

Circuit Court for Frederick County
Case No. C-10-FM-18-001500

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 998

September Term, 2021

ERIC BEASLEY

v.

ELYSE BEASLEY

Friedman,
Zic,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: February 15, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from a judgment of absolute divorce entered by the Circuit Court for Frederick County on August 13, 2021, involving Elyse Beasley (“Wife”) and Eric Beasley (“Husband”). Husband has filed an informal brief, in which he challenges certain actions by one of the trial judges, the Honorable Theresa M. Adams, who presided over the case from May 7, 2019, to April 1, 2020. Specifically, Husband asks the following questions, which we present verbatim:

1. Did Judge Theresa Adams err in regards to recusal on February 13th, 2020?
2. Are the orders issued by Judge Theresa Adams between February 13th, 2020 and April 1st, 2020 legally binding or “the fruit of the poisonous tree?”
3. Did the orders issued between February 13th, 2020 and April 1st, 2020 substantially influence the outcome of the divorce proceedings and were the orders issued legal and valid?

For reasons to follow, we affirm.

BACKGROUND

Husband and Wife were married in 2011. Two children (the “Children”) were born as a result of the marriage. On August 3, 2018, Wife filed for divorce, and the instant proceedings commenced. On October 12, 2018, the circuit court issue a *pendente lite* order in which Wife was granted primary physical custody of the Children.

On May 7, 2019, the circuit court’s administrative judge specially assigned Judge Adams as the presiding judge in the case. In the months and years that followed, the parties filed a host of motions and petitions, many of which were considered and ruled upon by Judge Adams. Those germane to the instant case are set forth below.

Husband Files Request for Child Privilege Attorney

On August 19, 2019, Husband filed a motion asking the circuit court to appoint a child privilege attorney for the Children. Wife did not oppose the motion.

Circuit Court Appoints Child Privilege Attorney

On September 20, 2019, the circuit court’s administrative judge entered an order appointing a child privilege attorney for the Children. The primary purpose of the order was to grant the attorney the power to assert or waive any of the Children’s statutory privileges.

Wife Files Motion for Injunctive Relief

On February 11, 2020, Wife filed an “Emergency Motion for Injunction.” Wife alleged that Husband had been posting sensitive information regarding the Children on social media. Wife also alleged that Husband had posted “defamatory” content about her. Wife asked the circuit court to order Husband to remove that information and to refrain from posting similar information in the future.

Circuit Court Grants Wife’s Motion for Injunctive Relief

On February 12, 2020, the circuit court, Judge Adams presiding, entered an order granting Wife’s motion. The court ordered Husband to remove from the internet all posts and videos regarding Wife or the Children from February 1 to February 13, 2020. The court also ordered Husband to refrain from making similar posts in the future.

Police Incident Report

On February 13, 2020, a Frederick County police officer filed a report regarding “harassment” involving Judge Adams and Husband. Per that report, Judge Adams told the

officer that Husband had made frequent internet posts that contained “false, malicious, and defamatory comments about [her].” Judge Adams stated that Husband had also recently submitted a Public Information Act request to the Administrative Office of the Courts seeking information about several judicial officials, herself included. Judge Adams stated that she “wish[ed] not to recuse herself from [the] case[,]” and she asked that the police “not make direct contact with [Husband] at the current time.” Judge Adams asked, rather, that the police “document the information in the event that [Husband] becomes increasingly unstable.”

The report further states that a copy of the report would be sent to select personnel and that the reporting officer would keep Judge Adams “apprised of any alarming, threatening, or unstable posts.” It does not appear that the report was sent to any of the litigants or made part of the circuit court’s record in this case. Husband proffers that he became aware of the report after he filed a Freedom of Information Act request in April 2021.

Wife Files Emergency Motion

On February 25, 2020, Wife filed an “Emergency Motion for Appropriate Relief.” Wife alleged that, in the months leading up to the filing of her motion, Husband had engaged in behavior that raised concerns regarding the safety and well-being of the Children. Specifically, Wife alleged, among other things: that Husband had harassed and retaliated against witnesses; that Husband had harassed and belittled Wife during exchanges with the Children; that Husband had engaged in behavior that resulted in an order of protection being issued by the circuit court; that Husband had subsequently

violated that protective order on two occasions; that Husband had threatened a healthcare worker during a medical appointment with the Children; that Husband had continued posting sensitive information about the Children on social media; and that Husband had consistently failed to return items belonging to the Children. Wife asked that Husband’s access to the Children be restricted to supervised visitation.

