

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Sarah Angus,	:	
Plaintiff-Appellee,	:	
v.	:	No. 14AP-742 (C.P.C. No. 11DR-10-4018)
Larry Angus, Jr.,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on June 25, 2015

Larry Angus, Jr., pro se.

APPEAL from the Franklin County Court of Common Pleas,
Division of Domestic Relations

KLATT, J.

{¶ 1} Defendant-appellant, Larry Angus, Jr., ("Angus") appeals three judgments issued by the Franklin County Court of Common Pleas, Division of Domestic Relations. For the following reasons, we affirm those judgments.

{¶ 2} Angus and plaintiff-appellee, Sarah Angus (now known as Sarah Ice), married on June 20, 2007. At the time of the marriage, Ice was the mother of two children, E.A. and J.A. Angus executed affidavits acknowledging paternity of both children. Both acknowledgements were entered into the Central Paternity Registry. After the parties married, Ice gave birth to two more children, L.A. and A.A.

{¶ 3} Ice filed for divorce on October 17, 2011. During the divorce proceedings, Ice requested that she, Angus, E.A., and J.A. undergo genetic testing to determine the paternity of E.A. and J.A. That testing revealed that Angus was the biological father of

J.A., but it excluded Angus as the biological father of E.A. After receiving these results, Ice amended her complaint to request that the trial court disestablish paternity between Angus and E.A.

{¶ 4} The trial court issued a judgment granting the parties a divorce on September 30, 2013. In the judgment, the trial court disestablished the father-child relationship between Angus and E.A. The trial court named Ice the legal custodian and residential parent of J.A., L.A., and A.A., and it granted Angus supervised parenting time with the three children. The trial court expressly refused to grant Angus court-ordered parenting time with E.A.

{¶ 5} Since the entry of the September 30, 2013 judgment, Angus has filed dozens of Civ.R. 60(B) motions for relief. Angus has also filed dozens of motions asking the trial judge assigned to this case to recuse herself.

{¶ 6} On September 5, 2014, the trial court issued three judgments that are the subject of this appeal. In the first, the trial court denied the 16 motions for relief from judgment filed June 11, 2014 and the 8 motions for relief from judgment filed July 9, 2014. In the second, the trial court denied the 13 motions for recusal filed June 11, 2014 and the 10 motions for recusal filed July 9, 2014. In the third, the trial court denied Angus' July 9, 2014 motion for emergency custody.

{¶ 7} Angus now appeals the three September 5, 2014 judgments, and he assigns the following errors:¹

- [I.] 1. Violation Of U.S. Constitution. United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.")
2. Oath Violations
3. Failing To Properly Review Evidence Submitted/ Improper Review Of The Facts
 - A. Ignoring A Liar Of The Court
 - B. Ignoring Evidence In Motions
 - C. Failure To Discredit Liars
 - D. Failure To Grant Any Relief Especially Right To Parent Unsupervised/Custody
4. Discrimination – Just Because Some One Has Adhd N Depression is NO Reason To Say It Stops A Parent From Raising His Children
5. Failing To Grant Relief
6. RULE 2.2 Impartiality and Fairness

¹ We quote the assignments of error verbatim, without correcting the spelling or punctuation errors.

7. Rule 2.3 Bias, Prejudice, and Harassment
8. Rule 3.3 Testifying as a Character Witness
9. Cruel And Unusual Punishment
10. Rule 2.11 Disqualification
11. Ignoring Evidence, Improper review of the facts
12. Giving Known Liars Credit

The 'best interest of the child' is not an adequate reason for denying a **fit parent his parental rights**. In fact In Parham v. J.R. et al 442 U.S. 584 (1979), the Supreme Court declared the **'best interest of the child' resides in the fit parent – not in the state.** The 'best interest of the child' excuse can only be used when there's no fit parent.

[II.] Oath Violation

OHIO CODE OF JUDICIAL CONDUCT

Canon 1 A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

Rule 1.1 Compliance with the Law , Due Process

Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office

Canon 2 A judge shall perform the duties of judicial office impartially, competently, and diligently.

Rule 2.6 Ensuring the Right to be Heard

Rule 2.7 Responsibility to Decide

Ignoring Ohio's Own Laws/R.c./O.r.c.

