

Circuit Court for Montgomery County
Case No. 78075FL

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1453

September Term, 2019

OLEG KAPUSTIN

v.

EVGENIYA LUGOVKIN

Beachley,
Gould,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 15, 2020

*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.

Oleg Kapustin, appellant, and Evgeniya Lugovkin, appellee, have been involved in a custody dispute regarding their two minor children for over ten years. The Circuit Court for Montgomery County has entered multiple interim custody orders during that time. However, as of November 2017, Ms. Lugovkin has been awarded sole legal and physical custody of the minor children and Mr. Kapustin has been ordered to have no contact with the children outside of supervised visitation.

In April 2019, Ms. Lugovkin filed a petition for contempt, alleging that Mr. Kapustin had violated the court’s interim custody orders by continually contacting their youngest daughter and by failing to participate in the Supervised Visitation Program. The court held a hearing on that petition on September 5, 2019, during which Mr. Kapustin repeatedly challenged the court’s jurisdiction and stated that he did not “consent” to the proceeding. However, during questioning, Mr. Kapustin admitted to having had contact with his daughter on several occasions in violation of the interim custody orders. On September 26, 2019, the court entered an order finding that Mr. Kapustin was “in contempt of [its] numerous orders involving access with the minor child”; ordered that he be sentenced to 120 days of incarceration; and ordered that he could purge the finding of contempt and avoid incarceration by following in the future “all court orders, including no contact with [the youngest] minor child, except as provided through the supervised visitation program.”

Mr. Kapustin filed a timely notice of appeal, presenting eight questions for our review, which we quote verbatim:

- (1) Does the trial judge have authority and jurisdiction to proceed in Nisi Prius equity proceedings, and not in a court of record without the party's consent?
- (2) Once jurisdiction is challenged by a party, can the trial judge proceed without deciding it on the records according to authorities, or is it an abuse of discretion?
- (3) Whether decisions of trial court without deciding jurisdiction on the records when challenged are void?
- (4) Must the trial judge's decisions be established upon facts, presented by competent witnesses under oath, or unrebutted affidavits, and not the attorneys, or other court helper's opinions according to the authorities and the due process?
- (5) Can a trial judge ignore a verified claim for damages by plaintiff without providing remedy to a damaged party according to his/her fiduciary duty and oath of office?
- (6) Whether it is an intentional tort when judicial officers and circuit court staff intentionally disguise proceedings from a party, which make such proceedings and its decisions null and void.
- (7) Must the language in all legal documents be according to correct syntax, sentence structure, parts, communication and grammar, according to the US Government Printing Office Style Manual, or State of Maryland equivalence with certainty of terms mutually understood by all the parties involved?
- (8) Whether the decisions by the trial judge based on fraud deprive the court of jurisdiction and make such decisions null and void?

For the reasons that follow, we shall affirm.

As an initial matter, we note that Mr. Kapustin's brief is difficult to follow, and it is not clear what he is referring to in most of his "questions presented." Moreover, he does not provide any legal analysis in support of his claims of error. Rather, in the "argument" section of his brief, he only makes conclusory challenges to the validity of the court's interim custody orders, asserting that he was deprived of his parental relationships "in direct contravention to the facts"; in issuing its custody orders, that the trial court was

biased “in favor of a female parent and with prejudice against a male parent”; and that the court “as well as other court helpers, inflicted unprecedented burden, damages and injuries by countless accusations, paperwork [and] procedural traps . . . which constitute an intentional tort against [him] in excess of judicial authority and profound human decency.” Notably, none of those contentions address the court’s finding that he was in contempt of those orders or the validity of the court’s purge provision.

Maryland Rule 8-504(a) requires a party’s brief to contain a “clear concise statement of the facts material to a determination of the questions presented,” and “[a]rgument in support of the party’s position on each issue.” And although we are mindful that Mr. Kapustin is a self-represented litigant, it is not this Court’s responsibility to “attempt to fashion coherent legal theories to support [his] claims” of error. *See Konover Property Trust, Inc. v. WHE Assocs., Inc.*, 142 Md. App. 476, 494 (2002). Because none of Mr. Kapustin’s contentions on appeal are presented with particularity, they are not properly before this Court. *See Diallo v. State*, 413 Md. 678, 692-93 (2010) (noting that arguments that are “not presented with particularity will not be considered on appeal” (citation omitted)).¹

In any event, we are persuaded that Mr. Kapustin could not establish error even if the issues he raised had been properly briefed. It appears that Mr. Kapustin is generally challenging both the circuit court’s subject matter jurisdiction and the validity of the

¹ Because of Mr. Kapustin’s failure to comply with Maryland Rule 8-504, Ms. Lugovkin has requested that we dismiss the appeal. Although we certainly do not condone Mr. Kapustin’s lack of compliance with the Maryland Rules we shall deny the motion to dismiss.

interim custody orders that he was found to have violated. However, the circuit court had jurisdiction to enter the custody orders, and to hold Mr. Kapustin in contempt of those orders, as both parties, and their children, are residents of Maryland and have been since the outset of the custody litigation. *See generally* Family Law Art. §§ 9.5-201, 203 (setting forth the circuit court’s jurisdiction to issue orders relating to a resident-parent’s custody rights).

Moreover, Mr. Kapustin did not file a notice of appeal from the court’s interim custody orders. Therefore, the validity of those orders is not properly before us in this appeal. And, in any event, it is “a settled principle of Maryland law that, when a tribunal having jurisdiction issues to a person an order, that person may not refuse to obey the order on the theory that it is unlawful or unwarranted and, in a later collateral proceeding such as a contempt action or other disciplinary action . . . defend by attacking the earlier order. Instead, that person is required to challenge the order directly.” *Maryland State Bd. of Physicians v. Eist*, 417 Md. 545, 567 n.14 (2011) (citations omitted). *Cf. Early v. Early*, 338 Md. 639, 656 (1995) (whether a father should have been held in contempt for violation of the child support order is distinct and separate from the question of whether that order was valid). Thus, the fact that Mr. Kapustin might have disagreed with the court’s interim custody orders was not a lawful reason to ignore those orders and not a valid defense in the contempt proceedings.

**MOTION TO DISMISS DENIED.
JUDGMENT OF THE CIRCUIT
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**