

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

ANNELIESE KAFOURE-CLARE,	:	APPEAL NO. C-180213
	:	TRIAL NO. Po6-3371Z
and	:	
THE CHILD SUPPORT SERVICES, A	:	<i>JUDGMENT ENTRY.</i>
DIVISION OF THE HAMILTON	:	
COUNTY JOB & FAMILY SERVICES,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
GARY WEBER,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Gary Weber appeals the judgment of the juvenile court finding him voluntarily unemployed and imputing income to him for purposes of calculating child support.

In his first assignment of error, Weber argues that the trial court erred in overruling his motion to waive the transcript fee. The trial court has discretion in determining whether a litigant should be required to pay fees and court costs in a particular case. *Wilson v. Dept. of Rehab. & Corr.*, 138 Ohio App.3d 239, 243, 741

N.E.2d 152 (10th Dist.2000). Although Weber provided the court with a document indicating that he had qualified for food stamps from May through September of 2017, the trial court noted Weber's well-dressed appearance and determined that he had been receiving compensation, either through his own means or through his family. The trial court did not abuse its discretion in denying Weber's request to waive the transcript fee. We overrule Weber's first assignment of error.

In his second assignment of error, Weber argues that the trial court "erred in granting due process required for the Social Security Administration for Appellant-Defendant." Within this assignment of error, Weber argues that expert testimony showed that he was not voluntarily unemployed, and that due process is warranted. Whether a parent is voluntarily unemployed is a question of fact for the trial court, and that determination will not be disturbed on appeal absent an abuse of discretion. *Rock v. Cabral*, 67 Ohio St.3d 108, 112, 616 N.E.2d 218 (1993).

After a hearing in front of the magistrate, the magistrate determined that Weber "provided documentary evidence that he suffers from depression but does not provide any evidence that he is unable to work * * *." When an objecting party fails to provide the trial court with a transcript, the party waives any appeal as to those findings, other than plain error, and this court must presume the validity of the lower court proceedings. *In re Spencer*, 1st Dist. Hamilton No. C-070321, 2008-Ohio-2844, ¶ 11; Juv.R. 40(D). Without a transcript, this court presumes the validity of the magistrate's factual finding that Weber could work, despite his depression.

Therefore, the trial court did not abuse its discretion in determining that Weber is voluntarily unemployed and imputing income to him for purposes of calculating child support.

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As to Weber's argument that he was denied due process of law, again Weber has waived all but plain error. Due process requires that a party receive notice and an opportunity to be heard. *Ohio Valley Radiology Assoc., Inc. v. Ohio Valley Hosp. Assn.*, 28 Ohio St.3d 118, 125, 502 N.E.2d 599 (1986). The record reflects that Weber had notice of the hearings and an opportunity to be heard at those hearings, and Weber has not shown plain error. We overrule Weber's second assignment of error.

The judgment of the trial court is affirmed.

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

MYERS, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on April 10, 2019

per order of the court _____.
Presiding Judge