Isolation, Fundamental Right To Parent

Discrimination

Equal Protection Of The Law, Child's Rights, R.c. 3109.04(F)(2)(b), 3109.04(F)(1)(i) And 3109.05.1(D)(13), Child Abuse

Fraud On The Court

[III.] 1. Due Process

Discrimination

[IV.] 1. Discrimination

2. RULE 605. OHIO RULES OF EVIDENCE

Competency of Judge as Witness The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

[Effective: July 1, 1980.]

3. Rule 2.2 Impartiality and Fairness

4. Rule 2.3 Bias, Prejudice, and Harassment

5. Being An Expert Witness In The Field Of Physiology

Rule 702. Testimony by Expert Witnesses

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion

Rule 605

The presiding judge may not testify as a witness at the trial. A party need not object to preserve the issue.

6. Due Process

[V.] **1. Due Process**

2. Derailment Of The Mechanics Of Justice

3. Rule 1.1 Compliance with the Law

4. Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office

5. Rule 2.2 Impartiality and Fairness

6. Rule 2.6 Ensuring the Right to be Heard

7. Rule 2.11 Disqualification

8. Rule 2.2 Impartiality and Fairness

9. Derailed Mechanics Of Justice

10. Invalid Decree Based On Discrimination, Giving Liars Weight

11. Miscarriage Of Justice

12. Discrimination

[VI.] A Bomb Shell Error

The Entire Brief Shows Violations Of :

OHIO CODE OF JUDICIAL CONDUCT

Canon 1 A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. 11

Rule 1.1 Compliance with the Law

Canon 2 A judge shall perform the duties of judicial office impartially, competently, and diligently.

Rule 2.2 Impartiality and Fairness

Rule 2.3 Bias, Prejudice, and Harassment

Rule 2.5 Competence, Diligence, and Cooperation

Rule 2.6 Ensuring the Right to be Heard (Denied The Rule 60(b)(6) How The Truth Sucks)

Rule 2.7 Responsibility to Decide

Rule 2.8 Decorum, Demeanor, and Communication with Jurors

Rule 2.11 Disqualification

Rule 2.14 Disability and Impairment

Rule 2.15 Responding to Judicial and Lawyer Misconduct

Miscarriage Of Justice

Violated Best Interest Of Te children

Ignoring Coaching, Corruption Of A Minor

Ignoring Ohio's Own Laws/r.c./o.r.c.
 Allowing A Child To be A Tool In A Divorce Case
 Denial Of Fundamental Rights – Children,Larry
 Fraud On The Courts By Guardian Ad Litem(Liar To The Court)
 Failure To Interview ALL Children With The Father(Improper Investigation, Isolation)
 Improper Review Of Facts,Evidence And Giving Weight To Known Liars(Plaintiff,Taylor)
 Discrimination
 Ignoring Dependency Matter(Child Left At Home With No Food)
 Allowing A Father To Be Replaced & Denial Of Constitutional Rights

[VII.] Improper Review Of Laws/R.c./O.r.c.
 Failure to kneel To Higher Courts

[VIII.] Superseding Due Process as **The Trial Civil Court Is NOT A Criminal Court**
 No Jurisdiction In The Matters
 Improper Review Of The Facts

[IX.] Combines Assignment Of Errors 1,2,3,4,5,6,7,8,9 And All Subs Errors,Discrimination,Abuse Of Power,Failure To Decide

[X.] Derailed Mechanics Of Justice Back Lash Extracting Error From "Assignment Of Error Arguments 2"
 Uses 9th Assignment Of Error and Subs

{¶ 8} Pursuant to Civ.R. 16(A)(3), an appellant's brief must contain "[a] statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected." An assignment of error must specify the alleged error on which an appellant relies to seek the reversal, vacation, or modification of an adverse judgment. *State v. Brown*, 9th Dist. No. 25077, 2010-Ohio-4453, ¶ 9; *accord Dailey v. R & J Commercial Contracting, Inc.*, 10th Dist. No. 01AP-1464, 2002-Ohio-4724, ¶ 17 (stating that assignments of error must designate specific rulings that the appellant wishes to challenge on appeal). Assignments of error are particularly important because appellate courts determine each appeal "on its merits on the assignments of error set forth in the briefs under App.R. 16." App.R. 12(A)(1)(b). Consequently, without assignments of

error, an appellate court has nothing to review. *Pack v. Hilock Auto Sales*, 10th Dist. No. 12AP-48, 2012-Ohio-4076, ¶ 13.

