IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED
November 10, 2026
ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

JOHN FUMICH,
Respondent Below, Petitioner

v.) No. 25-ICA-461 (Fam. Ct. Monongalia Cnty. Case No. FC-31-2024-D-114)

JUDITH RENZELLI,
Petitioner Below, Respondent

MEMORANDUM DECISION

Petitioner John Fumich ("Husband") appeals the Family Court of Monongalia County's amended divorce order entered October 28, 2025. Respondent Judith Renzelli ("Wife") filed a response with cross-assignments of error.[1] Husband did not file a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). 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 West Virginia Rules of Appellate Procedure.

The parties were married on February 15, 2018, in Harrison County, West Virginia. The parties last lived together as husband and wife on September 26, 2023, in Monongalia County, West Virginia. No children were born of the marriage. Sometime in September 2023, Wife sought a domestic violence protective order ("DVPO") against Husband based on allegations that became the basis of Husband's arrest for domestic battery. The court held a hearing on the DVPO on November 9, 2023, at which Husband did not contest the entry of the DVPO due to the outstanding criminal charge against him and the DVPO was granted by the court. Wife filed a petition for divorce on April 19, 2024. The family court held an initial hearing on June 5, 2024, at which the court awarded temporary spousal support to Wife in the amount of $1,500.00 per month and directed Husband to continue to pay for Wife's health insurance.

Wife filed a petition for contempt on February 25, 2025, alleging that Husband had removed her from his health insurance without court approval sometime in October 2024. The family court entered an order on March 14, 2025, finding Husband in contempt and ordered him to immediately place Wife back on his health insurance. The court further ordered that Husband would be solely responsible for all of Wife's health-related bills from

[1] Husband is represented by Jason E. Wingfeld, Esq. Wife is self-represented.

the date he removed her from health insurance until she was reinstated on his health insurance. Neither party appealed that order. Wife filed another petition for contempt on May 7, 2025, alleging that Husband failed to reinstate Wife to his health insurance as previously ordered. The family court held a hearing on June 12, 2025, at which the court ordered Husband to place Wife back on his insurance and ruled that Husband would be fined $50.00 per day for each day that he failed to place Wife back on his insurance. Accordingly, Husband owed a total of $5,100.00 in fines and the court ordered Husband to pay these fines to the circuit clerk within ninety days of the entry of the order. The family court entered the order on June 16, 2025. Neither party appealed that order.

Husband filed a motion for sanctions on August 4, 2025, alleging that sanctions should be imposed on Wife for her continued outrageous conduct. Husband alleged that Wife impersonated him to cancel his car insurance and obtain his credit report and contacted Husband's employer to spread false information about him.

The family court held a final hearing on October 17, 2025. In the final order entered October 28, 2025, the court found that the DVPO dated November 9, 2023, was sufficient evidence to grant Wife's petition for divorce on the grounds of cruel and inhuman treatment as well as irreconcilable differences. The final order noted that neither party filed a completed, verified financial statement. The family court also found that Wife had failed to provide the court with the required evidence to substantiate her alleged medical condition and to show that the condition began during the marriage or that Husband was somehow to blame for it. The family court noted Husband's motion for sanctions filed August 4, 2025, and found that said motion would be denied by a separate order.

The final order further dealt with property distribution. The court found that neither party had an appraisal completed on the marital home and because they disagreed as to the value, that the marital home was to be sold at auction within ninety days of the entry of the order and that the parties would split the proceeds equally after expenses. Similarly, the household goods were never appraised, and the parties disputed their value. The court granted Wife all household goods based on the court's finding of cruel and inhuman treatment. The court further ordered the parties' two side-by-side vehicles sold at auction and that the parties would divide the proceeds from the sale equally. The court awarded each party their own vehicle.

The court ordered Husband's retirement accounts divided by Qualified Domestic Relations Order ("QDRO") and addressed the debts owed by the parties. The court awarded Wife temporary spousal support of $1,500.00 per month for (9) months, effective October 1, 2025. Lastly, the final order reiterated the previous contempt order and ordered Husband to pay the $5,100.00 penalty for removing Wife from his health insurance. The court further ordered that Husband would be responsible for paying all of Wife's medical expenses from the date he removed her from his health insurance until October 17, 2025. It is from the order entered October 28, 2025, that Husband 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, Husband raises four assignments of error and Wife asserts seven cross-assignments of error. These assignments of error will be reordered and consolidated for our analysis. First, Husband argues that the family court erred by ordering him to pay $50.00 per day for 102 days ($5,100.00) for failing to reinstate Wife's health insurance coverage after he removed her without court approval. Although this fine was incorporated into the order on appeal, the sanction was originally ordered in a contempt order entered June 16, 2025, and Husband failed to timely appeal that order. Therefore, the family court's sanction is no longer open to challenge. Mere incorporation of a prior contempt order's sanction into the final divorce order does not transform the right to challenge the sanction into a newly appealable ruling. As such, we decline to further address this assignment of error.

Second, Husband contends that the family court erred in finding that Wife had not engaged in cruel and inhuman treatment against Husband. Although not included in Husband's appendix, a review of the hearing recording revealed that Husband filed a cross-petition for divorce on the grounds of cruel and inhuman treatment. At the final hearing, Husband testified as to why he should be granted a fault-based divorce on these grounds. However, the events about which Husband testified occurred post-separation. The family court found that the fraud allegations Husband presented were post-separation and did not establish grounds tied to the breakdown of the marriage. Further, the family court took judicial notice of the DVPO granted November 9, 2023, and found that was sufficient evidence to grant Wife's petition for divorce on the grounds of cruel and inhuman treatment. Based on our review of the record, we find no reason to disturb these findings. See *State v. Guthrie*, 194 W. Va. 657, 669 n.9, 461 S.E.2d 163, 175 n.9 (1995) (stating that "[a]n appellate court may not decide the credibility of witnesses or weigh evidence as that is the exclusive function and task of the trier of fact").

