

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

June 6, 2025

**MELISSA GRAJALES,
Petitioner Below, Petitioner**

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

v.) No. 24-ICA-499 (Fam. Ct. Berkeley Cnty. Case No. FC-02-2021-D-761)

**ANGEL RODRIGUEZ,
Respondent Below, Respondent**

MEMORANDUM DECISION

Petitioner Melissa Grajales appeals the Family Court of Berkeley County's December 4, 2024, order dismissing her motion for contempt for failing to appear at the final hearing. Respondent Angel Rodriguez did not participate in this appeal.¹

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2024). 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.

The parties were married in 1998 and divorced by a final divorce order entered on February 10, 2022. The final divorce order required Mr. Rodriguez to pay Ms. Grajales spousal support in the amount of \$1,000 per month for a period of ten years. The order stated that "spousal support shall terminate upon the death of either party, the remarriage of [Ms. Grajales] or the expiration of ten (10) years, whichever first occurs."

On July 24, 2024, Ms. Grajales filed a petition for contempt alleging that Mr. Rodriguez had not paid his spousal support obligation since May of 2024. The family court held an initial hearing on the petition on September 23, 2024. By order entered September 30, 2024, the court found that Mr. Rodriguez recently became unemployed, and that he filed paperwork for retirement in April of 2024 but had not yet began receiving retirement benefits. The court ordered that a final hearing on the petition for contempt would be held on November 25, 2024.

Due to a scheduling conflict, on October 1, 2024, the family court entered an order resetting the November 25, 2024, final hearing for December 3, 2024, at 9:00 a.m. On

¹ Ms. Grajales is self-represented.

December 3, 2024, the date of the final hearing, Ms. Grajales failed to appear. By final order entered on December 4, 2024, the family court dismissed Ms. Grajales' petition for contempt due to her failure to appear. It is from this order that Ms. Grajales now appeals.

When reviewing the order of a family court, 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, Ms. Grajales argues one assignment of error. She contends that the family court erroneously dismissed her petition for contempt due to a misunderstanding. Ms. Grajales asserts that she incorrectly believed the final hearing to be scheduled for 9:30 a.m., instead of 9:00 a.m., and due to this misunderstanding, the family court abused its discretion by dismissing her petition. We disagree.

The Supreme Court of Appeals of West Virginia has long held the following:

Cases should be decided on the merits, and to that end, justice is served by reasonably accommodating all parties, whether represented by counsel or not. This "reasonable accommodation" is purposed upon protecting the meaningful exercise of a litigant's constitutional right of access to the courts. Therefore, ultimately, the *pro se* litigant must bear the responsibility and accept the consequences of any mistakes and errors.

Blair v. Maynard, 174 W. Va. 247, 253, 324 S.E.2d 391, 396 (1984) (emphasis added). The general principles of judicial economy prohibit granting relief to the party who, after creating the problem, now seeks relief. *See Young v. Young*, 194 W. Va. 405, 409, 460 S.E.2d 651, 655 (1995). The party who caused the error should not be advantaged on appeal by that same error. *Id.*; *see also Comer v. Ritter Lumber Co.*, 59 W. Va. 688, 689, 53 S.E. 906, 907 (1906) (finding that one of the parties "has invited the error and must accept its results.").

In her brief to this Court, Ms. Grajales acknowledged that she mistakenly believed the hearing was scheduled for a later time. As the party who caused the error, she must accept the results. Thus, based on the record, we are unable to conclude that the family

court erred by dismissing Ms. Grajales' petition due to her own misunderstanding.² Further, we note that the family court has the authority and discretion to "manage the business before them" under West Virginia Code § 51-2A-7(a)(1) (2013), which includes dismissal of matters where parties fail to appear at properly noticed final hearings.

Accordingly, we affirm the Family Court of Berkeley County's December 4, 2024, order.

Affirmed.

ISSUED: June 6, 2025

CONCURRED IN BY:

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

² Nothing prohibits Ms. Grajales from filing another petition for contempt in family court.