[Cite as *Ryan v. Ryan*, 2026-Ohio-3600.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

James Michael Ryan, Jr.,	:	
Plaintiff-Appellant,	:	No. 25AP-346
v.	:	(C.P.C. No. 21DR-4418)
Tara Ryan,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

D E C I S I O N

Rendered on September 15, 2026

On brief: *James Michael Ryan, Jr.*, pro se. **Argued:** *James Michael Ryan, Jr.*

On brief: *Atkins and Atkins, Attorney at Law, LLC*, *Arianna Atkins*, and *Katelyn Graham*, for appellee. **Argued:** *Katelyn Graham.*

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

MENTEL, J.

{¶ 1} Plaintiff-appellant, James Michael Ryan, Jr., appeals a judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, that decided the issues regarding property division that we instructed the trial court to address in the mandate issued in *Ryan v. Ryan*, 2024-Ohio-5691 (10th Dist.). For the following reasons, we affirm the trial court's judgment.

I. FACTUAL AND PROCEDURAL HISTORY

{¶ 2} James and defendant-appellee, Tara Ryan, n.k.a. Hurley, were married on September 21, 1992 in Franklin County, Ohio. James filed a complaint for divorce on December 23, 2021. Tara responded with an answer and counterclaim for divorce. In a judgment entry and decree of divorce dated September 19, 2023, the trial court granted the parties a divorce and divided the parties' assets and debts.

{¶ 3} Although the September 19, 2023 judgment addressed multiple issues, only the trial court's determination of the property issues is relevant to this appeal. Specifically, in the most critical determination, the trial court found that all the proceeds from the sale of the marital residence were Tara's separate property.

{¶ 4} At trial, Tara had testified that the parties purchased their residence on Roxbury Road in 1996, during the marriage. In 2012—when the parties owed $643,500 on the mortgage note—the Roxbury property went into foreclosure. Tara used $515,000 that her father gifted her to pay off the mortgage note. Upon receiving those funds in March 2013, EMC Mortgage Company, the holder of the parties' note and mortgage, released the mortgage on the Roxbury property. Over three years later, on October 28, 2016, the parties sold the Roxbury property, receiving $666,607.46 in proceeds from the sale.

{¶ 5} Tara used $454,322.28 of the funds from the sale of the Roxbury property to purchase property at 8 Hilltop Cottages in a village in England. During the divorce proceedings, Tara asked the trial court to classify the Hilltop Cottages property as her separate property. Tara also informed the trial court that James took $122,500 of the funds from the sale of the Roxbury property and spent the money on himself. Tara sought the return of those funds.

{¶ 6} The trial court concluded that the Roxbury property was Tara's separate property because Tara used money she received as a gift from her father to pay off the mortgage balance. Consequently, the trial court determined that the entire $666,607.46 of sale proceeds from the Roxbury property was Tara's separate property. This determination made the Hilltop Cottages property Tara's separate property and resulted in the trial court's order that James repay Tara $122,500.

{¶ 7} James appealed the September 19, 2023 judgment entry and decree of divorce to this court. In a decision and judgment issued December 5, 2024, we largely affirmed that judgment. We, however, reversed the portion of the judgment that divided the parties' assets and liabilities, finding the court erred in concluding all the proceeds from the sale of the Roxbury property were Tara's separate property.

{¶ 8} First, we determined that although Tara established that she used $515,000 of separate property to obtain release of the mortgage on the Roxbury property, she did not present any evidence regarding the value of the Roxbury property in March 2013, when she paid off the mortgage note. Because the Roxbury property was purchased as a marital asset, any equity in the residence—any value over the $515,000 paid to obtain the release of the mortgage—constituted a marital asset. Without competent, credible evidence that no equity remained in the Roxbury property when Tara paid off the mortgage note, the trial court could not conclude that the entirety of the sale proceeds was Tara's separate property.

{¶ 9} Second, we concluded the trial court "made no finding regarding whether the Roxbury property's appreciation in value from March 2013 to October 2016, if any, was the result of passive or active appreciation." *Ryan*, 2024-Ohio-5691, at ¶ 96 (10th Dist.). Passive appreciation on separate property is separate property, but active appreciation on separate property from either or both spouses' labor, monetary, or in-kind contribution is marital property. *Id.* Therefore, competent, credible evidence of appreciation as a result of James's or Tara's labor or other contribution between March 2013 (when Tara paid off the mortgage note) and October 2016 (when the parties sold the property) would establish a marital interest in the Roxbury property.

{¶ 10} Consequently, we reversed the property division and remanded the case

> for the trial court to determine whether any marital equity remained in the Roxbury property at the time [Tara] used her separate property to pay off the mortgage. Following that determination, the court should determine the proportion of [Tara's] separate property interest in the proceeds from the sale of the Roxbury property and whether [Tara] adequately traced 8 Hilltop Cottages and the $122,500 to her separate property portion of the sale proceeds.

Id. at ¶ 99.

{¶ 11} Upon review of this court's December 5, 2024 decision and judgment, the trial court concluded that it needed additional evidence "regarding the value of the Roxbury Property at the time [Tara] paid off the mortgage for the Court to determine whether any marital equity existed at that time." (Dec. 10, 2024 Order at 1.) The trial court, therefore, required the parties to submit supplemental briefing on "the limited issue only of the value of the Roxbury Property at the time [Tara] paid off the mortgage." *Id.* Eventually, the trial court extended the deadline for submitting the supplemental briefing to allow the parties time to obtain evidence as to the retrospective value of the Roxbury property.