Circuit Court Issues Show Cause Order

That same day, the circuit court, Judge Adams presiding, entered a “Show Cause Order” in response to Wife’s emergency motion. The court ordered that Husband’s access to the Children be suspended and that he shall have no contact with the children “until such time as the Court can determine at a hearing, on the record, whether the [Children] are safe while in the presence or vicinity of [Husband.]” The court also ordered Husband to appear in court on March 26, 2020, to show cause “as to why he should not be found in contempt of [the] Court’s Order of February 12, 2020[.]”¹

Husband Files Motion for Recusal

On February 28, 2020, Husband filed a “Motion to Recuse the Honorable Theresa Adams.” In that motion, Husband claimed: that Judge Adams had “shown bias and partiality against [him] and in favor of [Wife], as well as abusing the Maryland Rules of Civil Procedure[;]” that Judge Adams had “refused to recuse herself when requested in open court[;]” that the “bias and partiality” had “reached such extreme levels” that Husband was “compelled to file a grievance with the Commission for Judicial Disabilities[;]” and

¹ That hearing was subsequently cancelled by the circuit court.

that Husband had been “severely prejudiced and damaged by the bias, partiality and abuse of the Maryland Rules[.]” Husband asked that Judge Adams be removed from the case.

Motions Hearing

On March 3, 2020, the circuit court, Judge Adams presiding, held a hearing on several pending matters. At the very beginning of the hearing, before Husband and his counsel had entered the courtroom, an on-the-record exchange occurred between Judge Adams and one of Wife’s attorneys, Danielle Sartwell. During that exchange, Judge Adams told Ms. Sartwell that she had “just made the connection” that another of Wife’s attorneys, Christina Hughes, was “Judge [J. Barry] Hughes’ daughter.”² Judge Adams then stated that she knew Ms. Hughes “when she was little.” It does not appear that Ms. Hughes was present during that hearing. Following that exchange, the proceedings continued without any further discussion regarding Judge Adams’ relationship with Ms. Hughes. Husband proffers that he became aware of the exchange in October 2020 upon review of the court’s recording of the hearing.

Following that exchange, at which point Husband and his attorney had entered the courtroom, the court informed the parties that the custody evaluator, who had previously been appointed to make a custody recommendation to the court, had quit. The court suggested that the children’s current attorney be given an “expand[ed] role” in lieu of appointing a new custody evaluator. The court explained that it was not sure if appointing a new evaluator would be “fruitful” because “almost every professional in this case has

² The Honorable J. Barry Hughes is a former associate judge in the Circuit Court for Carroll County. He retired in 2019.

withdrawn his or her services because of [Husband’s] threatening behavior.” In support of that claim, the court noted: that a daycare provider had declined to provide services for the Children due to Husband’s “personal issues;” that, throughout the proceedings, Husband had repeatedly contacted Judge Adams and other court staff directly regarding the case; that speech therapy for one of the children had been cancelled due to an “incident” involving Husband; that one of the children’s therapists had sent Husband a note stating “do not come back . . . or we will call the police[;]” that one of the children’s therapists had stated that she felt “frightened” and had “been threatened” by Husband; that one of the children’s medical providers had asked that Husband be barred from the medical facility due to threatening behavior; that a different medical provider had reported that she was “concerned for her safety” due to Husband’s behavior at the medical facility; and that, in general, Husband had failed to “cooperate with any professional in this case.”

In the end, the circuit court declared that the Children’s child privilege attorney, who was present at the hearing, would have an “expand[ed] role” going forward. Husband’s counsel stated that neither he nor Husband had an objection. A short time later, the court allowed the Children’s attorney to enter his appearance as the Children’s Best Interest Attorney (“BIA”) so that he could have access to all exhibits and pleadings. Neither Husband nor his attorney objected to the court’s decision.

Circuit Court Denies Husband’s Motion for Recusal

On March 20, 2020, the circuit court, Judge Adams presiding, entered an order denying Husband’s motion for recusal.

Circuit Court Appoints BIA

On March 30, 2020, the circuit court, Judge Adams presiding, entered an order appointing the Children’s child privilege attorney as their BIA. The primary purpose of the order was to grant the BIA the power to provide independent legal services to the Children.

