

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

CONNIE SUE HEATH,
Appellee,

and

JOHN ELLIOT MAYER JR.,
Appellant.

No. 2 CA-CV 2020-0136
Filed May 26, 2021

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. D20163246
The Honorable Brenden J. Griffin, Judge

AFFIRMED

COUNSEL

Lou Spivack P.C., Tucson
By Louis M. Spivack

and

Lawrence Y. Gee P.L.L.C., Tucson
By Lawrence Y. Gee
Counsel for Plaintiff/Appellee

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John Elliot Mayer Jr., Tucson
In Propria Persona

MEMORANDUM DECISION

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Eppich and Chief Judge Vásquez concurred.

BREARCLIFFE, Judge:

¶1 John Mayer appeals from the trial court’s order denying numerous motions¹ related to court orders in favor of his former wife, Connie Sue Heath, to enforce a domesticated divorce decree issued in Michigan. Mayer argues on appeal that the court lacked personal and subject-matter jurisdiction over him, that the court erred in not taking judicial notice of perjury, and that the trial court judge was prejudicial towards him, which violated his due process rights. We affirm.²

Factual and Procedural Background

¶2 In 2016, a Michigan trial court entered a “Judgment of Divorce,” dissolving the parties’ marriage, dividing property and debts, and awarding Heath monetary damages against Mayer. Heath then filed a

¹These motions include, among other filings treated like motions and denied, an emergency verified motion to vacate the sheriff’s sale, an emergency motion to quash a writ of general execution, and a motion requesting that the trial court take judicial notice. Mayer’s opening brief is, however, unclear as to what trial court orders he is attempting to appeal. To the extent Mayer makes discernible arguments, we address this appeal as to these three motions.

²Following the filing of the notice of appeal in this action, Mayer sought to remove this matter to federal court. Although not included in the record on appeal, we note that counsel provided the trial court with a status report in November 2020, stating that the federal court had remanded this case. *See City of Phoenix v. Superior Court*, 110 Ariz. 155, 157 (1973) (“We take judicial notice of Superior Court records.”). The records from federal court corroborate counsel’s notice. *See Muscat by Berman v. Creative Innervations LLC*, 244 Ariz. 194, n.2 (App. 2017) (we take judicial notice of other courts’ records); *see also In re Peasley*, 208 Ariz. 27, n.15 (2004) (same).

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notice to domesticate the Michigan judgment in Arizona to allow enforcement of the judgment here. Mayer did not respond. Heath filed an application for a writ of general execution, which the trial court issued. The writ was returned unsatisfied because Mayer had refused to accept service. Several months later, Heath obtained another writ of general execution, which was also returned unsatisfied because Mayer had refused to allow officers onto his property to levy the execution. Heath filed a third writ of general execution as well as a writ of attachment. Mayer objected to the applications. After a hearing on the matter, the court affirmed the writ of execution. Mayer filed a notice of appeal.

¶3 On appeal, Mayer claimed the Michigan judgment was void and challenged both the Michigan court's and the trial court's jurisdiction. *Heath v. Mayer*, No. 2 CA-CV 2018-0005, ¶¶ 4-9 (Ariz. App. Aug. 1, 2018) (mem. decision). We concluded that Mayer's argument challenging the validity of the Michigan judgment was untimely and otherwise precluded. *Id.* ¶¶ 4, 5. Additionally, we found that he had not provided legal support or citations to the record for his jurisdictional arguments and had failed to develop an argument that would enable appellate review. *Id.* ¶¶ 7-9. Thus, we determined he waived any claim that the trial court or Michigan court lacked jurisdiction. *Id.*

¶4 In 2019, Heath filed an application for execution warrant, which the trial court granted. Mayer thereafter filed numerous motions, including a notice of fraud, a demand notification letter, an emergency verified motion to vacate the sheriff's sale, an emergency motion to quash a writ of general execution, a notice of filing transcripts, a motion requesting that the trial court take judicial notice, and a motion to recuse the trial judge. The court denied Mayer's motion to recuse the trial judge. On June 25, 2020, at a hearing on the matter, the court denied Mayer's various other motions. Mayer filed a notice of appeal of the court's June 25 order. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 12-2101(A)(2).

