[Cite as *Taylor v. Taylor*, 2015-Ohio-701.]

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MIAMI COUNTY

LARRY TAYLOR	:	
	:	
Plaintiff-Appellant	:	Appellate Case No. 2014-CA-21
	:	
v.	:	Trial Court Case No. 2011-DR-296
	:	
SUSAN TAYLOR	:	(Appeal from Domestic Relations Court)
	:	
Defendant-Appellee	:	
	:	

. . . . . .

O P I N I O N

Rendered on the 27th day of February, 2015.

. . . . . .

JEFFREY D. SLYMAN, Atty. Reg. No. 0010098, 211 Kenbrook Drive, Suite 5, Vandalia, Ohio 45377
Attorney for Plaintiff-Appellant

FRANK J. PATRIZIO, Atty. Reg. No. 0055468, 123 Market Street, P.O. Box 910, Piqua, Ohio 45356
Attorney for Defendant-Appellee

. . . . . .

WELBAUM, J.

{¶ 1} This case is before us on the appeal of Plaintiff-Appellant, Larry Taylor, from a judgment finding him in contempt and denying his motion to modify, suspend, or terminate spousal support being paid to Defendant-Appellee, Susan Taylor.[1] In support of his appeal, Larry contends that the magistrate's decision was contrary to the weight of the evidence. Larry further contends that the magistrate abused its discretion by awarding attorney fees to Susan.

{¶ 2} We conclude that the magistrate's decision was not against the manifest weight of the evidence, and was properly adopted by the trial court. The record contains clear and convincing evidence that Larry failed to pay spousal support as ordered, and also supports the finding that no substantial change in circumstances existed that would warrant modification or termination of spousal support.

{¶ 3} Furthermore, we conclude that the trial court did not abuse its discretion in awarding attorney fees to Susan. R.C. 3105.18(G) specifically requires reasonable attorney fees to be awarded where a party is found in contempt for failure to pay spousal support. In this case, Larry had both actual and statutory notice that reasonable attorney fees could be imposed. In addition, trial courts are permitted to award nominal attorney fees where they appear manifestly reasonable from the record. Accordingly, the judgment of the trial court will be affirmed.

I. Facts and Course of Proceedings

[1] For purposes of convenience, we will refer to the parties by their first names.

{¶ 4} The parties in this case were divorced in August 2012. Previously, Larry had been ordered in October 2011 to pay Susan $1,000 per month in temporary spousal support. Larry was in arrears by approximately $5,200 in temporary support at the time of the final divorce hearing in April 2012. The arrearage was preserved in the final divorce decree, which was filed on August 29, 2012, and Larry was ordered to pay spousal support in the amount of $1,000 per month thereafter, until further order of the court. The court also retained jurisdiction over the spousal support issue. After Larry appealed from the judgment and decree of divorce, we affirmed the trial court's judgment. *See Taylor v. Taylor*, 2d Dist. Miami No. 2012-CA-16, 2013-Ohio-2341.

{¶ 5} Our opinion noted that Larry had filed a motion with the trial court in January 2012 (prior to the divorce hearing), asking that the court modify the temporary support order because Larry had been terminated from his position as a custodian in December 2011. *Id.* at ¶ 8. After hearing evidence at the final divorce hearing, a magistrate filed a decision in May 2012, finding that Larry had committed financial misconduct by throwing out about $7,996 of Susan's jewelry, and by failing to account for insurance proceeds and farm income. *Id*. at ¶ 12. The magistrate further found that Larry "had voluntarily reduced his income as a custodian and had voluntarily elected not to farm, even though he had many acres available to farm." *Id.* In this regard, we noted that:

> In fiscal year 2010, the year before the divorce was filed, Larry grossed about $157,000 from his farming activity, with a net profit, before depreciation, of $46,531. This was based on production of about 6,377 bushe[l]s of soybeans and 18,853 bushels of corn. In the fall of 2011, after the divorce was filed, Larry claimed to have grossed only about $80,000