Judge Tisdale Assigned

On April 1, 2020, the acting administrative judge for the circuit court specially assigned a new judge, the Honorable John H. Tisdale, to preside over the case. From that point forward, Judge Tisdale was the acting judge for all hearings, motions, and related matters. Judge Adams did not have any further involvement in the case.

Husband Files Motion to Modify Custody; Circuit Court Denies Motion

On April 18, 2020, Husband filed a motion to modify physical and legal custody of the Children. Husband alleged that Mother had abused the Children. On April 21, 2020, the circuit court denied Husband’s motion.

Husband Files Motion for Appropriate Relief

On May 29, 2020, Husband filed a “Motion for Appropriate Relief.” Husband maintained that the circuit court’s Show Cause Order from February 25, 2020, violated his rights and deprived him of access to the Children. He asked, among other things, that the court schedule an immediate hearing so that he could be heard on the matter.

Show Cause Hearing

On July 29, 2020, the circuit court held a show cause hearing to address Husband’s “access and visitation with the parties’ minor children that had been suspended pursuant to

a Show Cause Order entered by the Court on February 25, 2020.” As a result of that hearing, at which all parties and their counsel were present, the court ordered that Husband’s access to the Children be resumed. On August 19, 2020, the court entered an order granting Husband weekly supervised visits with the Children.

Husband Files Motion to Remove BIA; Circuit Court Denies Motion

On September 2, 2020, Husband filed a motion to have the Children’s BIA removed. Husband alleged that the BIA had not acted with due diligence in representing the Children and that he had been prejudiced as a result. On October 6, 2020, the circuit court denied Husband’s motion.

Judgment of Absolute Divorce Entered

Beginning in November 2020, the circuit court held a six-day merits hearing. During that hearing, all parties and their counsel appeared, testimony was taken, and evidence was received.

On August 13, 2021, based on the evidence presented at the merits hearing, the court entered a judgment of absolute divorce. Per that judgment, Wife was granted primary physical custody of the Children, while Husband was granted access “every other weekend from Friday afternoon through Monday morning, as well as overnight on Tuesdays prior to the weekends when he has access.”

This timely appeal followed. Additional facts will be supplied below.

DISCUSSION

Before discussing Husband’s various claims, we find it prudent to set forth the parameters under which those claims must be reviewed. As discussed in greater detail

below, all of Husband’s claims are based on decisions made by the circuit court, and specifically by Judge Adams, between February 13, 2020, and April 1, 2020. We note, however, that none of those decisions are an appealable final judgment. *See Quillens v. Moore*, 399 Md. 97, 115 (2007) (“[A]n appeal generally must be taken from a final judgment; the decision must be so final as to determine and conclude rights involved, or deny the appellant means of further prosecuting or defending his rights and interests in the subject matter of the proceeding.”) (citations and quotations omitted); *see also* Md. Code, Cts. & Jud. Proc. § 12-301. Of those, only one – the Show Cause Order from February 25, 2020 – was potentially appealable as an interlocutory order, as that judgment deprived Husband of the care and custody of the Children. *See* Md. Code, Cts. & Jud. Proc. § 12-303(3)(x). Nevertheless, Husband did not file an appeal within 30 days of entry of that judgment; therefore, that judgment is not properly before this Court. *See* Md. Rule 8-202(a) (stating that “notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken”); *see also* *Rosales v. State*, 463 Md. 552, 568 (2019) (noting that Md. Rule 8-202(a) is “a binding rule on appellants”). As it stands, the only judgment that is properly before this Court is the divorce judgment entered on August 13, 2021.

We note further that a reviewing court “will not reverse a lower court judgment if the error is harmless.” *Shealer v. Straka*, 459 Md. 68, 102 (2018) (citations and quotations omitted). An error is harmless if the complaining party does not suffer prejudice. *Id.* “[P]rejudice occurs when an error affects the outcome of a case.” *Sumpter v. Sumpter*, 436 Md. 74, 87 (2013). “The party complaining that an error has occurred has the burden of

showing prejudicial error.” *Shealer*, 459 Md. at 102. “Prejudice will be found if a showing is made that the error was likely to have affected the verdict below.” *Id.* (citations and quotations omitted). “[T]he complaining party must show that prejudice was probable, not just possible.” *Sumpter*, 436 Md. at 87.