{¶ 12} On December 23, 2024, Tara filed a motion for contempt against James because (1) he had not paid the $10,000 in attorney fees the trial court awarded Tara in the September 19, 2023 judgment, and (2) he violated the September 19, 2023 judgment by failing to share equally with Tara a $1,242.63 federal tax refund from tax year 2020. James responded to the motion, then filed a motion for the appointment of counsel to defend him with regard to the contempt motion. In support of his motion for court-appointed counsel, James asserted he was indigent and thus entitled to counsel at public expense.[1]

{¶ 13} On January 21, 2025, James initiated a jurisdictional appeal from this court's December 5, 2024 judgment by filing a notice of appeal and memorandum in support of jurisdiction with the Supreme Court of Ohio. James's memorandum in support of jurisdiction included three lengthy propositions of law. Notably, none of James's propositions of law contravened this court's holdings regarding the classification and division of the parties' assets and liabilities.

{¶ 14} Meanwhile, in the trial court, Tara's motion for contempt came before a magistrate for a hearing on February 11, 2025. At the hearing, the magistrate did not entertain the merits of Tara's motion but instead granted a continuance. During the hearing, James asked the magistrate if he would receive court-appointed counsel. The magistrate answered:

> If I told you I don't know, would you accept that? And here's why, is because, I believe -- like I said, I believe that I had signed off on an order appointing you an attorney yesterday. If that is the case, the motion would be considered granted. Okay.
>
> . . . If not, you have the ability to go ahead and screen with the court-appointed office. . . .
>
> If that has not, in fact, occurred where someone has been appointed to represent you, I can go ahead and review your motion, but I think it would be quicker for you to go ahead and fill out the form -- because . . . [t]he court-appointed attorney office are the ones that approve it based upon their guidelines.

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[1] Throughout the entirety of these proceedings, James has represented himself.

(Feb. 11, 2025 Tr. at 17-18.) In an order entered March 3, 2025, the magistrate appointed James an attorney to represent him with regard to the motion for contempt.

{¶ 15} On March 20, 2025, the trial court issued a decision and entry deciding the remaining property issues in compliance with this court's mandate in *Ryan*. First, the trial court determined the value of the Roxbury property in March 2013. James argued that the value of the Roxbury property in March 2013 was $666,607.46, which was total of the proceeds from the sale of the Roxbury property in October 2016. Tara argued that the value of the Roxbury property in March 2013 was $440,000 based on a retrospective appraisal completed by Samuel D. Koon and Brian J. Sapp of Samuel D. Koon & Associates, Ltd. The trial court accepted the $440,000 valuation reached by Tara's expert witnesses because the effective date of their appraisal was March 28, 2013, the date EMC Mortgage Company executed the release of the mortgage. The value of the Roxbury property ($440,000) was less than Tara paid to EMC Mortgage Company to release the mortgage ($515,000), so the trial court found there was no equity in the Roxbury property when Tara paid off the mortgage note.

{¶ 16} Second, the trial court considered whether James presented any evidence that the Roxbury property actively appreciated due to contributions he made to it between March 2013 and October 2016. James's evidence included a "Scope of Work Assessment" completed by Douglas J. Ryan of Construction Advisors, Inc. (Pl.'s Ex. 8, Mar. 3, 2025 Supp. Brief.) This assessment summarized the costs for various projects James performed at the Roxbury property between 1996 and 2016, including site improvements and landscaping, finishing the basement, restoring the interior and exterior, structural alterations and renovations, and construction of a new garage. However, as the trial court pointed out, this assessment did not separately delineate what work James performed on the Roxbury property during the period between March 2013 and October 2016. The trial court concluded, "Absent any evidence of [James's] contribution during the relevant time, the Court finds that all appreciation on the Roxbury property from March 2013 until the property was sold in October 2016 was passive appreciation, and therefore [Tara's] separate property." (Mar. 20, 2025 Decision & Entry at 5.)

{¶ 17} As a result of the trial court's findings, it determined that the entirety of the proceeds from the sale of the Roxbury property was Tara's separate property. The trial court also determined that Tara adequately traced her separate property interest from the sale proceeds to the purchase of the Hilltop Cottages property and the $122,500.

{¶ 18} The Supreme Court declined to accept jurisdiction over James's appeal of our December 5, 2024 judgment in an entry dated April 1, 2025. A little over two weeks later, in a notice of appeal filed on April 18, 2025, James appealed the trial court's March 20, 2025 decision and entry to this court.