> from the production of 2,152 bushels of soybeans and 9,594 bushels of corn. Larry sold crops in his mother's name and in the name of another unrelated individual in an apparent attempt to conceal the amount of money he had received from selling crops. He also collected about $26,000 in crop insurance proceeds that he concealed from Susan.
>
> Larry also decided that he would not farm his mother's land in 2012. Clara[, Larry's mother,] at first refused to provide the name of the individual who intended to farm her land, but then admitted that Larry had told her to lease it to Frank Clark. Clara further admitted that the situation was such that "Larry runs the operation and you do what he tells you." April 10, 2012 Trial Transcript, p. 136.

Taylor at ¶ 30-31. Larry's income from his employment as a custodian in the year preceding the divorce was also about $40,959. *Id.* at ¶ 82.

{¶ 6} In addition to awarding spousal support of $1,000 per month, The trial court also equally divided Larry's pension from the Ohio State Employees Retirement System (SERS). The pension was scheduled to begin June 1, 2012, with a monthly benefit of $1,910.43. *Id.* at ¶ 13. Thus, each party would have received one-half of that amount.

{¶ 7} On appeal, we rejected all of Larry's assignments of error, including his claims that the trial had court erred: (1) in finding financial misconduct; (2) in dividing the parties' assets and liabilities; (3) in ordering spousal support; (4) in allocating debt; and (5) in granting Susan one-half of the retirement plan based on the duration of the parties' marriage. *Taylor*, 2d Dist. Miami No. 2012-CA-16, 2013-Ohio-2341, at ¶ 55-71 and 78-103.

{¶ 8} Our decision was issued in June 2013. Subsequently, in September 2013, Susan filed a motion seeking a citation in contempt against Larry, based on his failure to pay spousal support as ordered in October 2011; his failure to cooperate in executing a division of property order (DOPO) in connection with the SERS pension; and his failure to pay Susan one-half of the retirement benefits from SERS. In December 2013, Larry filed a motion to modify, suspend, or terminate spousal support.

{¶ 9} In January 2014, the magistrate held a hearing on Larry's failure to sign the DOPO. The magistrate found Larry in contempt and sentenced him to 30 days in jail, with the possibility of purging the contempt by signing the DOPO on or before February 1, 2014. The magistrate also ordered Larry to pay nominal attorney fees of $500 and court costs of $100.

{¶ 10} Larry did not file objections to this decision, and the trial court adopted the decision on February 4, 2014. On February 11, 2014, the signed DOPO was filed with the trial court.

{¶ 11} Subsequently, on February 13, 2014, the magistrate held a hearing on the contempt motion and the spousal support motion. Larry testified at the hearing, and admitted that he had failed to pay spousal support. At that time, he was in arrears in excess of $28,000.

{¶ 12} At the hearing, Larry indicated that he had last worked on December 20, 2011, when he was fired from his employment as a custodian at Miami East Schools. He received income of about $19,000 thereafter from unemployment compensation, but did not pay any spousal support from those funds. He also had been convicted of a felony in May or June 2013, based on unlawfully transporting a firearm in a motor vehicle.

Although Larry claimed to have been seeking work, he provided no documentation to substantiate his efforts.

{¶ 13} In addition, Larry stated at the hearing that he was unable to farm his mother's land any longer because the bank had foreclosed on his farm equipment. He also indicated that he was eligible to receive retirement benefits from SERS, but had chosen not to take those benefits. By doing so, he had chosen to deprive his ex-wife of her share of the retirement proceeds, and had also not taken money that he could have used to pay spousal support. At the time of the hearing, Larry was living rent-free in a house owned by his mother, and was being financially supported by Bonnie Heaton, who lived there with him.

