[Cite as *Blaner v. Blaner*, 2004-Ohio-3678.]

THE COURT OF APPEALS

ELEVENTH APPELLATE DISTRICT

TRUMBULL COUNTY, OHIO

LYNDA S. BLANER,	:	**O P I N I O N**
Plaintiff-Appellee,	:	**CASE NO. 2003-T-0042**
- vs -	:	
JAMES M. BLANER,	:	
Defendant-Appellant.	:	

Civil Appeal from the Court of Common Pleas, Domestic Relations Division, Case No. 48888.

Judgment: Affirmed.

Marc E. Dann and *Benjamin Joltin*, Dann & Falgiani, L.L.C., 127 Churchill-Hubbard Road, Ste. D, Youngstown, OH 44505 (For Plaintiff-Appellee).

George E. Gessner, 212 West Main Street, Cortland, OH 44410 (For Defendant-Appellant).

DONALD R. FORD, P.J.

{¶1} Appellant, James M. Blaner, appeals from the February 18, 2003 judgment entry, in which the Trumbull County Court of Common Pleas, Domestic Relations Division, ordered that his obligation to pay child support be terminated on December 31, 2002, instead of May 30, 2002.

{¶2} Appellant and appellee, Lynda S. Blaner, were married on December 29, 1979. Two children were born as issue of the marriage: Todd, who was born on March 17, 1982, and Tiffany, whose date of birth is May 6, 1984. Appellee filed a complaint for divorce on June 25, 1992. On July 22, 1992, appellant filed an answer and counterclaim. The parties were granted a divorce on October 14, 1993. In that entry, appellee was designated the residential parent of the children, and appellant was ordered to pay child support for the children.

{¶3} On May 14, 2002, appellee filed a motion to continue child support payments for Tiffany beyond her date of emancipation due to her poor health, which prevented Tiffany from obtaining work. A hearing on the motion was held on May 23, 2002.[1] In a decision dated May 28, 2002, the magistrate determined that due to Tiffany's medical condition, a brain tumor, she was unable to obtain work and was still dependent on support from her parents. Child support was continued until further order of the court. The trial court adopted the magistrate's decision on that same date. Appellant filed objections to the magistrate's decision on June 11, 2002. On June 14, 2002, the trial court overruled appellant's objections and adopted the magistrate's decision.

{¶4} On October 28, 2002, appellant filed a Civ.R. 60(B) motion to set aside the June 14 decision. Attached to the motion were three letters, which were not in affidavit form. One letter indicated that Tiffany graduated from high school on May 30, 2002. Another letter was from a registered nurse and was dated July 11, 2002. It revealed that Tiffany underwent surgery for the removal of the tumor in June 2001. The letter

1. The record does not contain a transcript from the hearing on this motion.

explained that Tiffany received follow-up treatment through other specialists since her surgery and that she had remained stable. Further, "Tiffany has no activity or occupational restrictions. *** There is no medical restriction on her being employed." The third letter, dated September 12, 2002, was from Tiffany's endocrinologist. It stated that Tiffany's medical condition was well-controlled and that she had "complete clearance to attend college and to be gainfully employed with no limitations."

{¶5} A hearing was scheduled for November 27, 2002. However, appellant filed a motion for continuance because he was accompanying his daughter, Tiffany, to Johns Hopkins University in Baltimore. The hearing was rescheduled and held on February 14, 2003.[2] In a February 18, 2003 judgment entry, the trial court ruled that appellant's motion was well-taken. The court indicated that appellant's obligation to pay child support for Tiffany would be terminated on December 31, 2002, when she completed her most recent medical treatment. Appellant timely filed the instant appeal and now assigns a single assignment of error:

{¶6} "The [t]rial [c]ourt erred in terminating [appellant's] support obligation as of December 31, 2002, instead of May 30, 2002."

{¶7} Under his sole assignment of error, appellant argues that the trial court erred in terminating his child support obligation on December 31, 2002, instead of terminating it on May 30, 2002, when Tiffany graduated from high school.

{¶8} A trial court's decision regarding child support matters is within its sound discretion and will not be disturbed on appeal absent a showing of abuse of discretion. *Booth v. Booth* (1989), 44 Ohio St.3d 142, 144. An abuse of discretion does not exist

2. Again, the record does not contain a transcript from this hearing.

unless the record demonstrates that the court's attitude in making its decision was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219. When applying the abuse of discretion standard, an appellate court may not substitute its judgment for that of the trial court. *Berk v. Matthews* (1990), 53 Ohio St.3d 161, 169.

{¶9} In Ohio, the age of majority is eighteen under R.C. 3109.01, and the obligation to pay child support normally terminates when a child reaches the age of eighteen. *Dudziak v. Dudziak* (1992), 81 Ohio App.3d 361, 366. The exception to this general rule is found in R.C. 3103.03(B), which states, in part, that "*** the parental duty of support to children shall continue beyond the age of majority as long as the child continuously attends on a full-time basis any recognized and accredited high school."

{¶10} Generally, a trial court is without jurisdiction to order a parent to support a child once that child reaches the age of majority. *Maphet v. Heiselman* (1984), 13 Ohio App.3d 278, 279. However, it is the common law in Ohio that the obligation to provide support for one's child continue beyond the age of majority where, because of a mental or physical disability that existed before attaining the age of majority, the child is unable to support himself or herself. *Castle v. Castle* (1984), 15 Ohio St.3d 279, paragraph one of the syllabus. See, also, *Blacker v. Blacker*, 2d Dist. No. C.A. 20073, 2004-Ohio-2193, at ¶15; *Charlton v. Charlton* (Dec. 15 1995), 11th Dist. No. 95-G-1921, 1995 WL 815357, at 2. The domestic relations court retains jurisdiction over parties in divorce proceedings to continue support payments in a situation involving a child that is physically disabled. *Castle* at paragraph two of the syllabus. This obligation ceases when the need for the support ends. *Charlton* at 2.

{¶11} In the instant matter, Tiffany turned eighteen on May 6, 2002, and graduated from high school on May 30, 2002. The record demonstrates that Tiffany was a *Castle* child even though she had made progress toward self sufficiency. Although Tiffany's disability is not as profound as the disabilities suffered by the *Castle* child, it is our view that the trial court did not abuse its discretion in ordering appellant to continue to pay child support until December 31, 2002, since Tiffany continued to undergo medical treatment during the temporal period. The record supports the conclusion that the necessity for Tiffany's treatment ceased on or about that date.

{¶12} For the foregoing reasons, appellant's lone assignment of error is not well-taken. The judgment of the Trumbull County Court of Common Pleas, Domestic Relations Division, is affirmed.

JUDITH A. CHRISTLEY, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.