[Cite as *Feldman v. Feldman*, 2009-Ohio-4202.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92015

JANET S. FELDMAN

PLAINTIFF-APPELLEE

vs.

PAUL J. FELDMAN

DEFENDANT-APPELLANT

JUDGMENT:
AFFIRMED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. D-256704

BEFORE: Kilbane, P.J., Stewart, J., and Jones, J.

RELEASED: August 20, 2009

JOURNALIZED:

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MARY EILEEN KILBANE, P.J.:

{¶ 1} Appellant, Paul Feldman (Paul), appeals the decision of the Common Pleas Court - Domestic Relations Division, decreasing his monthly spousal support obligation to his former wife, Janet Feldman (Janet) by 25 percent. Paul argues that his change in circumstance is such that an 80 percent decrease in his spousal support obligation is warranted. Finding no error in the proceedings below, we affirm.

{¶ 2} On August 17, 1973, the parties to this appeal were married. They have one child, Elizabeth, born on August 27, 1981, as issue of the marriage.

{¶ 3} On August 6, 1998, after a marriage of approximately 25 years, the parties were divorced. Under the terms of the separation agreement incorporated into the final judgment entry of divorce, Paul agreed to pay Janet spousal support in the amount of $8,160 per month commencing September 1, 1998, which the domestic relations court retained jurisdiction to modify. At the time of the divorce, Paul was earning approximately $350,000 per year as an energy executive. Janet, though unemployed, earned $10,000 per year in interest and dividend income at the time of the divorce.

{¶ 4} On September 26, 2006, Paul filed his motion to terminate and/or modify spousal support, asserting that his income had substantially decreased. A full evidentiary hearing was conducted in the trial court on

June 14 and 15, 2007. Paul filed a written final argument on June 22, 2007; Janet filed her closing statement on June 25, 2007.

{¶ 5} On August 1, 2007, the magistrate issued her initial decision on the motion, which effectively reduced Paul's monthly spousal support obligation to Janet by 50 percent, or from $8,160 per month to $4,080 per month.

{¶ 6} On November 2, 2007, after three extensions, Janet filed her objections.

{¶ 7} On February 19, 2008, the trial court sustained Janet's objections and referred the matter back to the magistrate for an amended or supplemental decision.

{¶ 8} On April 15, 2008, the magistrate issued an amended decision, reducing Paul's monthly spousal support obligation to Janet by 25 percent, from $8,160 per month to $6,129, which the trial court adopted on August 5, 2008. Paul now appeals that decision.

Reservation of Jurisdiction

{¶ 9} We note preliminarily, that Paul's motion for modification of spousal support was properly before the court for consideration because the trial court specifically retained jurisdiction to modify the amount of spousal support in this case. See R.C. 3105.18(E)(1). See, also, *Mandelbaum v. Mandelbaum*, 121 Ohio St.3d 433, 2009-Ohio-1222, at syllabus: "A trial court

lacks jurisdiction to modify a prior order of spousal support unless the decree of the court expressly reserved jurisdiction to make the modification and unless the court finds (1) that a substantial change in circumstances has occurred and (2) that the change was not contemplated at the time of the original decree."

{¶ 10} As relevant to this appeal, a "substantial change in circumstance" sufficient to warrant a modification of spousal support includes, but is not limited to, an increase or voluntary decrease in either party's wages, salary, bonuses, living expenses, or medical expenses. R.C. 3105.18(F). In further defining the meaning of the word "substantial" within the above statutory framework, the Supreme Court has stated: "The word 'substantial' has been given various meanings by Ohio courts, such as 'drastic,' 'material,' and 'significant.'" *Mandelbaum* at 440. (Internal citations omitted.)

Standard of Review

{¶ 11} The Ohio Supreme Court has long recognized that a trial court must have discretion to do what is equitable upon the facts and circumstances of each divorce case. *Booth v. Booth* (1989), 44 Ohio St.3d 142, 144, 541 N.E.2d 1028. Thus, when reviewing a trial court's determination in a domestic relations case, an appellate court generally applies an abuse of discretion standard. *Holcomb v. Holcomb* (1989), 44 Ohio St.3d 128, 130, 541 N.E.2d 597. An abuse of discretion connotes more than an error of law; it

"implies that the court's attitude is unreasonable, arbitrary or unconscionable." *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219, 450 N.E.2d 1140.

