

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

MARY ANN KUHL,
Respondent Below, Petitioner

v.) No. 24-ICA-348 (Fam. Ct. Ohio Cnty. Case No. FC-35-2023-D-70)

ARNOLD E. KUHL, JR.
Petitioner Below, Respondent

FILED
February 28, 2025

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Mary Ann Kuhl (“Wife”) appeals the Family Court of Ohio County’s August 7, 2024, order addressing the sale of the parties’ marital home. Respondent Arnold E. Kuhl, Jr. (“Husband”) filed a response in support of the family court’s decision.¹ Wife filed a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2022). After considering the parties’ arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the family court’s order is appropriate under Rule 21 of the Rules of Appellate Procedure.

Husband and Wife were divorced by final order entered on January 3, 2024. Wife desired to buyout Husband’s interest in the marital home. In the final order, the family court gave Wife 120 days to attempt to refinance the home. Wife was permitted to reside in the home during the 120 days and was also responsible for all costs associated with the home, including the mortgage, utilities, and taxes. If she was able to refinance, the transaction was to be completed within 160 days from the date of the entry of the final order. The payment necessary to equalize equitable distribution was \$13,847.11, payable to Husband upon Wife’s refinancing.

Alternatively, the family court held that if at any time Wife was more than thirty days late on the mortgage payment or was unable to refinance the home, the buyout provision would be void and the home would immediately be placed for sale. The family court further directed that: (1) if the home sold for \$116,000 or more, Wife would receive one-half of the proceeds plus any increase in equity and \$5,996.89 for her share of equitable distribution; or (2) if the home sold for less than \$76,312, Wife would receive no equity

¹ Both parties are self-represented.

payment and would have ninety days in which to pay Husband the balance of any amount owed.

Wife was unable to obtain refinancing. Husband filed a motion to sell the marital home. The family court entered an order directing the sale of the home on August 7, 2024. Because the parties were unable to agree on a realtor, the family court appointed one and ordered Wife to vacate the home within thirty days, which would have been September 6, 2024. Wife filed a motion for stay with the family court on August 29, 2024, which was denied by order entered on September 3, 2024, holding that Wife already resided in the home for 240 days and presented no evidence that she was able to obtain refinancing. It is from the August 7, 2024, order that Wife now appeals.

For these matters we apply the following standard of review:

When a final order of a family court is appealed to the Intermediate Court of Appeals of West Virginia, the Intermediate Court of Appeals shall review the findings of fact made by the family court for clear error, and the family court's application of law to the facts for an abuse of discretion. The Intermediate Court of Appeals shall review questions of law de novo.

Syl. Pt. 2, *Christopher P. v. Amanda C.*, 250 W. Va. 53, 902 S.E.2d 185 (2024); *accord* W. Va. Code § 51-2A-14(c) (2005) (specifying standards for appellate court review of family court orders).

On appeal, Wife raised eleven assignments of error. At the outset, we note that nine of those assignments of error reference various issues that are not properly before this Court because they are not addressed in the order at issue in this appeal.² The sole issue addressed in the August 7, 2024, order is how the parties were to proceed with the sale of the marital home. Further, Wife did not cite to the record or offer support for any of her arguments. Rule 10(c)(7) of the West Virginia Rules of Appellate Procedure states that briefs “must contain an argument clearly exhibiting the points of fact and law presented, the standard of review applicable, and citing the authorities relied on, under headings that correspond with the assignments of error. *See State v. LaRock*, 196 W. Va. 294, 302, 470 S.E.2d 613, 621 (1996) (“Although we liberally construe briefs in determining issues presented for review, issues which are not raised, and those mentioned only in passing but are not supported with pertinent authority, are not considered on appeal.”). *See also* Syl. Pt. 6, *Addair v. Bryant*, 168 W. Va. 306, 307, 284 S.E.2d 374, 376 (1981) (stating an appellate court may disregard errors

² The improper assignments of error include those regarding mental health, the parties' marital vehicle, allegations of harassment by Husband, attorney's fees, an alleged murder plot, alleged vexatious litigation, expenses related to the marital home, and Husband's pocket watch.

not adequately supported by specific references to the appellate record). Therefore, we will not address nine of Wife’s eleven assignments of error.

As her seventh assignment of error, Wife asserts that the family court failed to rule on her motion for stay, which Wife contends was a violation of due process. We disagree. A review of the record shows that Wife filed her motion for stay in the family court on August 29, 2024, and the family court denied it on September 3, 2024. Therefore, this issue is moot and we decline to address it. “Moot questions or abstract propositions, the decision of which would avail nothing in the determination of controverted rights of persons or of property, are not properly cognizable by a court.” Syl. Pt. 1, *State ex rel. Lilly v. Carter*, 63 W. Va. 684, 60 S.E. 873 (1908).³

Lastly, Wife contends in her eleventh assignment of error that the family court should have appointed her legal counsel for the family court proceedings at no cost to her. We disagree. Pursuant to *In Interest of Z.D.*, 239 W. Va. 890, 896, 806 S.E.2d 814, 820 (2017) “an indigent litigant is not entitled to court-appointed counsel in a domestic relations proceeding.” Therefore, we cannot conclude that the family court’s failure to appoint Wife free legal counsel was erroneous or an abuse of discretion.

Accordingly, we affirm the family court’s August 7, 2024, order.

Affirmed.

ISSUED: February 28, 2025

CONCURRED IN BY:

Chief Judge Charles O. Lorensen
Judge Daniel W. Greear
Judge S. Ryan White

³ Wife also mentioned in her notice of appeal that she “filled out a paper asking [the judge] to give [her] a hearing for an extension so [she] could come up with the money” to pay Husband. She alleged that the family court granted her a hearing, during which she requested up to a year extension, and that the judge promised to issue a decision within a week to a month but failed to rule on her request for two months. However, because Wife did not include any documentation in support of her argument in the record, we are unable to consider this argument.