{¶ 14} After hearing the evidence, the magistrate concluded that Larry did not show a substantial change in circumstances. The magistrate noted that Larry's termination of his employment was voluntary, and was also known to the court at the time of the prior spousal support order. In addition, the magistrate noted that Larry's criminal conviction was of his own choosing and could not be used to lower or eliminate his obligation to pay spousal support. Finally, the magistrate concluded that Larry chose not to apply for or receive benefits from SERS even though he was eligible.

{¶ 15} The magistrate also found Larry in contempt for failing to pay spousal support. In this regard, the magistrate observed that Larry failed to provide evidence of inability to work, and had willfully refused to apply for SERS benefits, which would have given him a monthly income to pay most of his spousal support obligations. As a result of the failure to pay spousal support, the magistrate sentenced Larry to serve 30 days in jail, and allowed him to purge the contempt by immediately applying for SERS pension

benefits, paying $900 towards his spousal support arrearage on or before June 29, 2014, and paying his spousal support obligation regularly. The magistrate also ordered that Larry pay nominal attorney fees of $500 and court costs of $100, along with a $250 fine, which fine could be purged by payment of the attorney fees and court costs before July 15, 2014.

{¶ 16} Larry filed objections to the magistrate's decision on June 6, 2014. After reviewing the record, including a transcript of the hearing, the trial court overruled the objections on July 30, 2014. The trial court slightly modified the magistrate's decision by eliminating an additional $500 in attorney fees and $100 in court costs that had been awarded, but otherwise retained the rest of the decision. Larry now appeals from the judgment of the trial court finding him in contempt and refusing to modify or terminate his spousal support obligation.

II. Was the Decision Against the Manifest Weight of the Evidence?

{¶ 17} Larry's First Assignment of Error states that:

> The Magistrate's Decision is Contrary to the Manifest Weight of the Evidence in Finding the Appellant in Contempt of Court.

{¶ 18} Under this assignment of error, Larry challenges both the spousal support and contempt decisions as being against the manifest weight of the evidence. We will address these issues separately, after setting forth the relevant standards pertaining to error based on manifest weight of the evidence. We discussed these standards in Taylor's prior appeal, in which we observed that:

> In *Eastley v. Volkman*, 132 Ohio St.3d 328, 2012-Ohio-2179, 972 N.E.2d

> 517, the Supreme Court of Ohio concluded that civil cases should be governed by the manifest weight standards outlined in *State v. Thompkins*, 78 Ohio St.3d 380, 678 N.E.2d 541 (1997). *Id.* at ¶ 17. Thus, in civil cases, "[w]hen a [judgment] is challenged on appeal as being against the weight of the evidence, an appellate court must review the entire record, weigh the evidence and all reasonable inferences, consider witness credibility, and determine whether, in resolving conflicts in the evidence, the trier of fact 'clearly lost its way and created such a manifest miscarriage of justice that the [judgment] must be reversed and a new trial ordered.' " *State v. Hill*, 2d Dist. Montgomery No. 25172, 2013-Ohio-717, ¶ 8, quoting *Thompkins* at 387. "A judgment should be reversed as being against the manifest weight of the evidence 'only in the exceptional case in which the evidence weighs heavily against the [judgment].' " *Id.*, quoting *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

Taylor, 2d Dist. Miami No. 2012-CA-16, 2013-Ohio-2341, at ¶ 33.

{¶ 19} We also stressed in *Taylor* that " '[i]n weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact * * *.' " *Id.* at ¶ 34, quoting *Eastley* at ¶ 21. Consequently, " ' "[i]f the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and judgment." ' " *Eastley* at ¶ 21, quoting *Seasons Coal Co., Inc. v. Cleveland*, 10 Ohio St.3d 77, 80, 461 N.E.2d 1273 (1984), fn. 3, which, in turn, quotes 5 *Ohio Jurisprudence* 3d, *Appellate Review*, Section 60, at 191-192 (1978). With these standards in mind, we

will first address the weight of the evidence supporting the order regarding spousal support.

