addressed whether the settlement proceeds and the houses represented Husband's separate property. As the Ohio Supreme Court has recognized, the law of the case doctrine only comes into play with respect to issues previously determined. *Giancola v. Azem*, 2018-Ohio-1694, ¶ 16. Because this issue was not determined by at least two judges, the law of the case doctrine does not apply.

{¶15} The Ohio Supreme Court recently discussed the effect of a fractured decision in *State v. Barnes*, 2026-Ohio-2750. The appellant in *Barnes* challenged the Eighth District's ruling that a theft victim did not have the right to a delayed appeal under App.R. 5. *Id.* at ¶ 2. The victim's direct appeal challenged the trial court's denial of restitution, but she voluntarily dismissed that appeal. *Id.* at ¶ 1. The *Barnes* Court noted that during the pendency of appellant's direct appeal, another Eighth District case was decided, *State v. Hughes*, 2019-Ohio-1000 (8th Dist.), wherein the victim sought to enforce her rights under the recently-enacted Marsy's Law. *Id.* at ¶ 6. However, the *Barnes* Court pointed out that the *Hughes* decision was fractured, with the first opinion, authored by Judge Jones, announcing the judgment dismissing the appeal, but with no other judge joining in that opinion. *Id.* The appellant in *Barnes* dismissed her direct appeal in reliance on Judge Jones' solo opinion in *Hughes*. *Id*. at ¶ 30. Although the *Barnes* Court did not use the words "law of the case," it squarely addressed appellant's argument that the solo opinion in *Hughes* represented the law of the case and supported her voluntary dismissal when it stated the following:

> It is not clear, however, why [the appellant] relied on Judge Jones's opinion [in *Hughes*]. Although the manner in which the Eighth District formatted the *Hughes* opinion was unusual, it should have been clear to [the appellant] that Judge Jones's opinion represented the opinion of only one judge, not the majority of the three-judge panel.

Barnes at ¶ 30.

{¶16} As in *Barnes*, the three opinions in *Shields I* did not determine the matter for a majority of the three-judge panel, and therefore, could not constitute the law of the case. *Giancola* at ¶ 16. As there is no law of the case in *Shields I* regarding the settlement proceeds and houses, the trial court did not err and Wife's assignment of error is overruled.

ASSIGNMENT OF ERROR 2

THE TRIAL COURT'S FAILURE TO CONSIDER THE PERSONAL INJURY SETTLEMENT FUNDS HUSBAND RECEIVED DURING THE MARRIAGE AND THE TWO HOMES THE PARTIES PURCHASED DURING THE MARRIAGE AS MARITAL PROPERTY AND ITS SUBSEQUENT FAILURE TO MAKE A FAIR AND EQUITABLE DISTRIBUTION OF THE MAR[I]TAL ESTATE AND SEPARATE PROPERTY, AS REQUIRED BY R.C. 3105.171 IS ERROR AND [AN] ABUSE OF DISCRETION.

{¶17} Here, Wife begins her argument by stating the well-settled law that the court must divide marital property in a manner that is equitable, considering all of the relevant factors set forth in R.C. 3105.171(F). Thereafter, Wife's sole argument is verbatim the argument advanced under her first assignment of error; that is, that the trial court abused its discretion by failing to follow the law of the case and our decision in *Shields I* when it found that Husband's personal injury settlement funds and the two homes were his separate property and not marital property subject to division. She then argues that the trial court failed to make an equitable distribution of the parties' marital property. Thus, her argument here presumes that she was successful under assignment of error number one in demonstrating that the court erred in determining that the settlement proceeds and two houses were Husband's separate property not subject to division.

{¶18} For the same reasons set forth under our analysis of Wife's first assignment of error, her second assignment of error is also overruled.

ASSIGNMENT OF ERROR 3

THE TRIAL COURT'S DETERMINATION, DESPITE THE FACTS OF THIS CASE, THAT AN AWARD OF SPOUSAL SUPPORT IN THIS MATTER IS UNREASONABLE[,] IS ERROR AND [AN] ABUSE OF DISCRETION.

{¶19} In her trial brief on remand, Wife requested spousal support based on "the different levels of income between the parties, the length of the marriage, and other relevant factors[.]" The trial court concluded that after "consider[ing] all of the spousal support factors in R.C. 3105.18, [it] finds that spousal support is not appropriate or reasonable."

{¶20} Wife argues on appeal that the trial court abused its discretion in failing to award Wife spousal support because of the alleged disparity in the parties' incomes, the length of the parties' marriage, their lavish lifestyle during the marriage without either having to work, and her belief that the settlement funds are marital. Although Wife also refers to "other relevant factors" she does not identify those factors.

{¶21} In determining whether spousal support is appropriate and reasonable, and in determining the nature, amount, duration and terms of payment, R.C. 3105.18(C)(1)(a)-(n) sets forth 14 factors that the trial court shall consider in making an award of spousal support. There is no set mathematical formula for determining the amount and duration of support. *Kaechele v. Kaechele,* 35 Ohio St.3d 93, 96 (1988). The trial court must weigh all of the factors listed in R.C. 3105.18(C) and "not base its determination upon any one of those factors taken in isolation." *Id*. "[T]he trial court need not comment on each factor, but the record must demonstrate that the court considered each factor in making its spousal support award." *Barlow v. Barlow*, 2009-Ohio-3788, ¶ 22 (9th Dist.).

{¶22} It is well settled that the trial court is "vested with broad discretion" over matters of spousal support. *Poitinger v. Poitinger*, 2005-Ohio-2680, ¶ 7 (9th Dist.). Therefore, "[t]his

Court reviews a trial court's award of spousal support under an abuse of discretion standard." *Krone v. Krone*, 2011-Ohio-3196, ¶ 8 (9th Dist.). We incorporate the abuse of discretion standard as outlined above.