{¶ 12} As long as the trial court's division of property, calculation of income, and award of spousal support are supported by some competent, credible evidence, this court will not disturb the trial court's decision. *Masitto v. Masitto* (1986), 22 Ohio St.3d 63, 66, 488 N.E.2d 857; *Holcomb* at 130. Under this deferential standard, we may not freely substitute our judgment for that of the trial court. *Soulsby v. Soulsby*, Meigs App. No. 07CA1, 2008-Ohio-1019, citing *In re Jane Doe I* (1991), 57 Ohio St.3d 135, 137-138, 566 N.E.2d 1181.

{¶ 13} With this deferential standard of review in mind, we proceed to address the assignments of error.

{¶ 14} Paul's first assignment of error reads:

> **"The trial court erred and abused its discretion in not dismissing appellee's objections and supplemental objections for not being timely filed."**

{¶ 15} Civ.R. 53(D)(3)(b) provides in relevant part that a party may file written objections to a magistrate's decision "within fourteen days of the filing of the decision." Subsection (D)(3)(b)(iii) of the rule goes on to state that the objecting party must file the transcripts or affidavit with the court within 30 days of filing its objections.

{¶ 16} In this case, the magistrate issued her initial decision on August 1, 2007. Janet did not ultimately file her objections until November 2, 2007. In the interim, she moved for three extensions of time, all of which were unopposed and granted by the trial court. Under Civ.R. 53, Janet had until December 3, 2007, to file the transcripts accompanying her objections. She did not do so until January 10, 2008. Paul argues that under this rule, Janet's objections to the magistrate's decision were untimely, and that the trial court erred in even considering her objections. We disagree.

{¶ 17} It is within a trial court's broad discretionary power to grant or deny requests for extensions. *Miller v. Lint* (1980), 62 Ohio St.3d 209, 214. Civ.R. 53(D)(5) allows a reasonable extension of time for a party to file a motion "[f]or good cause shown." Civ.R. 53(D)(5). In such cases, "the court shall allow a reasonable extension of time for a party to file a motion to set aside a magistrate's order or file objections to a magistrate's decision." Id.

{¶ 18} Here, although Janet did not file the transcripts with the trial court within 30 days of the proceedings, this did not preclude the trial court from ruling on her objections. "Regardless of whether a transcript has been filed, the trial judge always has the authority to determine if the referee's findings of fact are sufficient to support the conclusions of law drawn therefrom and come to a different legal conclusion if that conclusion is supported by the referee's findings of fact." *Kozlevchar v. Kozlevchar* (May

18, 2000), Cuyahoga App. No. 76065. (Internal citations omitted.) Here, the trial court issued its decision on February 19, 2008, approximately five weeks after the transcripts were filed. Paul's argument on this issue is therefore moot.

{¶ 19} Paul has not shown that he was prejudiced in any way by these extensions, nor did he object to the court's consideration of the late-filed transcripts. The trial court did not abuse its discretion in considering Janet's objections. Her late-filed transcripts and extensions were unopposed by Paul in the trial court.

{¶ 20} Paul's second assignment of error reads:

> **"The trial court erred and abused its discretion in ordering the magistrate to issue an amended/supplemental decision."**

{¶ 21} On this point, Paul argues that the trial court erred by ordering the magistrate to issue a supplemental decision without stating any reasons for remanding the order, and argues again that the trial court erred in sustaining the November 2, 2007 objections because it did not have the transcripts.

{¶ 22} Civ.R. 53 (D)(4)(b) states that "[w]hether or not objections are timely filed, a court may adopt or reject a magistrate's decision in whole or in part, with or without modification. A court may hear a previously-referred matter, take additional evidence, or return a matter to a magistrate."

Clearly, the rule allows the court to choose from among a range of options in response to a magistrate's decision. The rule does not require the court to state why it would adopt or reject a magistrate's decision. The court's decision to return the matter to the magistrate was clearly within its discretion, as explicitly stated in the rule. This argument is without merit.