{¶ 9} Here, Angus' so-called assignments of error do not specify how the trial court erred. The "assignments of error" are mainly lists of rules and random sentence fragments; they present no coherent statement of any alleged error. The assignments of error, therefore, provide us virtually nothing to review.

{¶ 10} Appellate courts have discretion to dismiss appeals that fail to set forth assignments of error. *CitiMortgage, Inc. v. Asamoah*, 10th Dist. No. 12AP-212, 2012-Ohio-4422, ¶ 5; *Tonti v. Tonti*, 10th Dist. No. 06AP-732, 2007-Ohio-2658, ¶ 2. Many times, however, appellate courts instead review the appealed judgment using the appellants' arguments in the interest of serving justice. *Asamoah* at ¶ 6; *Tonti* at ¶ 2. Here, Angus has hindered our ability to review the appealed judgments through his arguments because those arguments are virtually incomprehensible. While appellate courts will construe pro se filings generously, appellate courts cannot construct legal arguments for an appellant. *Williams v. Barrick*, 10th Dist. No. 08AP-133, 2008-Ohio-4592, ¶ 24; *Miller v. Johnson & Angelo*, 10th Dist. No. 01AP-1210, 2002-Ohio-3681, ¶ 2. Ultimately, if an appellate court cannot understand an appellant's arguments, it cannot grant relief. *State v. Dunlap*, 10th Dist. No. 05AP-260, 2005-Ohio-6754, ¶ 10.

{¶ 11} In the interest of justice, we will endeavor to review Angus' arguments. Our ability to do that, however, is constrained by the deficiencies in Angus' brief. We will only consider those arguments that we can decipher, correlate with an assignment of error, and identify as a challenge to one of the trial court rulings at issue in this appeal.

{¶ 12} Angus' first and fourth assignments of error challenge the denial of his motions for relief from judgment. Civ.R. 60(B) permits a court, under certain circumstances, to grant a party relief from a final judgment, order, or proceeding. *State v. Greenberg*, 10th Dist. No. 12AP-602, 2013-Ohio-1638, ¶ 10. A Civ.R. 60(B) motion is not a substitute for appeal. *Doe v. Trumbull Cty. Children Servs. Bd.*, 28 Ohio St.3d 128 (1986), paragraph two of the syllabus. Thus, a party cannot premise a Civ.R. 60(B) motion on errors that he could have raised, and the court could have corrected, in an appeal. *Wells Fargo Bank, N.A. v. Smith*, 10th Dist. No. 09AP-559, 2009-Ohio-6576, ¶ 11; *Snow v. Brown*, 10th Dist. No. 02AP-1236, 2003-Ohio-3300, ¶ 27.

{¶ 13} Angus demands relief from judgment because, according to him, the divorce decree relies on the false testimony of Ice, her mother, and the guardian ad litem. Angus takes issue with the factual findings the trial court reached based on that testimony. Additionally, Angus maintains that the trial court discriminated against him by considering his mental health issues, but not Ice's, when determining the appropriate custody arrangement. Angus also argues that, by making factual findings regarding his mental health, the trial judge became a witness at trial. All of these arguments are arguments that Angus could have raised in a direct appeal of the divorce decree. Consequently, we conclude that the trial court did not err in denying the Civ.R. 60(B) motions, and we overrule the first and fourth assignments of error.

{¶ 14} Angus' second, third, and eighth assignments of error challenge the denial of the motions to recuse the trial judge. A court of appeals lacks jurisdiction to review a ruling of a common pleas court judge on a motion to recuse. *State ex rel. Hough v. Saffold*, 131 Ohio St.3d 54, 2012-Ohio-28, ¶ 2. Pursuant to R.C. 2701.03, the chief justice of the Supreme Court of Ohio (or her designee) has exclusive jurisdiction to determine a claim that a common pleas court judge is biased or prejudiced. *Herold v. Herold*, 10th Dist. No. 04AP-206, 2004-Ohio-6727, ¶ 20; *Farley v. Farley*, 10th Dist. No. 02AP-1046, 2003-Ohio-3185, ¶ 35. Thus, courts of appeals do not have the authority to pass on issues of disqualification or to reverse or void a judgment on the basis that it resulted from alleged judicial bias. *Farley* at ¶ 35. We, therefore, overrule the second, third, and eighth assignments of error.