II. ASSIGNMENTS OF ERROR

{¶ 19} On appeal, James assigns the following errors for our review:

> [1.] THE TRIAL COURT BOTH ERRED AS A MATTER OF LAW BY PROCEEDING ABSENT JURISDICTION AND ABUSED ITS DISCRETION MAKING ORDERS AND DECISIONS IN THE TRIAL COURT CASE WITHOUT AUTHORITY BECAUSE THE TRIAL COURT WAS DIVESTED OF JURISDICTION ON 01/25/2025 BECAUSE JURISDICTION TRANSFERRED TO THE SUPREME COURT OF OHIO[.]
>
> [2.] THE TRIAL COURT BOTH ERRED AS A MATTER OF LAW BY PROCEEDING ABSENT JURISDICTION AND ABUSED ITS DISCRETION MAKING ORDERS AND DECISIONS IN THE TRIAL COURT CASE WITHOUT AUTHORITY BECAUSE THE TRIAL COURT WAS DIVESTED OF JURISDICTION ON 04/04/2025 BECAUSE JURISDICTION TRANSFERRED TO THIS APPEALS COURT.
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> [3.] THE TRIAL COURT BOTH ERRED AS A MATTER OF LAW BY FAILING TO PROCEED FROM THE POINT THIS APPEALS COURT RULED IN ITS 12/05/2024 DECISION AND JUDGMENT ENTRY THE TRIAL COURT WAS DIVESTED OF JURISDICTION AND DID NOT HAVE AUTHORITY TO DENY APPELLANT'S MOTION FOR NEW TRIAL UNDER CIV.R[.] 59(A) AND ABUSED ITS DISCRETION NOT HEARING APPELLANT'S MOTION FOR NEW TRIAL UNDER CIV.R[.] 59(A)[.]
>
> [4.] THE TRIAL COURT BOTH ERRED DEVIATING FROM THE LANGUAGE OF REMAND BY DEVIATING FROM THE MEANING OF THE REMAND INTERPOLATING INTO THE REMAND ENTIRELY NEW MEANINGS THAT DO NOT EXIST AND ABUSED ITS DISCRETION NOT CONSIDERING COMPETENT CREDIBLE EVIDENCE IN THE RECORD AND ITS MANIFEST WEIGHT (OR THE ABSENCE OF EVIDENCE IN THE RECORD) SUCH THAT

> THE FINDER OF FACT LOST ITS WAY IN THE TRIAL COURT'S [sic].
>
> [5.] THE TRIAL COURT BOTH ERRED AS A MATTER OF LAW BY FAILING TO APPOINT COUNSEL TO APPELLANT AS REQUIRED UNDER R.C. 120-1-03(B), R.C. 120.16(A)(1) IN THE ADVERSARIAL JUDICIAL CRIMINAL PROCEEDING INTITIATED AGAINST APPELLANT ON 2-11-2025 AND BY DENYING APPELLANT DUE PROCESS RIGHT TO FAIR AND IMPARTIAL PROCEEDINGS BY WORDS THAT MAY REASONABLY BE PERCEIVED TO AS BIAS OR PREJUDICE[.]
>
> [6.] STATE ACTORS WITH APPELLEE T. RYAN INFLICTED EMOTIONAL DISTRESS TO APPELLANT AND BODILY HARM RESULTING FROM EMOTIONAL DISTRESS SUCH THAT THE PROCEEDINGS IN THE TRIAL COURT CASE HAVE BEEN TAINTED SUCH THAT FAIR AND IMPARTIAL PROCEEDINGS ARE AN IMPOSSIBILITY.

III. DISCUSSION

A. Scope of this Appeal

{¶ 20} Before considering the merits of this appeal, we must consider which of James's six assignments of error are properly before this court. We will consider James's first and fourth assignments of error, as well as the second argument in the fifth assignment of error, because they challenge the final judgment James has appealed. However, we decline to address James's second, third, and sixth assignments of error and the first argument in the fifth assignment of error because the contentions therein are unrelated to the March 20, 2025 decision and entry.

{¶ 21} To initiate an appeal with a court of appeals, a party must file a notice of appeal with the clerk of the trial court. App.R. 3(A). "The notice of appeal . . . must . . . designate the judgment—or the order or the part of it—from which the appeal is taken[.]" App.R. 3(D)(2). Generally, the judgment designated within the notice of appeal determines the scope of an appeal. *Indep. Church of God & Saints of Christ v. Stevens*, 2026-Ohio-2500, ¶ 15 (10th Dist.). However, an appellant's failure to name a particular judgment in a notice of appeal does not necessarily preclude the appellant from raising, and the court of appeals from deciding, assignments of error pertaining to the unnamed judgment.

{¶ 22} "[T]he only jurisdictional requirement for the filing of a valid appeal is the timely filing of a notice of appeal." *Transamerica Ins. Co. v. Nolan*, 72 Ohio St.3d 320, 322 (1995), citing App.R. 3(A). When presented with any other (i.e., non-jurisdictional) defects in the notice of appeal, a court of appeals has discretion to determine whether sanctions are warranted. *Id.*; *accord Maritime Mfrs., Inc. v. Hi-Skipper Marina*, 70 Ohio St.2d 257 (1982) (reversing the court of appeals' determination that it lacked jurisdiction to decide assignments of error related to a final judgment entered on the merits because the notice of appeal improperly designated the judgment appealed as the judgment denying the motion for new trial). Consequently, courts of appeals are vested with discretion to consider assignments of error relative to timely appealed judgments not named in the notice of appeal. *Cook v. Smith*, 2012-Ohio-4951, ¶ 11, 22 (10th Dist.); *Bond v. Canal Winchester*, 2008-Ohio-945, ¶ 14 (10th Dist.); *accord JPMorgan Chase Bank, N.A. v. Yoo*, 2025-Ohio-5519, ¶ 32 (8th Dist.) ("This court is vested with the discretion to consider arguments relative to orders not included in the notice of appeal."); *Davis v. Barton*, 2021-Ohio-2359, ¶ 66 (7th Dist.) ("[T]he timely filing of a notice of appeal in a trial court case is the sole jurisdictional requirement (which can be satisfied even if the notice fails to designate one of the judgments) and the court then exercises discretion to decide whether to refuse to address certain assignments of error where the appellant violated App.R. 3(D).").[2]