{¶ 23} Likewise, Paul's argument that the court lacked the benefit of the transcripts in sustaining Janet's objections is without merit. As mentioned above, whether a transcript has been filed or not, the trial judge always has the authority to determine if the magistrate's findings of fact are sufficient to support it's conclusions of law, and come to a different legal conclusion. *Kozlevchar,* supra. Further, Paul's argument on this point is moot, as the trial court possessed the transcripts when it made its decision. The court sustained Janet's objections on February 19, 2008, five weeks after receiving the transcripts.

{¶ 24} Assignment of error two is overruled.

{¶ 25} Paul's third assignment of error reads:

> **"The trial court erred and abused its discretion in adopting the magistrate's amended decision which reduced, without further evidence, the decrease which the magistrate had previously recommended be made in appellant's spousal support."**

{¶ 26} Within this assignment of error, Paul argues that the trial court erred in reducing his monthly spousal support obligation without taking

further evidence that his involuntary decrease in wages supports a larger monthly reduction and that the magistrate incorrectly computed Paul's income earnings in making her determinations. We disagree.

{¶ 27} First, as stated above, under Civ.R. 53(D)(4)(b), a trial court has complete discretion on whether to hear additional evidence before adopting a magistrate's decision. The trial court was therefore within its discretion in deciding not to hear additional evidence. See, e.g.,*Calvaruso v. Calvaruso*, Summit App. No. 21781, 2004-Ohio-1877. (Holding, inter alia, that under Civ.R. 53, it is solely within the trial court's discretion to hold a hearing or to consider additional evidence and testimony.) Second, Paul admits that the record below was exhaustive with respect to evidence and testimony about his income and that the magistrate was in the best position to hear that testimony. Therefore, based upon Paul's own arguments, we can discern no reason why the trial court would take additional evidence on this issue under Civ.R. 53. Its failure to do so was not an abuse of discretion.

{¶ 28} Regarding Paul's argument that his reduced income supports a larger reduction than was granted by the domestic relations division, Ohio law is clear that when a payor's spouse's income has involuntarily decreased it is not an abuse of discretion to reduce support by the percentage decrease in income. *Kozlevchar*, supra, *Mizenko v. Mizenko* (2001), Cuyahoga App. No. 78409. In this case, the magistrate calculated that decrease at 25 percent.

Paul argues that the decrease is more on the order of 80 percent. We find no support for this in the record.

{¶ 29} When reconsidering whether to reduce Paul's monthly spousal support obligation, the magistrate noted the parties' relative incomes both at the time of divorce and at the time of modification. It also took note of each party's employment history. The magistrate noted that while Janet was earning approximately $23,924 more per year than she did when the parties were divorced, her gross income was still only $33,924.

{¶ 30} By contrast, Paul's income "from all sources as reported on his tax returns has remained at or above the levels he reported at the time of the divorce. He continues to live a lifestyle wherein he incurs monthly living expenses in excess of $33,000." (Amended Magistrate's Decision at 4, ¶2.) In categorizing Paul's expenses, the magistrate noted that he maintains a $1,400,000 home in Virginia, that his monthly mortgages and property taxes are approximately $9,000, and that he has a monthly country club membership fee of $1,000 per month. Finally, the magistrate noted that Paul has voluntarily assumed a $35,000 yearly tuition obligation for one of his current wife's children, whom he has no legal duty to support. From this evidence, the magistrate concluded that "[Paul] continues to maintain his previous lifestyle while he seeks to lower [Janet's]." (Amended Magistrate's Decision at 5.) In essence, the magistrate found that Paul, despite the sharp

downturn in his employment and income, still spends nearly as much in household expenses in one month as Janet earns in one year.

{¶ 31} Despite this, however, the evidence did show that, except for his $67,000 salary as a member of the board of directors of Midwest ISO, a not-for-profit energy company, most of the income on Paul's tax return was passive capital gain income from selling investments. The evidence also showed that Paul's employment, through no fault of his own, had been sporadic, and he had been unemployed since 2003. As a result, he was required to "basically sell off his assets to maintain his lifestyle," and that he withdrew $378,991 from his managed accounts in 2006 in order to do so. (Amended Decision of Magistrate at 3, ¶3.)

{¶ 32} The magistrate found Paul's unemployment "troubling," but found his search for employment credible. Also troubling was the fact that "[w]hile Defendant seeks to reduced his support obligation, he has not reduced his standard of living." Id. Based upon his involuntary change in circumstance, however, the magistrate found an order of modification was warranted.