{¶ 15} Angus' fifth assignment of error challenges the denial of the motion for emergency custody. The trial court denied that motion because Angus did not prosecute it. Angus does not dispute that he failed to raise the motion at the scheduled hearing. He, instead, argues that the trial court effectively prevented him from arguing that motion by allowing him only 20 minutes to argue all his motions. We disagree.

{¶ 16} "A trial judge has authority and discretion to exercise control over the proceedings." *State v. Trimble*, 122 Ohio St.3d 297, 2009-Ohio-2961, ¶ 128. Thus, a trial court has the discretion to set reasonable time limitations for oral argument. *Braeunig v. Russell*, 170 Ohio St. 444, 446 (1960). Here, Angus had multiple motions to argue, but those motions were, to a large degree, duplicative. Considering the substance of Angus'

motions and the trial court's heavy docket, we find no abuse of discretion in the trial court's decision to restrict the time in which Angus could argue his motions to 20 minutes. The trial court, therefore, did not err in holding Angus answerable for omitting the motion for emergency custody from his oral argument. Accordingly, we overrule the fifth assignment of error.

{¶ 17} Angus' sixth assignment of error challenges the denial of his Civ.R. 60(B) motion to dismiss the guardian ad litem and the guardian's recommendations. Civ.R. 60(B) provides a means by which a party may seek relief from judgment; it is not a mechanism to dismiss a witness or that witness' testimony. Consequently, we overrule the sixth assignment of error.

{¶ 18} Angus' seventh assignment of error challenges the trial court's jurisdiction to disestablish Angus' paternity of E.A. None of the judgments at issue in this appeal address whether the trial court had jurisdiction to disestablish paternity. Nevertheless, we will consider the jurisdictional question because a party may challenge jurisdiction at any time. *Bank of Am., N.A. v. Kuchta*, 141 Ohio St.3d 75, 2014-Ohio-4275, ¶ 17.

{¶ 19} As we explained above, Angus executed an acknowledgement of paternity that named him the father of E.A. When genetic testing subsequently showed that Angus was not E.A.'s biological father, Ice requested that the trial court disestablish paternity, and the trial court did so. Angus argues that the trial court lacked jurisdiction to disestablish the father-child relationship created by the acknowledgement of paternity because the acknowledgement had become final. We disagree.

{¶ 20} Pursuant to R.C. 3119.962, a court may grant relief from a final paternity determination if genetic testing shows no probability that the person who acknowledged paternity is the biological father of the child. If a court grants such relief from a final acknowledgment of paternity, "it shall order the acknowledgement to be rescinded and destroyed and order the department of job and family services to remove all information relating to the acknowledgement from the birth registry." R.C. 3119.962(C).

{¶ 21} When seeking relief from a final acknowledgment of paternity, a person "shall file [a] motion in the juvenile court or other court with jurisdiction of the county in which the person or the child who is the subject of the acknowledgement resides." R.C. 3119.961(A). The domestic relations divisions of common pleas courts have "jurisdiction

appropriate to the determination of all domestic relations matters." R.C. 3105.011. The paternity of a child, when raised in a divorce proceeding, is a domestic relations matter. Consequently, we conclude that the trial court had jurisdiction to disestablish Angus' paternity of E.A., and we overrule the seventh assignment of error.

{¶ 22} Angus' ninth assignment of error merely recapitulates the first eight assignments of error. As we have overruled the first eight assignments of error, we also overrule the ninth assignment of error.

{¶ 23} Although Angus' brief includes a tenth assignment of error, he does not argue it. An appellate court may disregard any assignment of error not separately argued in the brief. App.R. 12(A)(2). Accordingly, we overrule the tenth assignment of error.

{¶ 24} For the foregoing reasons, we overrule all of Angus' assignments of error, and we affirm the three September 5, 2014 judgments of the Franklin County Court of Common Pleas, Division of Domestic Relations.

Judgments affirmed.

BROWN, P.J., and BRUNNER, J., concur.