{¶ 23} James's notice of appeal designated one judgment from which he appealed: the March 20, 2025 decision and entry that decided the remanded issues. We will consider James's first and fourth assignments of error because they both assert the trial court erred in deciding the March 20, 2025 decision and entry. However, we must scrutinize further James's second, third, fifth, and sixth assignments of error because they address a variety of matters unrelated to the March 20, 2025 decision and entry.

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[2] We recognize that this court has previously held that courts of appeals "have jurisdiction to review assignments of error stemming only from the judgment subject of the notice of appeal. . . . Thus, assignments of error must relate to the judgment that is the subject of the notice of appeal." *State v. Thompkins*, 2007-Ohio-4315, ¶ 7 (10th Dist.); *accord State v. Darks*, 2013-Ohio-176, ¶ 6 (10th Dist.); *State v. Browning*, 2022-Ohio-386, ¶ 18 (10th Dist.); *Campbell v. Campbell*, 2021-Ohio-2045, ¶ 13 (10th Dist.). We disavow these statements of law as they sweep so broadly that they contravene the holdings of *Nolan* and *Maritime Mfrs., Inc. See In re Estate of Robison*, 2017-Ohio-8980, ¶ 15 (10th Dist.) (acknowledging the conflict between *Thompkins* and *Nolan*).

{¶ 24} In James's second assignment of error, he argues the trial court erred in issuing orders and decisions *after* he filed the notice of appeal that initiated this appeal on April 18, 2025.[3] Actions taken by the trial court after the notice of appeal is filed are outside of the scope of the noticed appeal. *Atlantica, LLC v. Salahuddin*, 2024-Ohio-5780, ¶ 29 (10th Dist.); *Simpson v. Moreland*, 2024-Ohio-1728, ¶ 46 (12th Dist.); *State v. Spears*, 2015-Ohio-3652, ¶ 6 (9th Dist.); *accord In re Estate of Robison*, 2017-Ohio-8980, ¶ 20 (10th Dist.) ("Unless an appellant takes steps to amend the notice of appeal pursuant to App.R. 3(F), assignments of error involving entries that postdate the judgment identified in the notice of appeal would not be properly before the court."). Accordingly, we dismiss the second assignment of error.

{¶ 25} In James's third assignment of error, he argues the trial court erred by not ruling on his motion for a new trial. James moved for a new trial approximately one month after the trial court issued its September 19, 2023 judgment entry and decree of divorce. The trial court denied the motion. James appealed the judgment denying his motion for new trial to this court, and we vacated that judgment because the trial court did not possess jurisdiction to rule on the motion for new trial. *Ryan*, 2024-Ohio-5691, at ¶ 44 (10th Dist.). Now, in this appeal, James asserts the trial court has erred by not ruling on his motion for new trial on remand.

{¶ 26} Problematically, in this assignment of error, James wants this court to exceed the parameters of our appellate jurisdiction. The "[a]ppellate jurisdiction of Ohio's courts of appeals is limited." *Mill Creek Metro. Park Bd. of Commrs. v. Less*, 2023-Ohio-2332, ¶ 8. Courts of appeals have jurisdiction "to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals within the district." Ohio Const., art. IV, § 3(B)(2). By James's third assignment of error, he does not ask this court to review and affirm, modify, or reverse a final judgment. Instead, he wants this court to find fault with the trial court's failure to render a final judgment and to command the trial court to proceed with deciding the motion for new trial. Such actions are outside the scope of our appellate jurisdiction. Accordingly, we dismiss James's third assignment of error.

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[3] In his appellant's brief, James incorrectly identified the date on which he filed his notice of appeal as April 4, 2025. He actually filed his notice of appeal on April 18, 2025.

{¶ 27} By James's fifth assignment of error, he makes two arguments. First, he argues the trial court erred in not appointing him counsel to represent him with regard to Tara's motion for contempt. Second, he argues the trial judge's bias against him deprived him of his due process right to fair and impartial proceedings. Because James contends the trial judge's alleged bias affected the March 20, 2025 decision and entry that decided the property issues on remand, we will address James's second argument below. However, unlike the second argument, James's first argument relates to Tara's motion for contempt, not the March 20, 2025 decision and entry.

{¶ 28} During the February 11, 2025 hearing on Tara's motion for contempt, the magistrate indicated he believed, but he was not certain, that he had signed an order appointing James counsel. In this appeal, based on an alleged representation from a court bailiff, James complains that the trial judge did not also sign the order that the magistrate supposedly signed. Importantly, the trial court did not deny James's motion for court-appointed counsel, as James claims. To the contrary, pursuant to an order entered March 3, 2025, the trial court *granted* James's motion for court-appointed counsel. James now asserts that the trial court erred by failing to enter the order granting him counsel earlier. According to James, he was constitutionally entitled to legal representation at the February 11, 2025 hearing regarding Tara's motion for contempt, even though the magistrate did not address the merits of that motion during the hearing.