A. Modification or Termination of Spousal Support

{¶ 20} R.C. 3105.18 (E) allows spousal support to be modified where there is a change in circumstances and the court has retained jurisdiction over spousal support. In this regard, R.C. 3105.18(F)(1) further provides that:

> For purposes of divisions (D) and (E) of this section and subject to division (F)(2) of this section, a change in the circumstances of a party includes, but is not limited to, any increase or involuntary decrease in the party's wages, salary, bonuses, living expenses, or medical expenses, or other changed circumstances so long as both of the following apply:
>
> (a) The change in circumstances is substantial and makes the existing award no longer reasonable and appropriate.
>
> (b) The change in circumstances was not taken into account by the parties or the court as a basis for the existing award when it was established or last modified, whether or not the change in circumstances was forseeable.

{¶ 21} "The person seeking a reduction of spousal support bears the burden of showing that the reduction is warranted." (Citation omitted.) *Young v. Young*, 2d Dist. Darke No. 2012 CA 1, 2012-Ohio-5310, ¶ 15. We review the trial court's decision for abuse of discretion, which means that the trial court's decision must not have been "unreasonable, arbitrary, or unconscionable." *Id.* at ¶ 16, citing *Blakemore v. Blakemore*,

5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983).

{¶ 22} After reviewing the record, we find no abuse of discretion. In addition, the decision is not against the manifest weight of the evidence.

{¶ 23} As an initial matter, Larry's unemployment, both in terms of his custodial work and his failure to continue farming, was known at the time of the initial spousal support decision. See, *Taylor*, 2d Dist. Miami No. 2012-CA-16, 2013-Ohio-2341, at ¶ 8, 12, and 30-31. As a result, these factors cannot support modification or termination of the existing spousal support order.

{¶ 24} The only remaining factor is Larry's felony record, which he claims has hampered his employment prospects. However, he presented no proof in that regard, other than his own statement, which the trial court was free to disregard in the absence of supporting evidence. More importantly, however, the magistrate observed that this was a circumstance that Larry, himself, created, and he should not be permitted to take advantage of his own misdeeds. We agree with the trial court. In a similar context, we observed that:

> Voluntary unemployment or underemployment does not warrant a downward modification of a child support obligation. *Kreuzer v. Kreuzer*, 2d Dist. Greene No. 00CA43, 2001 WL 468406, *3 (May 4, 2001), citing *Woloch v. Foster*, 98 Ohio App.3d 806, 649 N.E.2d 918 (2d Dist.1994). Incarceration may or may not warrant a modification, depending on the circumstances involved, but we and many Ohio courts have found incarceration due to criminal conduct to be voluntary. *See, e.g., L.B. v. T.B.*, 2d Dist. Montgomery No. 24441, 2011-Ohio-3418, ¶ 16; *Richardson v.*

> *Ballard*, 113 Ohio App.3d 552, 554, 681 N.E.2d 507 (12th Dist.1996); *Brockmeier v. Brockmeier*, 91 Ohio App.3d 689, 693, 633 N.E.2d 584 (1st Dist.1993); *Cole v. Cole*, 70 Ohio App.3d 188, 194, 590 N.E.2d 862 (6th Dist.1990). Whether a parent is voluntarily unemployed or underemployed is a fact-sensitive determination that is committed to the trial court's sound discretion. *Fischer v. Fischer*, 2d Dist Clark No. 11 CA 81, 2012-Ohio-2102, ¶ 19, citing *Combs v. Combs*, 12th Dist. Warren No. CA2001-11-102, 2003-Ohio-198.

Albers v. Albers, 2d Dist. Greene No. 2012 CA 41, 2013-Ohio-2352, ¶ 26. *See, also, Ulery v. Ulery*, 2d Dist. Clark No. 2009-CA-12, 2011-Ohio-5211, ¶ 7 (holding in context of spousal and child support obligations that "[i]narceration is a foreseeable result of criminal conduct and, thus, is considered a voluntary act that does not warrant relief from a support obligation.")

