

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0186

September Term, 2014

DRECK SPURLOCK WILSON

v.

STEFANIE BURNS

Krauser, C.J.,
Graeff,
Friedman,

JJ.

Opinion by Friedman, J.

Filed: September 23, 2015

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from allegations that the Special Master¹ erred in her Findings of Fact and Recommendations. We conclude that the Appellant, Dreck Wilson (“Wilson”), failed to file exceptions to the Master’s Findings of Fact and Recommendations and that, therefore, his allegations of error are waived.

FACTS AND PROCEDURAL HISTORY

Wilson and Stefanie Burns (“Burns”) obtained a Judgment of Absolute Divorce in 2005. The parties have one child. Since their divorce, the parties have returned to court numerous times in efforts to modify child support. The most recent modification request was filed on August 13, 2013, on Wilson’s behalf, by the Montgomery County Office of Child Support Enforcement (“MCOCSE”). The hearing for the motion was held on January 31, 2014, in front of a Master.

The Master filed her Findings and Recommendations on January 31, 2014. Burns filed Exceptions to the Findings and Recommendations on February 10, 2014. Those exceptions, however, were dismissed on March 4, 2014 for failure to serve the exceptions on all parties. Wilson did not file exceptions. A circuit court judge entered an order incorporating the Master’s Findings and Recommendations on March 10, 2014. Wilson

¹ Master have recently been retitled “Magistrates” in Maryland. To avoid confusion, however, we will use the term “Master” in this opinion as that was the term in place at the time of the hearing and when the parties wrote their briefs.

filed this appeal on April 9, 2014.² Burns did not file a cross appeal.³ Both parties are unrepresented.

DISCUSSION

Wilson makes his arguments under the assumption that his allegations of error are preserved and are properly before this Court. We, however, disagree, because they are waived, and do not reach the merits of any of his arguments.

The modification hearing was held before a Master. Such proceedings (and any claims that there were errors in such proceedings) are governed by Maryland Rule 9-208. Rule 9-208(f) requires that exceptions to the Master’s Findings and Recommendations be filed within 10 days of when the recommendations are placed on the record or served on the parties. Rule 9-208(f). “Any matter not specifically set forth in the exceptions is *waived* unless the court finds that justice requires otherwise.” Rule 9-208(f) (emphasis added). This Court has previously held that “if appellant’s sole basis for appeal was that the master’s factual findings, such as they are, were clearly erroneous, her failure to file exceptions [is] fatal to such an argument.” *Miller v. Bosley*, 113 Md. App. 381, 393 (1997) (“In short, in all cases lacking timely exceptions, any claim that the master’s findings of fact were clearly erroneous is waived.”). If, however, the basis of appeal is that the trial

² Wilson’s motion for default judgment because Burns used 11-point font in her brief is denied.

³ In her brief, Burns attempts to raise her own questions presented. However, as we have noted, Burns did not file a cross-appeal and is, therefore, barred from raising separate allegations of error. Md. Rule 8-202(e).

judge erred in his disposition of the case based upon the Master’s factual findings, this Court may review the trial court’s decision. *Green v. Green*, 188 Md. App. 661, 674 (2009); *Miller*, 113 Md. App. at 393 (allowing an appeal to proceed where it assigned “error to the trial judge in the exercise of his independent judgment as to the propriety of his disposition of the case” from the facts contained in the Master’s Recommendations).

Here, Wilson’s allegations of error attack the Master’s findings of fact and do not allege that the trial court erred in exercising its independent judgment.⁴ Although he breaks the allegations down into smaller parts, Wilson argues: (1) that the Master erred in calculating his and Burns’ respective incomes; (2) that he was due credit for the amount of Social Security Dependent Child Benefits paid to Burns that was above the amount of child support; and (3) that the Master erred in recommending the suspension of Wilson’s obligation to pay additional child support above and beyond the child support covered by the Social Security Dependent Child Benefits.⁵ These are not allegations of error in the

⁴ Wilson assigns several of his allegations of error to the MCOCSE Special Counsel. The Special Counsel, however, is the representative for the Office of Child Support. We infer, therefore, that Wilson actually alleges that the Master erred by using the calculations submitted by the Special Counsel.

⁵ Wilson also alleges that the Master erred by commenting on the arrearages owed and demonstrated obvious racial bias against him. Having reviewed the transcript we are persuaded that the Master’s comments regarding Wilson’s arrearages were meant to focus the parties on the purpose of the hearing and to help the both of these unrepresented litigants present evidence relevant to the hearing rather than evidence regarding matters already finally litigated. The Master did not err. Regarding his allegations of racial bias, Wilson points to no statements in the transcript or anything else in the record to support his allegation. We have reviewed the record and transcript and find no support for Wilson’s assertions. We, therefore, disregard these unsupported allegations.

independent judgment of the trial judge. Rather, each of these assignments of error fall squarely on the Master's Recommendations.

Therefore, because Wilson's basis for appeal are that the Master's factual findings were erroneous, Wilson's failure to follow the requirements of Md. Rule 9-208 is fatal to his appeal.

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. REMANDED WITH
INSTRUCTIONS. COSTS TO BE PAID BY
APPELLANT.**