{¶ 33} "Once a trial court finds that there has been a change of circumstances, the court must then determine if spousal support is still necessary and, if so, in what amount. In determining the appropriateness and reasonableness of the award, the trial court must look to the relevant

factors listed in R.C. 3105.18(C.)" *Calabrese v. Calabrese*, Cuyahoga App. No. 88520, 2007-Ohio-2760, at ¶22. (Internal citations omitted.) These factors include:

> **"(a) The income of the parties, from all sources, including, but not limited to, income derived from property divided, disbursed, or distributed under section 3105.171 of the Revised Code;**
>
> **(b) The relative earning abilities of the parties;**
>
> **(c) The ages and the physical, mental, and emotional conditions of the parties;**
>
> **(d) The retirement benefits of the parties;**
>
> **(e) The duration of the marriage;**
>
> **(f) The extent to which it would be inappropriate for a party, because that party will be custodian of a minor child of the marriage, to seek employment outside the home;**
>
> **(g) The standard of living of the parties established during the marriage;**
>
> **(h) The relative extent of the education of the parties;**
>
> **(i) The relative assets and liabilities of the parties, including but not limited to any court-ordered payments by the parties;**
>
> **(j) The contribution of each party to the education, training, or earning ability of the other party, including, but not limited to, any party's contribution to the acquisition of a professional degree of the other party;**

(k) The time and expense necessary for the spouse who is seeking spousal support to acquire education, training, or job experience so that the spouse will be qualified to obtain appropriate employment, provided the education, training, or job experience, and employment is, in fact, sought;

(l) The tax consequences, for each party, of an award of spousal support;

(m) The lost income production capacity of either party that resulted from that party's marital responsibilities;

(n) Any other factor that the court expressly finds to be relevant and equitable."

R.C. 3105.18(C). In assessing whether the circumstances of either party have changed since the decree of divorce pursuant to R.C. 3105.18(E), the trial court need not re-examine all the factors listed in R.C. 3105.18(C)(1). *Calabrese,* supra; *Mizenko,* supra. The court need only consider the factors that have actually changed since the last order. *Mizenko,* supra. The change must be one that is substantial and "not contemplated at the time of the prior order." Id.

{¶ 34} In this case, in addition to the parties' employment histories and the disparity in their earning capabilities, the magistrate reviewed the testimony in the record concerning the above factors, including Paul's 2006 annual salary from his position at ISO, and added this to his yearly interest

and dividends of $29,085, which were estimated to be comparable in 2007, based upon bank records submitted to the court.

{¶ 35} Among the bank records was Paul's "Exhibit J": a Citigroup Select Consolidation Summary dated December 31, 2006, showing a year-to-date total return of $173,596 for 18 accounts owned or managed by Paul and/or his current wife, Jeaneen Andrews-Feldman, showing an ending net value of $1,710,658. Some of these accounts are owned by Jeaneen outright, and four of them are managed by her for the benefit of each of the Feldman children. The accounts held for the children show a 2006 year-end balance of $1081.94 for Elizabeth Feldman, the issue of Paul's first marriage; $11,454,98 for John Andrews Feldman; $10,866.71 for Jenna Andrews-Feldman; and $2,882.74 for Sean Paul Feldman.

{¶ 36} The magistrate found that the net value of the account dropped 10 percent between 2006 and 2007, based upon $378,991 in withdrawals and $173,596 in earnings. Notably, the account summary at Exhibit J that was submitted by Paul does not differentiate from whose accounts the withdrawals were made, only that they were made from that group of managed accounts generally.

{¶ 37} Based upon the 10 percent loss calculated by viewing the summary of earnings and withdrawals found at Exhibit J, the magistrate found it was "logical to impute 10% less in earnings for 2007." (Amended

Magistrate's decision at 4, ¶2.) The magistrate also imputed additional consulting income to Paul, based upon his unique skills in the energy industry, and recommended that his total income should be found to be "$262,322 ($67,000 from Midwest ISO + $29,085 from interest and dividends + [$173,596 -$17,359 from earnings] + $10,000 from imputed consulting income), which is approximately a 25% decrease in [Paul's] yearly earnings at the time the parties were divorced." Id. The magistrate did not include the $305,000 Paul invested with various venture capital firms, based upon Paul's testimony that such investments usually take five years to earn a return. (Amended Magistrate's Decision at 5, ¶2.)

