

[Cite as *Zemba v. Zemba*, 2007-Ohio-5415.]

COURT OF APPEALS  
MUSKINGUM COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STEPHEN P. ZEMBA

Plaintiff-Appellee

-vs-

KRISTINA J. ZEMBA

Defendant-Appellant

JUDGES:

Hon. W. Scott Gwin, P.J.  
Hon. Sheila G. Farmer, J.  
Hon. John W. Wise, J.

Case No. CT2006-0083

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common Pleas,  
Domestic Relations Division, Case No.  
DA2005-0754

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

September 28, 2007

APPEARANCES:

For Plaintiff-Appellee

For Defendant-Appellant

ROBERT P. GRAHAM  
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Zanesville, OH 43702-0340

LEE S. ROSENTHAL  
5360 East Main Street  
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*Farmer, J.*

{¶1} On July 21, 2003, appellant, Kristina Zemba, and appellee, Stephen Zemba, were married. The parties have a child born prior to the marriage, Kailey Zemba born August 20, 2003. On October 31, 2005, appellee filed a complaint for divorce.

{¶2} A hearing before a magistrate was held on July 21, 2006. The magistrate issued a decision on September 20, 2006. By judgment entry/decree of divorce filed November 3, 2006, the trial court granted the parties a divorce.

{¶3} Appellant filed an appeal and this matter is now before this court for consideration. Assignments of error are as follows:

I

{¶4} "THE TRIAL COURT COMMITTED PLAIN ERROR WHEN IT AWARDED UNSUPERVISED PARENTING TIME WITH THE MINOR CHILD TO APPELLEE WITHOUT CONSIDERATION OF HIS MENTAL IMPAIRMENT."

II

{¶5} "THE TRIAL COURT COMMITTED PLAIN ERROR IN AWARDING 100% OF THE PARTIES BUSINESS, STEPHEN ZEMBA EXCAVATING, LLC, TO APPELLEE."

III

{¶6} "THE TRIAL COURT COMMITTED PLAIN ERROR IN AWARDING ALL THREE (3) PARCELS OF MARITAL REAL ESTATE, THOSE BEING THE MARITAL RESIDENCE, RENTAL PROPERTY AND A MEXICO TIME SHARE, TO APPELLEE."

I, II, III

{¶7} Appellant appeals the trial court's November 3, 2006 judgment entry/decree of divorce. Appellant assigns as error three assignments, all of which involve issues and disputes as to the facts presented to the magistrate.

{¶8} The magistrate's decision was rendered on September 20, 2006 and the terms of the decision were incorporated into the trial court's November 3, 2006 judgment entry/decree of divorce. A timely appeal was filed on December 4, 2006.

{¶9} The magistrate's decision included a boxed warning for failing to file objections pursuant to Civ.R. 53(D)(3)(b)(iv) which states the following:

{¶10} "*Waiver of right to assign adoption by court as error on appeal.* Except for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b)."

{¶11} There were no objections filed with the trial court pursuant to said rule. We therefore conclude appellant's assignments of error have not been properly perfected.

{¶12} Assignments of Error I, II, III are denied.

{¶13} The judgment of the Court of Common Pleas of Muskingum County, Ohio, Domestic Relations Division is hereby affirmed.

By Farmer, J.

Gwin, P.J. and

Wise, J. concur.

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JUDGES

