

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES F. PRICE, ¹	§
	§ No. 71, 2013
Respondent Below-	§
Appellant,	§
	§ Court Below—Family Court
v.	§ of the State of Delaware
	§ in and for New Castle County
PATRICIA M. PRICE,	§ File No. CN11-04326
	§ Petition No. 12-12288
Petitioner Below-	§
Appellee.	§

Submitted: June 7, 2013
Decided: July 17, 2013

Before **HOLLAND**, **BERGER** and **JACOBS**, Justices

ORDER

This 17th day of July 2013, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The respondent-appellant, James F. Price (“Husband”), filed an appeal from the Family Court’s December 18, 2012 order regarding property division, its January 25, 2013 order denying his rule to show cause petition and its January 25, 2013 order denying his motion for reargument. We find no merit to the appeal. Accordingly, we affirm.

¹ The Court *sua sponte* assigned pseudonyms to the parties by Order dated February 20, 2013. Supr. Ct. R. 7(d).

(2) The record before us reflects that, in September 2012, the Family Court held an ancillary hearing to divide the marital property of Husband and the petitioner-appellee, Patricia M. Price (“Wife”). At that time, the Family Court also considered Husband’s rule to show cause petition, which alleged that Wife intentionally violated the Family Court’s February 2012 interim order regarding alimony. On December 18, 2012, the Family Court issued its order dividing the marital property. Husband subsequently filed a motion for reargument. On January 25, 2013, the Family Court issued its order denying Husband’s motion for reargument as well as its order dismissing Husband’s rule to show cause petition.

(3) In his appeal, Husband asserts a number of claims that may fairly be summarized as follows: The Family Court’s decision dividing the marital property is not supported by the evidence presented at the ancillary hearing. As such, the Family Court judge erred and abused his discretion in dividing the marital property.²

(4) Husband’s notice of appeal reflects that he did not designate the transcript of the ancillary hearing. Nor did Husband attach a copy of the transcript of the hearing to his appeal papers. Our independent review of the

² Because Husband does not raise the issue of the Family Court’s denial of his rule to show cause petition, any claim of error in that respect is deemed to be waived and will not be addressed by this Court. *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

Family Court record reflects that Husband did not request a transcript of the hearing.

(5) This Court is unable to consider Husband's challenge to the factual findings of the Family Court in the absence of a copy of the transcript of the ancillary hearing. The Rules of this Court require an appellant to provide to the Court ". . . such portions of the trial transcript as are necessary to give this Court a fair and accurate account of the context in which the claim of error occurred and must include a transcript of all evidence relevant to the challenged finding or conclusion."³ Even an appellant who is *pro se*, such as in this case, is required to make his own financial arrangements to obtain the necessary transcripts.⁴ In the absence of a transcript, the Court is without an adequate basis upon which to review Husband's claims of error.

(6) To the extent that Husband raises a claim of error with respect to the Family Court's denial of his motion for reargument, any such claim is equally unavailing. The proper purpose of a Rule 59(e) motion for reargument is to request the trial court to reconsider whether it overlooked an applicable legal precedent or misapprehended the law or the facts in such

³ Supr. Ct. R. 14(e). See also Supr. Ct. R. 9(e) (ii).

⁴ *Mahan v. Mahan*, 2007 WL 1850905 (Del. June 28, 2007) (citing *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987)).

a way as to affect the outcome of the case.⁵ This Court reviews a trial court's denial of a motion for reargument for abuse of discretion.⁶

(7) We have reviewed the Family Court's January 25, 2013 denial of Husband's motion for reargument. Citing to the evidence adduced at the ancillary hearing within the context of the proper legal standard, the Family Court concluded that Husband's motion merely asserted arguments that either were, or could have been, made at the ancillary hearing. As such, we conclude that the Family Court neither erred nor abused its discretion when it denied Husband's motion for reargument.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁵ *Trump v. State*, 2005 WL 583749 (Del. Mar. 9, 2005) (citing *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969)).

⁶ *Parker v. State*, 2001 WL 213389 (Del. Feb. 26, 2001).