{¶ 25} The rationale in these cases applies to the situation in the case before us, even though Larry was not apparently incarcerated as a result of the criminal charge. To the extent that Larry blames his alleged inability to find a job on his criminal conviction, it was "a voluntary act that does not warrant relief from a support obligation." *Ulery* at ¶ 7. Accordingly, we see no basis upon which to conclude that the trial court abused its discretion in refusing to modify or terminate spousal support, nor do we find that the trial court's decision was against the manifest weight of the evidence.

B. Contempt Finding

{¶ 26} With respect to the contempt finding, Larry argues that the magistrate erred

in concluding that his failure to pay spousal support resulted from his own choice, rather than inability. In this regard, Larry raises these issues: his age, physical condition, lack of success in finding employment, and felony conviction.

{¶ 27} In *Jenkins v. Jenkins*, 2012-Ohio-4182, 975 N.E.2d 1060 (2d Dist.), we noted that:

> "A prima facie case of civil contempt is made when the moving party proves both the existence of a court order and the nonmoving party's noncompliance with the terms of that order." *Wolf v. Wolf*, 1st Dist. Hamilton No. C-090587, 2010-Ohio-2762, 2010 WL 2473277, ¶ 4. "Clear and convincing evidence is the standard of proof in civil contempt proceedings." *Flowers v. Flowers*, 10th Dist. Franklin No. 10AP1176, 2011-Ohio-5972, 2011 WL 5825404, ¶ 13. We review the trial court's decision whether to find a party in contempt under an abuse-of-discretion standard. *Wolf* at ¶ 4.

Id. at ¶ 12.

{¶ 28} "Clear and convincing evidence is that measure or degree of proof which is more than a mere 'preponderance of the evidence,' but not to the extent of such certainty as is required 'beyond a reasonable doubt' in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established." *Cross v. Ledford*, 161 Ohio St. 469, 120 N.E.2d 118 (1954), paragraph three of the syllabus.

{¶ 29} After reviewing the record, we find no abuse of discretion in the trial court's contempt decision, and likewise, find that it is not against the manifest weight of the

evidence. Specifically, the record contains clear and convincing evidence that Larry failed to pay spousal support after being ordered to do so. In fact, the record indicates that Larry has never paid spousal support from the time it was first ordered in October 2011. From a $5,200 arrearage that had accumulated prior to the divorce hearing in April 2012, the amount had mushroomed to more than $28,000 by the time of the 2014 contempt hearing. This is an arrearage that was completely unnecessary, since Larry chose not to take his retirement benefits and hampered his ability to pay what he concededly owed. In addition, he willfully deprived his ex-wife of the amount to which she would have been entitled each month.

{¶ 30} Compounding that issue, Larry chose not to work – a fact that he admitted at the contempt hearing, when he indicated that he did not work, since it would cost him money, i.e., he observed that if he worked, he would have to pay a portion of his wages to his ex-wife, and that made "no sense" to him. February 13, 2014 Hearing Transcript, p. 23.

{¶ 31} Accordingly, the trial court did not err either in finding Taylor in contempt, or in refusing to modify or terminate his spousal support obligation. The First Assignment of Error, therefore, is overruled.

II. Award of Attorney Fees

{¶ 32} Larry's Second Assignment of Error states that:

> The Magistrate Abused His Discretion By Awarding Attorney Fees to the Defendant [and] Is Contrary to the Manifest Weight of the Evidence.

{¶ 33} Under this assignment of error, Larry contends that the magistrate abused

its discretion by awarding attorney fees, because no request for fees was made in the motion for a contempt citation, and fees were not addressed at the hearing.