{¶ 38} Paul argues that the magistrate improperly calculated his income by employing Ohio's child support statute, R.C. 3119.01(C)(7), as opposed to the spousal support statute, R.C. 3105.19. He also argues that the magistrate improperly commingled his and his current wife's Citigroup Consolidated accounts from Exhibit J in calculating the decrease in his spousal support obligation. On this point, he argues that approximately $450,000 of this money is from an IRA rollover belonging to his wife; and that certain of the accounts are managed by his wife for the benefit of their children and should not have been used by the magistrate in making her calculations.

{¶ 39} Based upon his financial change in circumstance, he argues that he has been forced to sell off assets in light of his documented monthly expenses of $33,000 for his new wife and family, because his earned income is "practically nonexistent." As a corollary, Paul would have the trial court calculate only $67,000, his current income from his Midwest ISO salary, instead of the income garnered from the $1,710,658 in his managed accounts and other income.

{¶ 40} In making its determination, the trial court was required to consider "the income of the parties, from all sources* * *," and did so in rendering its decision. R.C. 3105.18(C)(1)(a). This property "include[s], but is not limited to including, income derived from property divided, disbursed, or distributed under section 3105.171 of the Revised Code[.]" R.C. 3105.18(C)(1). While R.C. 3105.18(F) enumerates the substantive reasons that constitute a change in circumstance, this statute does not expressly mention, let alone differentiate between "active" or "passive" income. What is more, while it mentions them, the statute does not limit a court's consideration strictly to earned income or wages. It states:

> **"For purposes of divisions (D) and (E) of this section, a change in the circumstances of a party includes, <u>but is not limited to</u>, any increase or involuntary decrease in the**

party's wages, salary, bonuses, living expenses or medical expenses." (Emphasis added.) R.C. 3105.18(F).

{¶ 41} Courts are required to consider a party's income regardless of whether it derives from a nonrecurring or unsustainable event. See *Karis v. Karis*, Summit App. No. 23804, 2007-Ohio-759. The *Karis* court spoke pointedly to this issue when it stated:

> **"R.C. 3105.18(C) does not limit the sources from which income may be derived or the characteristics of income that may be considered for purposes of determining an appropriate award of spousal support. In contrast, R.C. 3119.01(C)(7)(e) specifically excludes '[n]onrecurring or unsustainable income or cash flow' from gross income for purposes of child support. 'A nonrecurring or unsustainable income or cash flow item is, an income or cash flow item the parent receives in any year or for any number of years not to exceed three years that the parent does not expect to continue to receive on a regular basis.' This exclusion is not found in R.C. 3105.18, nor does R.C. 3105.18 incorporate this limitation by reference."** ***Karis*** **at ¶11. (Internal citations omitted.)**

{¶ 42} Clearly, because R.C. 3105.18(C)(1)(a) does not limit the trial court's discretion to consider nonrecurring income, the trial court did not abuse its discretion by considering husband's capital gains to be income in this case for that reason alone.

{¶ 43} Further, a fair reading of the magistrate's decision shows that the magistrate employed R.C. 3119.01(C)(7) strictly to provide a definition of

"gross income," and that it relied solely on R.C. 3105.18 in making its calculations, stating as follows:

> **"The capital gains are passive income from salves of his investments, which are not income under [R.C.] 3119.01(C)(7). The evidence showed that [Paul and his stock broker] cherry picked which stocks to sell off at year-end to report the highest capital gains to offset deductions. They could have picked the poorest performing stocks to sell instead. Defendant's income should be found to be the annual return on his investment account plus his earnings on employment." (Amended Magistrate's Decision at 3 ¶4.)**

{¶ 44} Because R.C. 3105.18(C) does not limit the sources from which income may be derived or the characteristics of income that may be considered for purposes of determining an appropriate award of spousal support, the magistrate did not err in considering the return on Paul's investment income as a source of that income. *Karis*, supra. That some of the accounts were held by Paul's new wife, and that others she held as custodian for the various Feldman children were used in the magistrate's calculation, does not in and of itself constitute an abuse of discretion.

