

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0005

September Term, 2016

ANDREA TRYBUS

v.

DAVID TRYBUS

Krauser, C.J.,
Graeff,
Leahy,

JJ.

PER CURIAM

Filed: October 6, 2016

*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.

Andrea Trybus, appellant, filed this appeal *pro se*, after the Circuit Court for Montgomery County declined to confirm her registration of a child-custody order, issued by the Circuit Court for Frederick County, as an out-of-state order, and, instead, vacated that order and then transferred her motion to modify the Frederick County custody order to that circuit court. On appeal, Ms. Trybus presents fifteen issues for our review; however, for the reasons that follow, those issues are not properly before this court.

I.

Appellant and appellee, David Trybus, were formerly married and are currently the parents of three minor children. Appellant is presently a resident of Montgomery County. The minor children, currently live in Frederick County with their father, appellee. In 2014, the Circuit Court for Frederick County issued an Amended Judgment of Absolute Divorce that ratified and affirmed a November 2013 custody order granting sole legal and physical custody of the parties' children to appellee.

On January 5, 2016, appellant filed, in the Circuit Court for Montgomery County, a motion to modify the Frederick County custody order and a petition to register that order as a “foreign custody determination,” pursuant to the Maryland Uniform Child Custody Jurisdiction and Enforcement Act (the MUCCJEA), codified in Maryland Code (1984, 2012 Replacement Volume), Family Law Article (“FL”), §§ 9.5–101 *et seq.* In response, appellee filed an objection to the registration of the Frederick County order, because it was not issued by a “court of another state” as required by FL § 9.5-305(a), and a motion to dismiss appellant’s motion to modify that order, arguing that Montgomery County lacked jurisdiction over the minor children and that appellee had not alleged a sufficient change

of circumstances warranting modification of custody. Alternatively, appellee requested that the circuit court transfer venue to Frederick County, where the parties’ minor children resided and all of the parties’ prior custody claims had been adjudicated.

A hearing was subsequently held by the Montgomery County Circuit Court on February 26, 2016, during which the only issues raised were: (1) whether the Frederick County custody order should be registered in Montgomery County; (2) whether the motion to modify custody should be dismissed for failure to plead a change of circumstances; and (3) whether, if not dismissed, the motion to modify custody should be heard in Montgomery County. Following that hearing, the circuit court issued two orders on March 3, 2016. The first order refused to confirm and vacated appellant’s registration of the Frederick County custody order because it was not issued by a court of another state. The second order denied appellee’s request to dismiss appellant’s motion to modify custody but granted his alternative request to transfer the case to Frederick County. From both of those orders, appellant noted an appeal.

II.

The first issue we must address is appellee’s claim that the appeal should be dismissed because the March 3rd orders are not final judgments.

Generally, a party only has the right to appeal from a final judgment. *See Addison v. Lochearn Nursing Home, LLC*, 411 Md. 251, 267 (2009) (“[T]here is a long-standing bedrock rule of appellate jurisdiction . . . that, unless otherwise provided by law, the right to seek appellate review . . . ordinarily must await the entry of a final judgment that disposes of all claims against all parties.”). “[A] ruling of the circuit court, to constitute a final

judgment, must be an unqualified, final disposition of the matter in controversy, which decides and concludes the rights of the parties involved or denies a party the means of further prosecuting or defending rights and interests in the subject matter of the proceeding.” *American Bank Holdings, Inc. v. Kavanagh*, 436 Md. 457, 463 (2013) (internal quotation marks and citations omitted). “In determining whether a particular court order or ruling is appealable as a final judgment, we assess whether any further order was to be issued or whether any further action was to be taken in the case.” *In re Katerine L.*, 220 Md. App. 426, 437 (2014) (citation omitted). “Thus, it is well settled that an order denying a party the ability to pursue claims anywhere is an immediately appealable final order.” *Kavanagh*, 436 Md. at 464.

With respect to the orders being appealed in this case, “an order transferring a case from one circuit court to another, for proper venue or for a more convenient forum, and thereby terminating the litigation in the transferring court, is a final judgment and thus immediately appealable.” *Smith v. Johns Hopkins Comty. Physicians, Inc.*, 209 Md. App. 406, 411 (2013) (citation omitted). Accordingly, the trial court’s March 3rd order, granting appellee’s motion to transfer venue from Montgomery County to Frederick County is a final, appealable order.

We further hold that the trial court’s March 3rd order, declining to confirm and vacating appellant’s registration of the Frederick County custody order, as an out-of-state order, was also a final judgment. Section 9.5-305(a) of the MUCCJEA provides that “[a] child custody determination issued by a court of another state [or country] may be registered in this State, with or without a simultaneous request for enforcement, by sending

the appropriate court in this State” a letter requesting registration and certain specified documents, including a certified copy of the out-of-state custody order. After such a request is made, a two-step process occurs. First, the registering court must cause the determination to be filed as a foreign judgment and serve notice on any parent, or person acting as a parent, who has been awarded custody or visitation in the child-custody determination that is sought to be registered, and provide them with an opportunity to contest the registration. *See* FL § 9.5-305 (b). Second, the registration of the order must be “confirmed.” This occurs either by operation of law if no request for a hearing is filed by any party within 20 days after service of notice or after the court conducts a hearing and confirms that the orders meet the requirements for registration in this State. *See* FL §§ 9.5-305 (d), (e). Confirmation of the registered order precludes further contest of the order with respect to any matter that could have been asserted at the time of registration. *See* FL § 9.5-305 (f).

Based on the plain language of § 9.5-305, the filing of a petition to register an out-of-state child-custody determination is a separate action that is not dependent on the existence of another legal claim. Moreover, if a party does make a simultaneous request to enforce such an order, confirmation of that order, either by operation of law or by judicial order following a hearing, is a prerequisite for granting relief. An order by the trial court refusing to confirm and vacating the registration of foreign child custody judgment therefore conclusively decides the validity of that judgment for both registration and enforcement purposes under the statute. If confirmation is denied and the registration is vacated, the proceeding then terminates because there is nothing left for the trial court to

do with respect to registration or enforcement of that order and there is no other forum in which the party seeking registration can obtain relief. Accordingly, the March 3rd order was a final judgment and therefore appealable to this Court.

III.

Although this Court has jurisdiction to review the March 3rd orders, appellant has not demonstrated that she is entitled to relief on appeal. Appellant raises fifteen issues in her brief, all of which are based on the trial court’s having “denied” her motion to modify custody. However, the record demonstrates that the circuit court did not deny appellant’s motion to modify custody but, instead, transferred the case to Frederick County. Moreover, none of appellant’s claims are preserved for appeal as they were not raised in or decided by the circuit court. *See* Md. Rule 8-131(a) (stating this court will not decide an issue “unless it plainly appears by the record to have been raised in or decided by the trial court”).

Finally, appellant does not contend that the trial court erred in either vacating the registration of the Frederick County order or in transferring the case to Frederick County, the only matters that were actually decided by the trial court. Accordingly, we do not address those issues on appeal. *See Burson v. Capps*, 440 Md. 328, 340 n.18 (2014) (“[A]rguments not presented in a brief or not presented with particularity will not be considered on appeal.” (citation and quotation marks omitted)).

**JUDGMENTS OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**