{¶ 29} Because James's argument does not relate to the judgment on appeal, we will not review it. James, however, is not without recourse. If Tara's motion for contempt proves successful, James will be able to assert his argument regarding the belated grant of his motion for court-appointed counsel in an appeal from the judgment finding him in contempt. At this point, as Tara's motion for contempt remains unresolved, James's argument is not yet ripe for our consideration. Accordingly, we dismiss from this appeal the first argument asserted in James's fifth assignment of error.

{¶ 30} In James's sixth assignment of error, he argues Tara and unidentified "state actors" intentionally inflicted emotional distress on him through extreme and outrageous conduct beginning on February 11, 2025. Apparently, by this assignment of error, James seeks to commence a cause of action; namely, a claim for intentional infliction of emotional distress. However, as we stated above, this court only has appellate jurisdiction "to review and affirm, modify, or reverse judgments or final orders of the courts of record inferior to the court of appeals within the district." Ohio Const., art. IV, § 3(B)(2). We do not have the jurisdiction to entertain James's attempt to assert a cause of action against Tara and unknown state actors. Accordingly, we dismiss James's sixth assignment of error.

{¶ 31} In summary, we dismiss James's second, third, and sixth assignments of error, and we partially dismiss the fifth assignment of error. We now turn to analyzing the merits of the remaining assignments of error.

B. First Assignment of Error–Jurisdiction During the Pendency of the Appeal to the Supreme Court of Ohio

{¶ 32} By his first assignment of error, James argues the trial court lacked jurisdiction to render the March 20, 2025 decision and entry because, when the trial court issued that judgment, his jurisdictional appeal of our December 5, 2024 judgment was pending before the Supreme Court. We disagree.

{¶ 33} A trial court and appellate court cannot simultaneously assert jurisdiction over the same issues. *Lambda Research & Surface Enhancement Technologies, L.L.C. v. Jacobs*, 2007-Ohio-309, ¶ 21 (1st Dist.). Consequently, when an appeal is perfected by the timely filing of a written notice of appeal, the trial court loses jurisdiction except to take action in aid of the appeal. *In re S.J.*, 2005-Ohio-3215, ¶ 9. In other words, " 'once an appeal is perfected, the trial court is divested of jurisdiction over matters that are inconsistent with the reviewing court's jurisdiction to reverse, modify, or affirm the judgment.' " *State ex rel. Electronic Classroom of Tomorrow v. Cuyahoga Cty. Court of Common Pleas*, 2011-Ohio-626, ¶ 13, quoting *State ex rel. Rock v. School Emps. Retirement Bd.*, 2002-Ohio-3957, ¶ 8. The trial court, therefore, "loses jurisdiction to take any further action which would conflict or materially affect that part or portion of the proceeding which is pending on appeal." *Smith v. Bond*, 2015-Ohio-2585, ¶ 10 (7th Dist.); *accord Veller v. K.B.*, 2026-Ohio-2114, ¶ 16 (6th Dist.) (concluding that a trial court ruling that could potentially conflict with the disposition of a pending appeal is inconsistent with the reviewing court's jurisdiction to reverse, modify, or affirm the appealed judgment). Stated alternatively, the timely filing of a notice of appeal generally precludes a trial court from taking further action on matters the pending appeal could affect. *State ex rel. Bohlen v. Halliday*, 2021-Ohio-194, ¶ 25; *accord LEXISNEXIS v. Murrell*, 2021-Ohio-3527, ¶ 6 (2d Dist.), quoting *Electronic Classroom of Tomorrow* at ¶ 14 ("[T]he trial court does not have jurisdiction to proceed on claims that 'could be affected by' or 'might be subject to' the issues pending on appeal.").

{¶ 34} Conversely, the trial court may exercise jurisdiction as to matters in the same case that are unaffected by the appeal. *State ex rel. McIntyre v. McCarty*, 2026-Ohio-1992, ¶ 21. Despite the pendency of an appeal, the trial court retains jurisdiction over "those issues not directly related to the subject of the appeal." *Jacobs* at ¶ 21; *accord Zamos v. Zamos*, 2006-Ohio-6497, ¶ 17 (11th Dist.) (the trial court retained jurisdiction over the issue of modification of child support during the pendency of an appeal attacking the basis of the divorce decree because "[t]he issue of child support was of no consequence to the outcome of the appeal").

{¶ 35} Most commonly, a restriction on a trial court's jurisdiction due to the pendency of an appeal occurs when a party appeals from a trial court judgment to a court of appeals. However, it also happens when a party appeals a judgment from a court of appeals to the Supreme Court. *State v. Washington*, 2013-Ohio-4982, ¶ 8; *Rielinger v. Cuyahoga Cty. Common Pleas Court*, 2025-Ohio-1339, ¶ 14 (8th Dist.); *Black v. Hicks*, 2018-Ohio-2289, ¶ 28 (8th Dist.).