{¶ 45} In Ohio, a new spouse's income can be considered in determining whether circumstances have changed. *Carnahan v. Carnahan*, 118 Ohio App.3d 393, 692 N.E.2d 1086, at ¶19. See, also, *Roach v. Roach*, 61 Ohio App.3d 315, 572 N.E.2d 772.

{¶ 46} The total year-end value of the four accounts held by Paul and/or his new wife for all Feldman children, including Elizabeth, the issue of Paul's first marriage, was $26,306.37. See Defendant's Exhibit J. The potential to improperly impute income to Paul from these managed accounts, whose total value constitutes only 1½ percent of an account valued at $1,710,658, is negligible, and does not appreciably change the amount of income imputed to Paul for purposes of determining the decrease in his spousal support obligation.

{¶ 47} While it is true that Paul's new spouse's income cannot be used to determine whether Paul has the ability to pay, even independent of Jeaneen's income, there is no evidence that Paul lacks the ability to pay. *Carnahan*, supra, citing R.C. 3105.18(F). Further, as the magistrate discussed in her decision, Paul's voluntary expenditures and standard of living are far in excess of what he would have the trial court believe is a change in circumstances so drastic that it requires a 50 percent (or even 80 percent, as argued in Paul's brief) modification of his prior support order. Such expenses, as the magistrate points out, could all otherwise be used to generate income, despite Paul's own demonstrated loss of income from his yearly salary decreases in 2006, 2007, and 2008.

{¶ 48} The trial court did not err in adopting the magistrate's amended recommendation that Paul's spousal support obligation be reduced by 25

percent. The burden of establishing the need for a modification of spousal support rests with the party seeking the modification. *Tremaine v. Tremaine* (1996), 111 Ohio App.3d 703, 676 N.E.2d 1249. While Paul has met that burden, showing that he was involuntarily underemployed and that he suffered a financial change in circumstance sufficient to modify his spousal support obligation, he has not shown that the trial court abused its discretion in reducing his monthly obligation by 25 percent, as opposed to 80 percent, which is the amount he desired.

{¶ 49} Assignment of error number three is overruled.

Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to the Domestic Relations Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MARY EILEEN KILBANE, PRESIDING JUDGE

LARRY A. JONES, J., CONCURS;
MELODY J. STEWART, J., DISSENTS (SEE SEPARATE DISSENTING OPINION)

MELODY J. STEWART, J., DISSENTING:

{¶ 50} I respectfully dissent from the resolution of the third assignment of error because when calculating Paul's income, the court failed to separate from the return on investment those individual accounts within the larger investment account that belonged solely to his wife and children.

{¶ 51} There are 18 individual accounts included within the overall investment account. Three of those individual accounts are in the name of Paul's current wife: an IRA rollover account, one "managed" account, and one "select" account. The statement used by the magistrate shows that these three accounts had an ending value of $323,241. There were four other accounts held by the wife as custodian for her children totaling $26,287. These seven accounts total $349,054, or approximately 20 percent of the overall investment account value.

{¶ 52} The magistrate did not differentiate funds held by Paul's wife and children from those held by Paul, either jointly or individually. While there are some circumstances in which income from an obligor's new spouse can be considered when determining whether there has a been a change in circumstances to justify a modification of spousal support, there is no indication whatsoever that the court intended to do so in this case. When citing to the actual account value, the magistrate used the phrase "[h]is

account value" – an indication that the magistrate considered Paul to own all of the funds held in the account. This conclusion was all the more erroneous given Paul's unrefuted testimony that his wife and children held separate investments in the investment account. The majority characterizes as "negligible" the impact of including funds owned by children to bolster Paul's income. However, we should not sanction any amount of money owned by children who are unrelated to Janet for inclusion in a spousal support calculation for her.

{¶ 53} The magistrate's failure to differentiate investment accounts held by the wife and children meant that she might have erroneously imputed their interest income to Paul. Unfortunately, the account summary showing the total amount of withdrawals does not specify from whose accounts those withdrawals were made. The summary simply states net cash withdrawals, so it is possible that some of the withdrawals were made from accounts not individually or jointly owned by Paul. This error has a significant enough impact on the income calculation that I would sustain the third assignment of error and order a remand for a redetermination of Paul's income.