Analysis

¶5 On appeal, Mayer summarily claims that the trial court here lacked subject-matter and personal jurisdiction. He, however, provides no citation to supporting legal authority or to the record, and the body of his argument is a stream of generalized complaints about the proceedings below—none of which address his argument as to why the court lacked jurisdiction. *See* Ariz. R. Civ. App. P. 13(a)(7)(A) (requiring all arguments to contain supporting reasons for each contention, with citations of legal authorities and appropriate references to record). We thus find any

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argument as to jurisdiction waived. *See Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) (failure to comply with Rule 13(a)(6) may constitute abandonment and waiver of claim).

¶6 Mayer additionally argues that, because the trial court judge here was a “civil court judge,” he had “no authority” to adjudicate this family law case. The trial court correctly explained to Mayer, “The Superior Court is one court. For convenience, we have different benches.” Thus, as the court further explained, superior court judges have “the constitutional and statutory authority to handle probate cases, domestic cases, juvenile cases, criminal cases. Basically any case that can be filed in Superior Court, [they have] the authority to handle.” *See* Ariz. Const. art. VI, § 13 (“superior courts provided for in this article shall constitute a single court”); *State v. Patterson*, 222 Ariz. 574, n.7 (App. 2009) (“Although each superior court can have departments and divisions to manage cases, ‘the superior court is not a system of jurisdictionally segregated departments but rather a single unified trial court of general jurisdiction.’” (quoting *State v. Marks*, 186 Ariz. 139, 142 (App. 1996))). We agree with the trial court and find no merit in Mayer’s argument.

¶7 In support of his requested relief, Mayer claims that the trial court was required to take “mandatory judicial notice of perjury” committed by the Michigan judge and Heath’s counsel. In addition to, again, failing to comply with Rule 13(a)(7) by not providing the necessary legal authority or appropriate citations to the record, Mayer’s argument is frivolous. “The court may judicially notice a fact that is not subject to reasonable dispute.” Ariz. R. Evid. 201(b). A fact is not subject to reasonable dispute because it either “(1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *Id.* The determination of whether perjury has occurred—a crime requiring showings of, among other elements, subjective intent and materiality—is not an appropriate matter for judicial notice. *See* A.R.S. § 13-2702.

¶8 Lastly, Mayer argues that the trial court was “remarkably prejudicial” towards him. At the June 25, 2020 hearing on his motions, Mayer demanded recusal of the judge from his three cases before the court. “Bias and prejudice means a hostile feeling or spirit of ill-will, or undue friendship or favoritism, towards one of the litigants.” *In re Guardianship of Styer*, 24 Ariz. App. 148, 151 (1975). Here, despite his complaints of prejudice, Mayer fails to point to anything in the record—whether in a transcript or ruling—that demonstrates it. *See* Ariz. R. Civ. App. P. 13(a)(7).

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Attorney Fees and Costs

¶9 Heath requests her reasonable attorney fees and costs on appeal, pursuant to Rule 25, Ariz. R. Civ. App. P., on the ground that Mayer's appeal is entirely frivolous. She claims, "Any reasonable attorney would agree that [Mayer's] appeal is totally and completely without merit," and "There is . . . no support from the laws of any jurisdiction." Because we agree that Mayer's claims "indisputably [have] no merit," see *Price v. Price*, 134 Ariz. 112, 114 (App. 1982), we award Heath her reasonable attorney fees and costs on appeal pursuant to Rule 25 and upon her compliance with Rule 21, Ariz. R. Civ. App. P.

Disposition

¶10 For the foregoing reasons, we affirm.