Next, Husband argues that the family court abused its discretion by including non-marital assets in the final divorce order. Husband claims that the court erred by including his pre-marital Ford F-150 and pre-marital portions of his retirement accounts in equitable distribution. West Virginia Code § 48-1-233 (2001) defines marital property in part as,

"[p]roperty and earnings acquired by either spouse during a marriage." By contrast, West Virginia Code § 48-1-237(1) (2001) defines separate property in part as, "[p]roperty acquired by a person before marriage." The Supreme Court of Appeals of West Virginia ("SCAWV") has recognized that these statutes reflect a "marked preference for characterizing the property of the parties to a divorce action as marital property." *See* Syl. Pt. 3, *Whiting v. Whiting*, 183 W. Va. 451, 396 S.E.2d 413 (1990). Because West Virginia law presumes property is marital, the burden falls on the party asserting non-marital status to prove it through evidence and argument. *Id.* Upon reviewing the record before us, we could find no mention of Husband arguing that the Ford F-150 was separate property. The SCAWV has held, "when nonjurisdictional questions have not been decided at the trial court level and are then first raised before this Court, they will not be considered on appeal." *Whitlow v. Bd. of Educ. of Kanawha Cnty*., 190 W. Va. 223, 226, 438 S.E.2d 15, 18 (1993). As such, we find this assignment of error as it relates to Husband's truck has been waived, and we decline to entertain the issue on appeal.

Husband's argument concerning his retirement accounts is equally unpersuasive. The order on appeal directs that Husband's retirement accounts be divided by QDRO and that the "QDRO shall specify the date of marriage until the date of separation." By tying the QDRO to the marriage-to-separation window, the family court intended to exclude pre-marital and post-separation accruals. The SCAWV has routinely held that "the distribution of retirement benefits . . . to a former spouse is accomplished through a qualified domestic relations order and not through the terms of the final order of divorce." *Jones v. W. Va. Pub. Emps. Ret. Sys.*, 235 W. Va. 602, 613, 775 S.E.2d 483, 494 (2015). Because the order confines the QDRO to the term of the marriage, Husband's contention that pre-marital accruals were included is without merit and not supported by the record.

Lastly, Husband contends that the family court erred in refusing Husband's request to cross-examine Wife and that the court relied on Wife's evidence over his objections. Husband argues that Wife repeatedly emphasized her ailing health as grounds for temporary spousal support, but the court refused to allow Husband the opportunity to cross-examine Wife on this subject. We are unpersuaded by Husband's argument. Under Rule 611(a) of the West Virginia Rules of Evidence, the court "should exercise reasonable control over the mode and order of examining witnesses . . . [to] avoid wasting time." A party "is entitled to an adequate cross-examination," but "this does not mean that a court can set no time constraints"; reasonable time limits do not deny this right. *See King v. Kayak Mfg. Corp*., 182 W. Va. 276, 289, 387 S.E.2d 511, 524 (1989). Here, this case involved one self-represented litigant, voluminous exhibits, and a hearing set for three hours. It was well within the court's discretion to set a time-based limitation on examination. Additionally, Husband has failed to show on the record that the court's limitation substantively affected the outcome of this case. Further, in its analysis of the spousal support factors under West Virginia Code § 48-6-301(b), the family court found that Wife failed to substantiate her claim that she is unable to work. Furthermore, the family court's award of temporary spousal support award does not rest on Wife's alleged inability to work; it is based on the

age of the parties and length of marriage. Because Wife failed to prove that she is disabled, cross-examination on this subject by Husband would not have changed the outcome. Therefore, any error the family court might have made in limiting Husband's cross-examination was harmless.

Next, we turn to Wife's cross-assignments of error. In response to Husband's appeal, Wife asserts seven cross-assignments of error. To summarize, Wife argues that she was denied due process and the opportunity to be heard, and that the court failed to properly consider domestic violence, coercive control, and economic abuse. Further, she argues that the court improperly excluded evidence and testimony, that the court failed to address the dissipation of marital assets, and that the court failed to provide reasonable accommodations required by the Americans with Disabilities Act. Rule 10(c) of the West Virginia Rules of Appellate Procedure requires that arguments before the ICA "clearly exhibit[] the points of fact and law," state the applicable standard of review, cite the governing authorities under headings that correspond to each assignment, and "contain appropriate and specific citations to the record on appeal, including citations that pinpoint when and how the issues . . . were presented to the lower tribunal." Further, this Court "may disregard errors that are not adequately supported by specific references to the record on appeal." *Id*.

Here, Wife's seven cross-assignments of error are largely strings of conclusory bullet points of alleged errors and case names. Wife failed to set forth any argument applying the cited authority to identified facts in the record and further failed to pinpoint citations showing where each issue was raised or ruled on below. Cross-assignments of error not developed with argument are independently waived. *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, 284 S.E.2d 374 (1981) (stating an appellate court may disregard errors not adequately supported by specific references to the appellate record). While Rule 10(f) of the West Virginia Rules of Appellate Procedure allows Wife to cross-assign error by pleading or in briefing, this Court may resolve a nonjurisdictional cross-assignment only where the matter was addressed in the lower court and fairly arises from the designated portions of the record. Because Wife's cross-assignments of error fail to elaborate, discuss, or connect her legal authority to support her assertions, we decline to consider these cross-assignments on appeal.

Accordingly, we affirm the family court's October 28, 2025, order.

Affirmed.

ISSUED: November 10, 2026

CONCURRED IN BY:

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