{¶ 34} In responding to this assignment of error, Susan contends that it should not be addressed because Larry failed to raise the fee issue in his objections to the magistrate's decision. This is incorrect, as Larry did, in fact, raise the issue in the objections that he filed on June 14, 2014. Larry did not object to a prior magistrate's decision that had ordered attorney fees, but that is not at issue, since Larry never appealed that order, which was filed on January 17, 2014, and was adopted by the trial court on February 4, 2014, after Larry failed to file objections.

{¶ 35} Susan also argues that nominal attorney fees may be awarded even if the trial court does not have evidence before it to award fees, where the amount of the attorney's time and work is evident to the court.

{¶ 36} As an initial matter, we note that the contempt citation issued to Larry specifically stated that "If you are found in contempt for failure to make * * * spousal support payments as ordered, in addition to all other penalties, the court must order you to pay all court costs and reasonable attorney fees to the other party. (R.C. 3105.21; 3113.31(K); & 3105.18(G))." Doc. #89; Doc. #104. In this regard, we note that R.C. 3105.18(G) specifically requires reasonable attorney fees to be awarded where a party is found in contempt for failure to pay spousal support. Therefore, Larry had both actual and statutory notice that reasonable attorney fees would be imposed.

{¶ 37} With respect to attorney fee awards, our review is for abuse of discretion, and the "trial court's discretion will not be overruled absent an attitude that is unreasonable, arbitrary or unconscionable." *Rand v. Rand*, 18 Ohio St.3d 356, 359, 481

N.E.2d 609 (1985), citing *Blakemore*, 5 Ohio St.3d at 219, 450 N.E.2d 1140. (Other citations omitted.)

{¶ 38} In the context of attorney fee awards, we have said that:

> We recognize there are limited circumstances in which a court is permitted to use its own knowledge determining the reasonableness and necessity of attorney fees. *See, e.g., Woloch v. Foster* (1994), 98 Ohio App.3d 806, 813, 649 N.E.2d 918, 922 (noting trial court did not abuse its discretion by awarding nominal attorney's fees without evidence of the amount of attorney fees actually incurred, or the reasonableness of that charge); *Spencer v. Doyle* (Sept. 22, 1993), Montgomery App. No. 92-CA-46, unreported at n. 4 ("On occasion, we have affirmed awards of attorney fees in small amounts, such as $150, without any evidence of reasonableness. Where the amount is small, and the fees pertain to services performed in the presence of the trial court, we have been willing to indulge in the assumption that the trial court properly took judicial notice of the reasonableness of the fees and their reasonable necessity.

Leffel v. Leffel, 2d Dist. Clark No. 2000-CA-78, 2001 WL 669423, *3 (June 15, 2001).

{¶ 39} In *Schaefer v. Schaefer*, 2d Dist. Greene No. 03CA0085, 2004-Ohio-2956, we also rejected the appellant's argument that the trial court had abused its discretion in awarding $500 in attorney fees where the appellee failed to provide evidence that the fee amount was reasonable or that the fee had even been incurred. *Schaefer* at ¶ 39. In this regard, we commented that "[i]t is surely likely that some fee was incurred. Also, where the fee is nominal in amount, no showing of reasonableness is required. * * * A fee award

in the amount of $500 has been held to be nominal." (Citations omitted.) *Id.*

{¶ 40} In the case before us, the trial court ordered nominal fees in the amount of $500. The record includes counsel's appearance at an evidentiary hearing and numerous court filings, including submission of proposed findings of fact and conclusions of law following the evidentiary hearing. The amount of fees was manifestly reasonable in view of the record.