In sum, the only judgment that is properly before this Court is the judgment of absolute divorce. That is the judgment against which all of Husband’s claims must be assessed. Moreover, in assessing those claims, we must also assess whether Husband has adequately shown that he suffered prejudice as a result of the circuit court’s actions. That is, we must assess whether any errors made by the court likely affected the judgment of absolute divorce to Husband’s detriment. Against that backdrop, we now turn to Husband’s claims.

I.

Husband first contends that Judge Adams erred in failing to recuse herself following the filing of the police report on February 13, 2020. Husband argues that Judge Adams “clearly knew that filing a police report against a litigant was definitive grounds for recusal” and that she had a “professional and ethical duty to recuse herself[.]”³ Husband contends that the police report was filed in response to “constitutionally protected criticism” of Judge Adams, which Husband had posted on the internet. Husband argues that Judge Adams’ response to that criticism, *i.e.* the filing of the police report, indicated

³ Husband claims that Judge Adams “believed that she should have recused herself from the case on February 13th, 2020[.]” That claim is not supported by the record. In the police report from that date, Judge Adams stated that she did *not* want to recuse herself from the case.

“partiality, bias, and active attempts to conceal her actions from [Husband] to avoid recusal.” Husband also claims that Judge Adams’ failure to disclose her prior relationship with one of Wife’s attorneys, which she disclosed at the motions hearing on March 3, 2020, was “indicative of Judge Adams’ attitude and beliefs towards [Husband].”

Wife argues that Husband’s claims are “moot” because Judge Adams was replaced by Judge Tisdale on April 1, 2020. Wife argues further that, even if Husband’s claims are not moot, Judge Adams did not abuse her discretion in refusing to recuse herself following the filing of the police report.

We hold that Judge Adams did not err in refusing to recuse herself. “Generally speaking, a judge is required to recuse himself or herself from a proceeding when a reasonable person with knowledge and understanding of all the relevant facts would question the judge’s impartiality.” *Conner v. State*, 472 Md. 722, 739 (2021) (citations and quotations omitted). “On the other hand, there is a strong presumption ... that judges are impartial participants in the legal process, whose duty to preside when qualified is as strong as their duty to refrain from presiding when not qualified.” *Id.* at 738 (citations and quotations omitted). “Consequently, the decision to recuse oneself ordinarily is discretionary and will not be overturned except for abuse.” *Id.* (citations and quotations omitted). “An abuse of discretion may occur when no reasonable person would take the view adopted by the trial court, or when the court acts without reference to any guiding rules or principles, or when the ruling is clearly against the logic and effect of facts and inferences before the court.” *Gizzo v. Gerstman*, 245 Md. App. 168, 201 (2020).

We hold that Judge Adams did not abuse her discretion in refusing to recuse herself. The two examples of “bias” cited by Husband – the filing of the police incident report by Judge Adams and Judge Adams’ prior relationship with one of the attorneys in the case – are in no way indicative of any partiality on the part of Judge Adams. The record shows that Judge Adams had legitimate concerns regarding Husband’s behavior, namely, his use of social media to post inappropriate content aimed at her. Judge Adams initiated the incident report not to retaliate against or otherwise target Husband, but rather to simply create a record in the event that Husband’s behavior became “increasingly unstable.” Judge Adams made clear that Husband was not to be contacted about the report, and it does not appear that he was, nor does it appear that the incident report had any effect on the proceedings. Judge Adams, in creating the report, also made clear that she did not believe that recusal was appropriate at that juncture. Nothing about that decision suggests bias.

As for Judge Adams’ prior relationship with Mother’s counsel, Judge Adams merely remarked that such a relationship existed. There is nothing in the record to show that that relationship affected Judge Adams’ ability to be impartial. *See Hill v. Hill*, 79 Md. App. 708, 716 (1989) (noting that a judge’s personal relationship with the parties is not conclusive as to bias). Our review of the record gives us no reason to question either the fairness, integrity, or impartiality of Judge Adams.

Assuming, *arguendo*, that Judge Adams erred in refusing to recuse herself, we hold that Husband has failed to establish that he was prejudiced by Judge Adams’ decision. Judge Adams was removed from the case and replaced by Judge Tisdale on April 1, 2020. From that point forward, Judge Adams was not involved in the case, which continued for

another sixteen months until the circuit court entered the judgment of absolute divorce on August 13, 2021. Husband has presented no evidence to show that Judge Adams’ failure to recuse herself had any effect on Judge Tisdale’s determinations regarding the judgment of absolute divorce. To the contrary, the record makes plain that Judge Tisdale decided the case on the merits and that Judge Adams’ prior refusal to recuse herself had no impact on the judgment of absolute divorce. Because Husband has failed to show prejudice, we need not discuss his claims any further.