{¶ 36} On January 21, 2025, James filed a notice of appeal, which named this court's December 5, 2024 judgment as the judgment appealed, in the Supreme Court. In an entry issued April 1, 2025, the Supreme Court declined to accept jurisdiction of James's appeal. Therefore, James's appeal was pending before the Supreme Court when the trial court entered its March 20, 2025 decision and entry deciding the remanded property issues.

{¶ 37} James asserts that, due to the pending appeal, the trial court lacked jurisdiction to render the March 20, 2025 decision and entry. James, however, fails to recognize the limited nature of his appeal. The propositions of law and argument James set forth in his memorandum in support of jurisdiction did not challenge this court's holdings regarding property classification and division, which were the holdings that resulted in the remand. Reading James's propositions of law and argument broadly, we determine that he contested this court's legal conclusions that: (1) a foreign citizen's counterclaim for divorce is not transferable to federal court because the "domestic relations exception" to federal subject-matter jurisdiction precludes federal courts from hearing cases involving the issuance of divorce, alimony, or child custody decrees, and (2) a trial court does not abuse its discretion in finding that a litigant engages in frivolous conduct under R.C. 2323.51 when the litigant files several appeals from interlocutory orders during a divorce action. Neither of these legal issues is directly related to the property classification and division issues the trial court decided on remand. Had the Supreme Court accepted jurisdiction regarding the question of the federal court's jurisdiction over Tara's counterclaim, a ruling as to the property issues would not have conflicted with the disposition of the appeal. Resolution of the property issues was necessary to reach a final determination on James's divorce complaint, and would not have affected a determination on the proper forum for Tara's counterclaim. The frivolous conduct question related to the trial court's award of attorney fees to Tara, not the property issues.

{¶ 38} We conclude, therefore, that the trial court retained jurisdiction to render the March 20, 2025 decision and entry, regardless of the pending appeal before the Supreme Court. Accordingly, we overrule the first assignment of error.

C. Fourth Assignment of Error–Property Determinations

{¶ 39} By James's fourth assignment of error, he argues the evidence does not support the trial court's resolution of factual issues relating to the property classification and division, including the trial court's determination that the value of the Roxbury property was $440,000 in March 2013. We disagree.

{¶ 40} Initially, James claims that competent, credible evidence establishes (1) he was the sole maker of the mortgage note, and (2) he did not default on the note and mortgage. James also maintains the record contains no competent, credible evidence that (1) EMC Mortgage Company had standing to bring the foreclosure action against the parties or (2) Tara made any mortgage payments to Fifth Third Mortgage Company, a prior holder of the mortgage note. As none of these factual issues were within the scope of the remand, the trial court did not consider them. "[I]ssues beyond the scope of a previous remand are beyond the scope of review following a return of the case from remand." *State ex rel. Natl. Elec. Contrs. Assn. v. Ohio Bur. of Emp. Servs.*, 2000-Ohio-431, ¶ 9. We, consequently, decline to address James's evidentiary arguments regarding the note, mortgage, and foreclosure.

{¶ 41} Next, James argues that the trial court erred in valuing the Roxbury property at $440,000 when Tara paid off the mortgage note in March 2013. In a divorce action, the valuation of the parties' assets is typically a factual issue left to the trial court's discretion. *Vacheresse v. Paulchel*, 2023-Ohio-3226, ¶ 21 (10th Dist.). The evidence a trial court relies upon for its value determinations must be competent and credible, and must supply a rational basis for the values assigned. *Miller v. Miller*, 2026-Ohio-1148, ¶ 23 (10th Dist.); *Fernando v. Fernando*, 2017-Ohio-9323, ¶ 26 (10th Dist.). When expert testimony is admitted as to property values, a trial court may believe all, part, or none of the expert's testimony. *Skyes v. Skyes*, 2024-Ohio-1042, ¶ 9 (10th Dist.). An appellate court upholds a determination of value that is based on competent, credible evidence absent a showing of an abuse of discretion. *Miller* at ¶ 24.

{¶ 42} Before the trial court, James asserted the March 2013 value of the Roxbury property was $666,607.46 because that was the amount of the proceeds realized from the sale of the property in October 2016. On appeal, however, James argues for two different values. First, James claims the March 2013 value of the Roxbury property was $1,070,000 based on a coverage summary page from an insurance policy, effective for November 4, 2013 to November 4, 2014, that insured the Roxbury dwelling for $1,070,000. James, however, did not present the trial court with either this claim or evidence supporting the claim.[4]

{¶ 43} A party who fails to raise an argument before the trial court waives or forfeits the right to raise that argument on appeal. *West v. Bode*, 2020-Ohio-5473, ¶ 43; *BBI Logistics, LLC v. GRS, Transport, Inc.*, 2026-Ohio-1146, ¶ 67 (10th Dist.). Moreover, appellate review is limited to the record as it existed at the time the trial court rendered its judgment. *Nelson v. State Farm Fire & Cas. Co.*, 2023-Ohio-1982, ¶ 29 (10th Dist.); *Roote v. Hibernia Apts. I, L.L.C.*, 2020-Ohio-5401, ¶ 11 (10th Dist.). "A reviewing court cannot add matter to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter." *State v. Ishmail*, 54 Ohio St.2d 402, (1978), paragraph one of the syllabus. Because James waived his argument that the Roxbury property had a $1,070,000 value and failed to adduce evidence in support of that argument, we will not consider the alternative valuation.

