

IN THE COURT OF APPEALS  
TWELFTH APPELLATE DISTRICT OF OHIO  
CLERMONT COUNTY

IN RE: :  
A.E.G-D. : CASE NO. CA2011-04-031  
: OPINION  
: 2/13/2012  
:  
:

APPEAL FROM CLERMONT COUNTY COURT OF COMMON PLEAS  
JUVENILE DIVISION  
Case No. 2004-JG-12426

Edwin L. Hoseus, Jr., 741 Milford Hills Drive, Milford, Ohio 45150-1446, for appellant  
Matthew W. George, 5755 East Tall Oaks Drive, Milford, Ohio 45150, appellee, pro se

**POWELL, P.J.**

{¶ 1} A juvenile court's decision to award a father the income tax exemption for the parties' minor child is challenged by the mother who argues the court failed to consider the requisite factors in making the determination. We agree the juvenile court did not comply with the requirements of R.C. 3119.82, and remand this matter to the juvenile court for further consideration.

{¶ 2} The record indicates a Clermont County Juvenile Court magistrate issued a decision on child support matters, which included the reallocation of the tax exemption to father, Matthew George. Mother, Katherine Dargis, filed objections on more than one issue,

but the objection related to the tax exemption was overruled and the magistrate's decision was adopted as modified. Mother now appeals, raising a single assignment of error, as follows:

{¶ 3} THE TRIAL COURT ABUSED ITS DISCRETION IN AWARDING THE TAX EXEMPTION FOR THE MINOR CHILD TO THE FATHER, DEFENDANT-APPELLEE.

{¶ 4} As residential parent, Mother argues the juvenile court couldn't allocate the tax exemption to father unless it found under R.C. 3119.82 that the allocation furthered the best interest of the child.

{¶ 5} R.C. 3119.82 states, in pertinent part, that whenever a court issues, modifies, or reviews a court child support order, it shall designate which parent may claim the child who is the subject of the support order as a dependent for federal income tax purposes.

{¶ 6} If the parties do not agree which parent should claim the child as a dependent, the court may permit the parent who is not the residential parent to claim the child as a dependent for federal income tax purposes only if the court determines that this furthers the best interest of the child and the payments for child support are substantially current as ordered by the court for the year in which the child will be claimed as a dependent. R.C. 3119.82.

{¶ 7} In cases in which the parties do not agree which parent may claim the child as a dependent, the court shall consider, in making its determination, any net tax savings, the relative financial circumstances and needs of the parents and child, the amount of time the child spends with each parent, the eligibility of either or both parents for the federal earned income tax credit or other state or federal tax credit, and any other relevant factor concerning the best interest of the child. *Id.*

{¶ 8} A review of the record indicates the amount of time the child spends with each parent was discussed during the support hearing before the magistrate. The tax exemption

issue was mentioned when father asked the magistrate a question about child care credits. The magistrate responded that father was going to receive the tax exemption, beginning with the 2011 tax year. In the form entry under the heading of "Tax Exemption," the magistrate wrote: "Find change of circumstances to exist." However, no evidence was presented or findings made with regard to consideration of the R.C. 3119.82 factors or this "change of circumstances."

**{¶ 9}** An appellate court reviews a trial court's decision allocating tax exemptions for dependents under an abuse of discretion standard. *Rainey v. Rainey*, 12th Dist. No. CA2010-10-083, 2011-Ohio-4343, ¶ 38. However, this discretion is both guided and limited by the statutory requirements of R.C. 3119.82. *Pahls v. Pahls*, 12th Dist. No. CA2009-01-005, 2009-Ohio-6923, ¶ 21.

**{¶ 10}** From the state of the record, we cannot determine what factors, if any, the court relied on in concluding that father should receive the dependency exemption. Absent a determination that the exemption designation was in the best interest of the parties' child, we conclude the juvenile court's determination did not comport with the requirements of R.C. 3119.82, and the court abused its discretion when it failed to include any reasoning process to support its decision. *Rainey*, 2011-Ohio-4343; *Mullins-Nessle v. Cardin*, 12th Dist. No. CA2009-07-036, 2009-Ohio-6748; *Lopez v. Lopez*, 10th Dist. No. 04AP-508, 2005-Ohio-1155; see *Singer v. Dickinson*, 63 Ohio St.3d 408 (1992).

**{¶ 11}** Mother's single assignment of error is sustained. The juvenile court's determination on the tax exemption is reversed and remanded so the juvenile court can comply with the requirements of R.C. 3119.82.

**{¶ 12}** Judgment reversed and remanded.

RINGLAND and PIPER, JJ., concur.