II. and III.

Husband next claims that all orders issued by Judge Adams between February 13, 2020, when Judge Adams purportedly should have recused herself, and April 1, 2020, when Judge Tisdale was assigned to the case, are “tainted” and should be deemed “fruit of the poisonous tree.” Specifically, Husband takes umbrage at three orders: the Show Cause order, entered on February 25, 2020; the order denying Husband’s recusal motion, entered on March 20, 2020; and the order appointing a BIA for the Children, entered on March 30, 2020. Husband asserts that those orders “substantially influence[d] the divorce proceedings.” As to the show cause order, which suspended Husband’s access to the Children, Husband argues that the order restricted him “from gathering much needed information for the family law case.” As to the order denying his recusal motion, Husband presents no specific argument as to how that order affected the outcome of the case. Finally, as to the order appointing the BIA, Husband argues that the order was illegal given Judge Adams’ actions in the case.

Wife argues that Husband has failed to cite to any portion of the record to show that the various orders had a substantial impact on the divorce judgment. Wife also argues, as she did in Part I, that the circuit court did not err in denying Husband’s motion to recuse. As to the other orders, Wife argues that Husband should have, but failed to, make a timely challenge to those orders. Wife finally asserts that, even if the court erred in entering the various orders, those errors were ultimately harmless.

We hold that Husband’s claims are meritless and not supported by the record. As to the Show Cause order from February 25, 2020, although the order did deprive Husband of access to the Children, the propriety of that order is not properly before this Court because Husband failed to file a timely appeal. In any event, that order was effectively nullified when, on August 19, 2020, the court ordered that Husband’s access to the children be resumed via supervised visitation. Aside from his bald assertion that he could not gather “much needed information,” Husband has presented no evidence to show that he was prejudiced as a result of his lack of access to the Children between February and August 2020. Husband has likewise provided no explanation as to how the divorce judgment would have been different had his access to the children not been suspended.⁴ Without any such evidence or explanation, we cannot say that Husband was prejudiced.

As to the order from March 20, 2020, in which the court denied Husband’s motion for recusal, Husband has again failed to provide any evidence that he was prejudiced by

⁴ Husband’s failure to explain any detrimental effect is perhaps understandable given that his access to the Children actually increased following the entry of the divorce judgment.

that decision. As discussed, Judge Adams was not involved in the case after Judge Tisdale was specially assigned on April 1, 2020. Thus, Husband’s motion was effectively granted, albeit ten days later. There is nothing in the record to indicate that Husband was prejudiced by that ten-day delay.

Finally, as to the order appointing a BIA for the Children, the record shows that Husband consented to that decision during the motions hearing on March 3, 2020. Husband cannot now claim that the circuit court erred in entering an order to which he agreed. *See Simms v. State*, 240 Md. App. 606, 617 (2019) (“[W]here a party acquiesces in a court’s ruling, there is no basis for appeal from that ruling.”).

To be sure, a party may move to strike a BIA, which Husband did on September 2, 2020, and the propriety of an order denying such a motion may be reviewed on appeal. *See McAllister v. McAllister*, 218 Md. App. 386, 402-05 (2014). But Husband does not claim that the circuit court erred in denying his motion. In fact, Husband states quite clearly that the instant appeal is “not about the performance of [the BIA’s] duties, but about the legality of the order appointing him as Best Interest Attorney and whether or not he substantially influenced the outcome of the divorce proceedings.” We therefore will abide by Husband’s wishes and confine our review to the propriety of the order from March 30, 2020. And, as discussed, that order is not reviewable because Husband consented.

We conclude by emphasizing that we have purposely declined to discuss the specifics of all of Husband’s claims. The sole reason is that those extraneous discussions are irrelevant to the determination of Husband’s appeal. Our refusal to engage in those

discussions should not be interpreted as suggesting that Judge Adams, or any other judge, acted improperly in this case or that any of Husband’s additional claims have merit.

**JUDGMENT OF THE CIRCUIT COURT
FOR FREDERICK COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**