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[4] The coverage summary page only appears in the record as a *proposed* exhibit in James's trial notebook. James did not move to admit the exhibit into evidence at trial. James also failed to attach the coverage summary page as an exhibit to his March 3, 2025 supplemental brief.

{¶ 44} Second, in his reply brief, James asks this court to take judicial notice of a letter from the Franklin County Auditor stating that the value of the Roxbury property as of the January 1, 2013 tax lien date was $659,400. Evid.R. 201(B) allows a court to take judicial notice of an adjudicative fact if that fact is "not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." "Although the taking of judicial notice is allowed at any stage of the proceedings, Evid.R. 201(F), it is not 'an exception to the rule that evidence must be timely offered in a judicial proceeding.' " *State ex rel. Richard v. Chambers-Smith*, 2019-Ohio-1962, ¶ 12, quoting *AP Hotels of Illinois, Inc. v. Franklin Cty. Bd. of Revision*, 2008-Ohio-2565, ¶ 8, fn. 1. Here, James could have timely presented the Franklin County Auditor's letter to the trial court with his supplemental brief. Because he did not, the trial court lost its chance to weigh that evidence. Consequently, we decline to take judicial notice of it.[5]

{¶ 45} Only Tara's expert witnesses provided the trial court with evidence as to the Roxbury property's March 2013 value; they stated that the market value of the property was $440,000 as of March 28, 2013. We conclude, therefore, the trial court based its valuation of the Roxbury property on competent, credible evidence, and the trial court thus did not abuse its discretion in determining the March 2013 value of the Roxbury property was $440,000. Accordingly, we overrule James's fourth assignment of error.

D. Fifth Assignment of Error–Violation of the Right to Due Process Based on Alleged Judicial Bias

{¶ 46} As we stated above, by James's fifth assignment of error, he argues the trial judge's bias against him deprived him of his due process right to fair and impartial proceedings. James contends the trial court exhibited bias against him by referring to him as "nefarious," which he believes implies he is connected to crime.

{¶ 47} Before reviewing the merits of James's argument, we must address whether we have the jurisdiction to consider it. That it turn, requires, analysis of an oft repeated maxim of this court: "R.C. 2701.03 provides the exclusive means by which a litigant may

[5] For the same reason, we also decline to take judicial notice of the December 7, 2015 letter stating the Franklin County Auditor's value of the Roxbury property for tax year 2015.

claim that a common pleas judge is biased or prejudiced." (Internal quotation marks omitted.) *E.g., Lower v. Lower*, 2026-Ohio-2098, ¶ 46 (10th Dist.); *Marshall v. Marshall*, 2021-Ohio-2003, ¶ 5 (10th Dist.). Pursuant to R.C. 2701.03, a party to a proceeding or the party's counsel may file an affidavit of disqualification against a common pleas judge. R.C. 2701.03(A). However, as the Chief Justice of the Supreme Court of Ohio has pointed out when deciding disqualification matters, an affidavit of disqualification is *not* the only means by which to raise a claim of judicial bias. *In re Disqualification of Navarre*, 2019-Ohio-856, ¶ 5; *In re Disqualification of Zmuda*, 2017-Ohio-317, ¶ 11. The United States Supreme Court has long recognized that "a ' "fair trial in a fair tribunal is a basic requirement of due process," ' and a biased decision maker is constitutionally unacceptable." *Bailey v. Beasley*, 2010-Ohio-1146, ¶ 21 (10th Dist.), quoting *Withrow v. Larkin*, 421 U.S. 35, 46-47 (1975), quoting *In re Murchison*, 349 U.S. 133, 136 (1955). Moreover, "[t]he Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases." *Marshall v. Jerricho, Inc.*, 446 U.S. 238, 242 (1980). Consequently, a litigant may assert a common pleas judge is biased or prejudiced via an affidavit of disqualification *or* a claim of a due process violation.[6] *State v. Dixon*, 2025-Ohio-326, ¶ 31 (3d Dist.), quoting *State v. Loudermilk*, 2017-Ohio-7378, ¶ 18 (1st Dist.) (" '[A]n affidavit of disqualification is not the sole method available to raise a claim of judicial bias' as 'a biased judge denies a defendant the due process of law.' ").

{¶ 48} Importantly, only the Chief Justice of the Supreme Court of Ohio or her designee may hear disqualification matters. R.C. 2701.03(D). As a result, courts of appeals are "without authority to pass upon disqualification or to void the judgment of [a] trial court upon that basis." *Beer v. Griffith*, 54 Ohio St.2d 440, 441-442 (1978). Courts of appeals, thus, lack jurisdiction to review denials of motions to recuse, *State ex rel. Hough v. Saffold*, 2012-Ohio-28, ¶ 2, or general challenges to a trial judge's objectivity, *Lower* at ¶ 47; *Karr v. Salido*, 2024-Ohio-1141, ¶ 49 (10th Dist.). On the other hand, courts of appeals may review claims of due process violations based on judicial bias, and may enter reversals due to the deprivation of due process. *State v. Smith*, 2019-Ohio-5199, ¶ 25-26 (10th Dist.); *accord Karr* at ¶ 49, quoting *Cleveland v. Goodman*, 2020-Ohio-2713, ¶ 16 (8th Dist.) ("An

