UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1236

September Term, 2015

EDWARD G. TINSLEY

v.

MICHELLE T. TOWNSEND, et al.

Krauser, C.J.,
Nazarian,
Eyler, James, R.
(Retired, Specially Assigned),

JJ.

PER CURIAM

Filed: June 20, 2016

After this Court issued its mandate in *Tinsley v. Townsend*, Nos. 1483 & 2516, September Term, 2012 (April 15, 2014), a previous appeal involving the same parties, the Circuit Court for Prince George's County entered an April 2, 2015, order granting the court-appointed trustee's motion for extraordinary attorney's fees and costs ("April 2 order"). Edward Tinsley, appellant, thereafter filed a motion to revise and strike the April 2 order on April 27, 2015, and his third motion to recuse on May 2, 2015. On July 23, 2015, the circuit court denied appellant's motion to revise and strike the judgment, denied appellant's motion to recuse, and closed the case for statistical purposes ("July 23 order"). Appellant appeals presenting ten questions for our review; however, for the reasons set forth below, the only issue properly before this court is whether the trial court abused its discretion in denying his third motion to recuse. Finding no abuse of discretion, we affirm.

The following claims of appellant are not properly before this Court because they were either raised or could have been raised in his previous appeal. *See Reier v. State Dept. of Assessments and Taxation*, 397 Md. 2, 21 (2007) ("[L]itigants cannot prosecute successive appeals in a case that raises the same questions that have been previously decided by this Court in a former appeal of that same case; and, furthermore, they cannot, on the subsequent appeal of the same case raise any question that could have been presented in the previous appeal on the then state of the record, as it existed in the court of original jurisdiction." (internal quotation marks and citation omitted)). Those claims are that (1) the circuit court erred in granting the trustee's prior motions for contempt; (2) the circuit court erred in permitting appellee to reopen the case in 2011; (3) the circuit court erred in

changing the terms of the parties' martial settlement without his consent; (4) the circuit court abused its discretion in granting appellee's motion to appoint a trustee; (5) the parties' martial settlement agreement is void; (6) the circuit court erred in denying his first and second motions to recuse; (7) the circuit court erred in denying his motion to dismiss the trustee; and (8) the circuit court abused its discretion by allowing the trustee to file motions on behalf of appellee.

Moreover, appellant's claims that he is entitled to a portion of the proceeds from the sale of the parties' residential property and that the circuit court erred by statistically closing the case are not preserved for appeal as appellant withdrew his motion for release of funds prior to this appeal, did not attempt to re-file it, and did not object below when the circuit court closed the case. *See* Md. Rule 8-131 (a) (noting 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").

Because appellant's motion to revise and strike the April 2nd order was filed more than ten days after that order was entered, it did not stay the time period in which the April 2nd order could be appealed and therefore only the July 23rd order was timely appealed. *See* Md. Rule 8–202(c); *Stephenson v. Goins,* 99 Md. App. 220 225-26 (1994). Appellant's brief, however, only attacks the validity of April 2nd order and does not argue that the trial court's denial of his post-judgment motion constituted an abuse of discretion. *See Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002) ("Appellate consideration of a denial of a motion to reconsider, or some similar post-trial revisiting already decided issues, does not subsume the merits of a timely motion made during the trial."). Therefore

appellant has waived any challenge to the trial court's denial of that motion. *See Broadcast Equities, Inc. v. Montgomery County,* 123 Md. App. 363, 390 (1998) (noting that arguments not presented in a brief or not presented with particularity will not be considered on appeal).

In any event, appellant's sole argument with respect to validity of the trial court's award of attorney's fees is that the trustee was not entitled to file legal pleadings because he was not a party and not representing appellee. Contrary to appellant's claim, however, nothing in the record indicates the pleadings signed by the trustee were filed on behalf of appellee. Moreover, Md. Code, Estates and Trusts §§ 15-102 (a)(3)(i), (p)(1) specifically provide that a fiduciary, which includes court-appointed trustees, "may prosecute, defend, or submit to arbitration any actions, claims, or proceedings in any jurisdiction for the protection of the fiduciary estate." Under these circumstances, appellant could not demonstrate that the trial court abused its discretion in refusing to revise or strike the April 2 order even if the issue were not waived.

As to the only issue properly before this Court, nothing in the record persuades us appellant has successfully shouldered the "heavy burden to overcome the presumption of [the trial court's] impartiality," *Karanikas v. Cartwright*, 209 Md. App. 571, 579 (2013), and we therefore find no abuse of discretion in the denial of appellant's motion to recuse.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.