{¶23} The magistrate made detailed findings regarding all of the R.C. 3105.18(C) spousal support factors. The trial court adopted the magistrate's decision and stated specifically that it considered all the factors as well. Thus, the court engaged in the required analysis and "demonstrate[d] that [it] considered each factor in making is spousal support award." *Barlow* at ¶ 22.

{¶24} Furthermore, Wife's assertion that "the trial court acknowledged that Husband's income is substantially higher than Wife's" and that the parties had "grossly different levels of income" is not supported by the trial court's findings. The court found that during the marriage, Wife chose not to work outside the home even though Husband was able to care for the child. As of the proceedings on remand, Wife was employed full time by the United States Postal Service and was receiving health benefits. She earns $41,475.20 annually and has no medical issues that would prevent her from being employed. Due to his disability, Husband cannot work full time and is not expected to ever be able to do so. He works part-time for a masonry business that makes accommodations for his injuries. He uses his personal injury settlement and part-time employment income to pay his living expenses. Thus, Wife's long-term income-producing abilities are likely better than Husband's due to her good health and ability to work full-time whereas Husband's source of income is a finite resource, a structured settlement that terminates in 2047, and he has an extremely limited ability to work. *See Shields I* at ¶ 34. Moreover, as of 2017, the Wells Fargo account in Husband's name that contained the remainder of his settlement proceeds had a zero balance. *Id.* The court also found that the parties are equally educated, having attended some college but not earning a degree. Husband was ordered to pay all the marital debts and Wife was ordered to pay her child support arrears. These findings do not support Wife's argument that the parties have "grossly different levels of income" or earning abilities and recognize that Husband was paying all the marital debts.

{¶25} Accordingly, based on the foregoing, the court's decision that spousal support was not appropriate does not constitute an abuse of discretion. Wife's argument on this issue is not well-taken and is overruled.

III.

{¶26} Based on the foregoing, Wife's assignments of error are overruled. The judgment of the Wayne County Court of Common Pleas is affirmed.

Judgment affirmed.

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 Wayne, 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 Appellant.

SCOT STEVENSON
FOR THE COURT

HENSAL, J.
CONCURS.

FLAGG LANZINGER, P. J.
DISSENTING.

{¶27} I respectfully dissent. I would sustain both Wife's first and second assignments of error. My resolution of Wife's second assignment of error would render her third assignment of error not yet ripe for review.

{¶28} I agree that the law of the case doctrine is inapplicable here. However, a reasonable interpretation of Judge Carr's lead opinion and Judge Hensal's concurrence in judgment only in *Shields v. Shields*, 2024-Ohio-5979, ¶ 24-40, 48 (9th Dist.) ("*Shields I*"), is that Husband failed to meet his burden of proof to show that all of the settlement proceeds were separate property. This Court remanded the matter for further proceedings consistent with that decision. *Id.* at ¶ 1, 47. On remand, the trial court did not hold an evidentiary hearing or otherwise take any additional evidence. Instead, the trial court ignored this Court's mandate and issued a decision with same conclusion based on the same evidence that this Court reversed in *Shields I*. I would conclude that Wife sufficiently argued that the trial court erred when it determined the settlement proceeds were Husband's separate property and address the merits of her argument.

{¶29} Pursuant to R.C. 3105.171(A)(6)(a)(vi), separate property includes "[c]ompensation to a spouse for the spouse's personal injury, except for loss of marital earnings .

. . ." Here, Husband and Wife were married within weeks of Husband's injury. There is no dispute that Husband's personal injury complaint included a claim for lost wages. There is also no dispute that Husband received a lump-sum settlement and that the lump-sum settlement did not designate what portions of the settlement were attributable to any specific claim in his lawsuit. As pointed out by Judge Hensal in her concurring opinion in *Shields I*, "[t]his Court has concluded that when a lump-sum settlement does not designate a portion attributable to different claims, the injured spouse cannot demonstrate that a portion of the settlement was intended to be 'compensation for . . . personal injury' under Section 3105.171(A)(6)(a)(vi).'" *Shields I* at ¶ 48 (Hensal, J., concurring), quoting *Poulos v. Poulos*, 2024-Ohio-1769, ¶ 24-25 (9th Dist.). What happened to the proceeds after the settlement is irrelevant. *See Shields I* at ¶ 48 (Hensal, J., concurring), citing *Modon v. Modon*, 115 App.3d 810, 816 (9th Dist. 1996).

{¶30} Additionally, it is undisputed that Husband purchased an annuity with a significant portion of the settlement proceeds. Husband receives both a monthly payment and an additional lump-sum payment every five years from the annuity. Marital property includes "all income and appreciation on separate property, due to the labor, monetary, or in-kind contribution of either or both of the spouses that occurred during the marriage[.]" R.C. 3105.171(A)(3)(a)(iii). Thus, even if the settlement proceeds were Husband's separate property, that alone would not be determinative of whether any interest or gains on the annuity were also his separate property.

{¶31} Based on the above, I would conclude that the trial court's determination that the settlement proceeds were Husband's separate property is not supported by the weight of the evidence. I would further conclude that the trial court erred when it failed to consider whether the income and/or appreciation on the annuity purchased with those funds was marital or separate property. My resolution of Wife's first two assignments of error would render her third assignment of error not yet ripe for review. *See* R.C. 3105.18(B) (instructing that the trial court determines request for spousal support after the court determines the division or disbursement of property pursuant to R.C. 3105.171).

APPEARANCES:

MICHAEL J. ASH, Attorney at Law, for Appellant.

JOHN E. JOHNSON, JR., Attorney at Law, for Appellee.