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[6] In *Newman v. Goodwill Columbus*, 2024-Ohio-5892, ¶ 57-58 (10th Dist.), we suggested that a litigant could assert a due process violation based on judicial bias in criminal cases, but not civil cases. In light of the holding in *Marshall v. Jerricho, Inc.*, we reject that conclusion.

appellate court may reverse a judgment 'if the bias or prejudice violated the defendant's right to due process and deprived the defendant of a fair hearing.' "); *Fifth Third Mtge. Co. v. Berman*, 2019-Ohio-1068, ¶ 43 (10th Dist.) (stating that Ohio courts have recognized that courts of appeals have jurisdiction to review claims of judicial bias alleged to have resulted in a violation of a party's due process rights).[7]

{¶ 49} In this appeal, James raises his challenge to the trial judge's impartiality as a violation of his right to due process. We, therefore, have authority to review James's argument.

{¶ 50} "[M]ost questions concerning a judge's qualifications to hear a case are not constitutional ones, because the Due Process Clause of the Fourteenth Amendment establishes a constitutional floor, not a uniform standard." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). Matters of kinship, personal bias, state policy, and remoteness of interest are covered by common law, statute, or professional standards of the bench and bar. *Id.*; *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009); *accord Williams v. Pennsylvania*, 579 U.S. 1, 13 (2016), quoting *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 828 (1986) ("[D]ue process 'demarks only the outer boundaries of judicial disqualifications.' . . . Most questions of recusal are addressed by more stringent and detailed ethical rules[.]"). Consequently, in order to assert a due process claim based on judicial bias, a party must first file an affidavit of disqualification under R.C. 2701.03, if the party has the ability to do so. *State v. Osie*, 2014-Ohio-2966, ¶ 64-65. When a party fails to complete this step, he is foreclosed from bringing his due process complaint on appeal. *Id.* at ¶ 65; *Glass v. Franklin Cty. Dept. of Animal Care & Control*, 2023-Ohio-4804, ¶ 56 (10th Dist.); *accord State ex rel. Yost v. Keegan Ents., Ltd.*, 2026-Ohio-961, ¶ 26 (6th Dist.) (holding that an appellate court's review of judicial bias that affected a party's due-process rights is "limited to those cases in which the appellant was unaware of the potential for judicial bias in time to file an affidavit of disqualification with the Ohio Supreme Court").

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[7] Multiple appellate courts have concluded that a court of appeals has the authority to reverse a judgment if a trial judge's bias or prejudice violated a party's right to due process and deprived that party of fair and impartial proceedings. *See Arnoff v. Patterson*, 2026-Ohio-1227, ¶ 53 (11th Dist.); *State ex rel. Yost v. Keegan Ents., Ltd.*, 2026-Ohio-961, ¶ 26 (6th Dist.); *Hill v. Hikel*, 2025-Ohio-2161, ¶ 12 (1st Dist.); *State ex rel. Meyers Lake v. Michel*, 2025-Ohio-384, ¶ 31 (5th Dist.); *Best Motors, L.L.C. v. Kaba*, 2025-Ohio-640, ¶ 69 (8th Dist.); *Dixon* at ¶ 31; *In re C.S.*, 2023-Ohio-3754, ¶ 24 (4th Dist.); *King v. Divoky*, 2021-Ohio-1712, ¶ 45 (9th Dist.).

{¶ 51} James argues the trial judge demonstrated his bias against James by referring to James as "nefarious" in the January 17, 2024 decision and judgment entry denying James's motion for a new trial. In the January 17, 2024 judgment, the trial court actually stated:

> The Court wishes to make particular note of [James's] accusations that court staff locked the courtroom on July 18, 2023, to bar [James] access to the courtroom such that the Court could conduct an ex parte hearing with [Tara] and her counsel, and that [the trial judge] has a bias against [James]. These nefarious tactics employed by [James] are harmful to the judicial process and inappropriate.

(Jan. 17, 2024 Decision & Jgmt. Entry at 5.)

{¶ 52} After we remanded this case to the trial court in our December 5, 2024 judgment, James had the opportunity to file an affidavit of disqualification based on the trial judge's use of the word "nefarious" in the January 17, 2024 judgment. In James's March 3, 2025 supplemental brief, James complained that the trial judge's reference to him as "nefarious" was "a clear demonstration of bias and prejudice against" him and inconsistent with the Code of Judicial Conduct. (Mar. 3, 2025 Supp. Brief at 9.) Nevertheless, James did *not* seek disqualification of the trial judge pursuant to R.C. 2701.03. Given James's failure to file an affidavit of disqualification, he is foreclosed from bringing his due process complaint in this appeal. Accordingly, we overrule the remaining part of James's fifth assignment of error.

IV. CONCLUSION

{¶ 53} For the foregoing reasons, we overrule James's first and fourth assignments of error, and we dismiss James's second, third, and sixth assignments of error. We overrule in part and dismiss in part James's fifth assignment of error. We affirm the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations.

Judgment affirmed.

DORRIAN and BEATTY BLUNT, JJ., concur.