{¶ 41} We do note that in a case decided after *Schaefer*, we reversed an attorney fee award for failure of proof, where there was no evidence of attorney fees incurred or paid. We cited *Schaefer*, but said that "the presumption of reasonableness does not likewise support an award absent evidence that any fees were charged or are owed." *Lemaster v. Lemaster*, 2d Dist. Greene No. 04CA35, 2005-Ohio-2513, ¶ 29. Notably, however, *Lemaster* involved a contempt action in the context of failure to pay a marital debt. This was not a situation where a statute, like R.C. 3105.18(G), specifically required attorney fees to be imposed. The same is true of the case cited by Taylor in support of the contention that Susan should have been required to present evidence regarding the time and reasonable value of her attorney's services. *See Bishop v. Bishop*, 5th Dist. Stark No. 2001CA00319, 2002 WL 596825, *4 (Apr. 15, 2002) (reversing award of attorney fees in case involving failure to pay home equity loan as ordered).

{¶ 42} Neither *Lemaster* nor *Bishop* involves contempt motions brought under R.C. 3105.18(G), which requires awards of reasonable attorney fees. Instead, they would fall under situations generally where a court has the "discretion to include reasonable attorney fees as a part of costs taxable to a defendant found guilty of civil contempt." *State ex rel. Fraternal Order of Police Captain John C. Post Lodge No. 44 v.*

City of Dayton, 49 Ohio St.2d 219, 229, 361 N.E.2d 428 (1977). *See, also, e.g., Neiman v. Neiman*, 7 Ohio App.3d 172, 174, 454 N.E.2d 967 (2d Dist.1982) (applying guidelines as to reasonableness of fees to determine whether attorney fees were properly awarded in post-decree contempt motion. The contempt motion was brought to enforce a requirement in the divorce decree that the husband maintain his ex-wife as a beneficiary on life insurance).

{¶ 43} Similarly, since 2005, R.C. 3105.73(B) has allowed attorney fees for post-decree motions that arise out of actions for divorce, dissolution, legal separation, or annulment of marriage. In those situations, the court decides whether an award of fees would be "equitable," based on "the parties' income, the conduct of the parties, and any other relevant factors the court deems appropriate * * *." This is not the statute applied in situations involving contempt motions for failure to pay spousal support. The more specific statute, which makes fees mandatory, not discretionary, would be applied. *See, e.g., Quality Ready Mix, Inc. v. Mamone*, 35 Ohio St.3d 224, 226-27, 520 N.E.2d 193 (1988) (noting that "it is an elementary rule of statutory construction that, in the absence of language to the contrary, a specific statute controls over a general provision.")

{¶ 44} *Schaefer* is also consistent with other authority in our district. *See Donese v. Donese*, 2d Dist. Greene No. 2000-CA-17, 2000 WL 1433872, *3 (Sept. 29, 2000) (noting that we can take judicial notice of reasonableness of fees if "they appear to be manifestly reasonable from the appellate record"). In addition, *Donese* cites various authority to the same effect in our district, including *Woloch*, 98 Ohio App.3d at 813, 649 N.E.2d 918. *Id.*

{¶ 45} Furthermore, in a decision issued after *Lemaster*, we held in a related

context that:

> R.C. 3109.051(K) requires an award of costs and reasonable attorney's fees paid by an adverse party as a sanction against a party who is found in contempt for interfering with an order granting parenting time. Whether any amount is reasonable is an issue of fact. We have held that evidence of the actual amount owed or paid or its reasonableness is not required when the amount awarded is a nominal amount. *Woloch v. Foster* (1994), 98 Ohio App.3d 806.

Carver v. Halley, 2d Dist. Greene No. 06CA54, 2007-Ohio-2351, ¶ 19.

{¶ 46} Accordingly, we conclude that the trial court did not abuse its discretion by awarding Susan nominal attorney fees of $500. Fee awards are required under R.C. 3105.18(G), and awards of nominal amounts have been allowed without specific presentation of evidence where the record establishes the reasonableness of the award. Because the record establishes the reasonableness of the award, the Second Assignment of Error is without merit and is overruled.

IV. Conclusion

{¶ 47} All of Taylor's assignments of error having been overruled, the judgment of the trial court is affirmed.

. . . . . .

DONOVAN, J. and HALL, J., concur.

Copies mailed to:

Jeffrey D. Slyman