

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

CORINNE ROBERTS,	:	APPEAL NO. C-150275
Plaintiff-Appellee,	:	TRIAL NO. P14-535Z
vs.	:	<i>JUDGMENT ENTRY.</i>
JONATHAN NETHERLY,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. (2); App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Jonathan Netherly appeals the judgment of the Hamilton County Juvenile Court adopting the decision of the magistrate denying his motion to dismiss, and modifying his child-support order. We affirm.

Plaintiff-appellee Corinne Roberts and Netherly are the unmarried parents of a minor child. On March 28, 2014, the Hamilton County Child Support Enforcement Agency (“CSEA”) registered its order establishing child support for the child with the juvenile court. The juvenile court adopted the administrative order requiring Netherly to pay child support in the amount of \$340.83 per month, effective March 1, 2014, to which he objected by written motion on April 17, 2014.

Netherly’s motion was scheduled for a hearing before a juvenile court magistrate. But when he failed to appear, the magistrate issued a decision dismissing the matter. Four days later, the magistrate vacated her decision in a journalized order that also provided

Netherly with a continuance to obtain counsel, and scheduled a trial date for October 2, 2014.

At commencement of the hearing, Netherly consented to the withdrawal of his recently retained counsel, and proceeded to represent himself. Evidence of the parties' incomes and expenses was presented for the magistrate's consideration. During the relevant time period, Roberts had been employed in a family-owned business as an administrative assistant. Netherly had been self-employed in the construction field. Roberts presented significant documentary evidence of Netherly's self-employment income, including evidence that he customarily used his business account to fund his personal expenses. At the conclusion of the hearing, the magistrate expressed concern that Netherly had been paying personal expenses using his business account and representing the expenditures as ordinary and necessary business expenses. The magistrate continued the trial in progress to November 25, 2014, and ordered Netherly to provide Roberts with invoices, receipts, and other financial documents to establish the business expenses that he claimed had been incurred in the operation of his construction business.

Two weeks before the November hearing, Netherly filed a motion to withdraw his objections to the CSEA administrative order of child support. This motion was considered by the magistrate during the scheduled hearing and was denied. The hearing proceeded, with Netherly acknowledging that he had failed to provide the court-ordered documentation, and had not obtained the information for presentation to the magistrate.

In her November 25, 2014 decision, the magistrate found that Netherly had an annual adjusted gross income of \$94,868.22, and set his monthly child support at \$936.57. Netherly objected to the decision. On March 31, 2015, after conducting an independent review of the objected matter and considering the arguments of counsel and

the record before the magistrate, the juvenile court overruled the objection and adopted the magistrate's decision. This appeal followed.

In his first assignment of error, Netherly asserts that the trial court erred in adopting the magistrate's decision regarding his child-support obligation. He argues that Roberts did not provide any testimony to guide the court in determining the amount of his ordinary and necessary business expenses reflected in the submitted financial records. Therefore, the court abused its discretion in determining his annual adjusted gross income from self-employment for purposes of calculating the amount of his child-support obligation.

It is well established that a trial court's decision in matters involving child support is reviewed under an abuse-of-discretion standard. *See Sapinsley v. Sapinsley*, 171 Ohio App.3d 74, 2007-Ohio-1320, 869 N.E.2d 702, ¶ 8 (1st Dist.). Reversal is warranted only when the court's decision was unreasonable, arbitrary, or unconscionable. An unreasonable decision is one that no sound reasoning process supports. *See AAAA Ents. Inc. v. River Place Community Urban Redev. Corp.*, 50 Ohio St.3d 157, 161, 553 N.E.2d 597 (1990).

Here, the juvenile court independently reviewed the magistrate's decision and painstakingly considered the evidence submitted to the magistrate. The record demonstrates that the juvenile court's child-support decision, including its determination of Netherly's ordinary and necessary business expenses, was based on a sound reasoning process. Its factual findings were abundantly supported by a record that included the testimony of the parties, documentary evidence of Netherly's income from self-employment, his business expenses, and his personal expenses paid from his business account. *See id.* Consequently, we overrule the first assignment of error.

In his second assignment of error, Netherly claims that the juvenile court erred in overruling his objection to the magistrate's November 2014 denial of his request to withdraw his motion to review the CSEA's administrative order of child support. Netherly argues he had "an absolute right to withdraw his own motion." In the alternative, he contends that because the magistrate had dismissed the child-support proceedings on August 14, 2014, when he had failed to appear for trial, and without a basis in the record to do so had journalized an order four days later vacating the dismissal and setting the matter for trial on October 2, 2014, "the matter should have remained dismissed".

However, a review of the record shows that at the time of Netherly's request to withdraw his objection to the CSEA administrative child-support order, the trial had already commenced and was in progress. The magistrate had issued orders for Netherly to provide documentation of his personal and business expenses to opposing counsel two weeks before the next scheduled hearing on November 25, 2014. Netherly failed to provide this documentation. Furthermore, Roberts objected to a dismissal of the matter over concern that "information provided to the CSEA at the time was not accurate and did not fairly represent the income of Mr. Netherly."

Regarding the magistrate's August 18, 2014 order vacating the dismissal of Netherly's objection to the administrative order of child support, Netherly did not seek to have the order set aside, and it is apparent from the record of the proceedings on October 2, 2014, that the child-support issue had been scheduled for trial with his consent and participation in the proceedings. Under these circumstances, we cannot say that the juvenile court abused its discretion in adopting the magistrate's decision involving these matters. We overrule the second assignment of error.

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Having concluded that the juvenile court's decision was based on sufficient, competent, credible evidence, and that it did not abuse its discretion in reaching its determinations, we affirm the court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., CUNNINGHAM and DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on June 29, 2016
per order of the court _____.
Presiding Judge