

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

WILLIAM B. BAILEY,	:	APPEAL NO. C-130318
Plaintiff-Appellee,	:	TRIAL NO. DR-1101334
vs.	:	<i>JUDGMENT ENTRY.</i>
LYNN N. TAYLOR,	:	
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.

Lynn Taylor appeals the trial court’s judgment modifying the amount that William Bailey must pay her in spousal support. Ms. Taylor contends that the trial court abused its discretion when it granted Mr. Bailey’s motion to modify support, and that the trial court’s decision was arbitrary and capricious. We disagree.

A decree of divorce ending the parties’ marriage was entered on February 21, 2012. According to the decree, Mr. Bailey was to pay spousal support to Ms. Taylor in the amount of \$2,900 per month. The decree further provided that the amount of spousal support would be reduced if Mr. Bailey became involuntarily unemployed. On September 21, 2012, Mr. Bailey was fired from his job at Kohl’s. He subsequently filed a motion to modify support.

A magistrate conducted a hearing on Mr. Bailey’s motion. Mr. Bailey testified that he had worked at Kohl’s for over two years and had received raises during that time. Mr. Bailey had initially worked as a project leader, supporting warehouse management software. But in 2011, his job description changed to senior technical

analyst, which involved fixing hardware. Mr. Bailey testified that, although he did not have expertise in the area, he tried to succeed in his new job. Despite his efforts and counseling sessions with management to review his performance, Mr. Bailey's work was unsatisfactory. Kohl's denied his request to transfer to a new department, and ultimately terminated him.

The magistrate concluded that Mr. Bailey's termination was involuntary and ordered that his spousal support payment be reduced to \$420.50 per month. The trial court overruled Ms. Taylor's objections and adopted the decision of the magistrate.

In her first assignment of error, Ms. Taylor asserts that the trial court abused its discretion in granting the motion to modify spousal support. She contends that Mr. Bailey's unemployment resulted from his voluntary acts. We conclude that the magistrate's finding that Mr. Bailey's unemployment was involuntary was supported by competent, credible evidence. And the trial court did not abuse its discretion in adopting the finding. See *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 218-219, 450 N.E.2d 1140 (1983). The first assignment of error is overruled.

The second assignment of error challenges the weight of the evidence upon which the magistrate based her decision. Ms. Taylor asserts that the trial court's adoption of the magistrate's decision was arbitrary and capricious, because the magistrate's findings were contrary to the evidence. She claims that Mr. Bailey's personnel records belie his contention that his termination was involuntary. The magistrate was in the best position to determine the weight to be given the evidence and the credibility of the witnesses. The magistrate's determination that Mr. Bailey had done all he could to save his job was supported by the record. The second assignment of error is overruled.

Therefore, we affirm the trial court's judgment.

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

DINKELACKER, P.J., FISCHER AND DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on January 17, 2014
per order of the court _____.
Presiding Judge