

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
PORTAGE COUNTY**

JEFFREY A. SWIECICKI,

Petitioner-Appellant,

- vs -

LISA M. SWIECICKI,

Petitioner-Appellee.

CASE NO. 2026-P-0030

Civil Appeal from the
Court of Common Pleas,
Domestic Relations Division

Trial Court No. 2024 DR 00197

OPINION AND JUDGMENT ENTRY

Decided: September 28, 2026

Judgment: Affirmed

Jeffrey A. Swiecicki, pro se, 500 Treeside Drive, Stow, OH 44224 (Petitioner-Appellant).

Emily M. Rajah and *Melissa M. Folan*, Folan & Rajah, 122 North Prospect Street, Ravenna, OH 44266 (For Petitioner-Appellee).

EUGENE A. LUCCI, J.

{¶1} Appellant, Jeffrey A. Swiecicki (“husband”), appeals the judgment adopting a magistrate’s decision and entering judgment on post-decree matters. For the reasons that follow, we affirm.

{¶2} In 2024, the trial court granted husband and appellee, Lisa M. Swiecicki (“wife”), a dissolution through a decree that incorporated their separation agreement. Thereafter, the parties engaged in post-decree litigation, including wife’s motions to sell the marital residence and to show cause. During the pendency of the post-decree litigation, the magistrate issued several orders. Following a hearing before the magistrate on January 15, 2026, the magistrate issued a decision filed February 6, 2026. Husband

noticed an appeal from the magistrate's decision, which this court dismissed on April 6, 2026, for lack of a final, appealable order. *Swiecicki v. Swiecicki*, 2026-Ohio-1229, ¶ 7 (11th Dist.).

{¶3} Thereafter, on the same day, the trial court adopted the magistrate's decision and independently entered judgment (1) finding husband in contempt for his failure to comply with the terms of the dissolution decree, (2) setting purge conditions, and (3) issuing orders relative to the sale of the marital residence.

{¶4} Husband timely noticed an appeal on April 16, 2026, and he now assigns ten errors for our review. However, in his appellant's brief, husband does not separate his assigned errors from the arguments in support of the assignments. It appears that, for most of the arguments, the first paragraph under each assigned error's heading constitutes the assignment of error, which we replicate below:

[1.] The trial court violated Petitioner's right to due process by granting Appellee's motion without affording Petitioner an opportunity to respond, in contravention of applicable rules of civil procedure and local rules.

[2.] The trial court abused its discretion by denying Petitioner's motion for continuance, thereby prejudicing Petitioner's ability to participate in the proceedings and demonstrating an unreasonable and arbitrary decision-making process.

[3.] The trial court violated Petitioner's right to due process and the appearance of judicial impartiality by failing to provide a meaningful explanation for its prior ruling and by making statements that reflect improper treatment of a pro se litigant.

[4.] The trial court violated Petitioner's right to due process by repeatedly granting dispositive motions without affording Petitioner an opportunity to respond, in contravention of applicable procedural rules and fundamental fairness.

[5.] The trial court denied Petitioner a fair and impartial proceeding by engaging in conduct demonstrating hostility

toward Petitioner and addressing matters not properly before the court, thereby violating Petitioner's right to due process.

[6.] The trial court violated Petitioner's right to due process by granting Appellee's motion affecting a significant property interest without affording Petitioner an opportunity to respond, in contravention of procedural rules and fundamental fairness.

[7.] The trial court abused its discretion by denying Petitioner's request for mediation without adequate justification and by failing to properly address concerns regarding judicial impartiality, thereby depriving Petitioner of a fair proceeding.

[8.] Magistrate Morrison's Magistrate's Order of February 6, 2026, found that appellant Jeffrey A Swiecicki has the *means* to comply with her financial directives without ever taking evidence from my creditors, without examining my actual financial obligations, and without any meaningful inquiry into my ability to pay. Such a fundamental omission constitutes an abuse of discretion and a violation of basic fairness.

[9.] In Magistrate Morrison's order dated February 6, 2026, she asserts that appellant Jeffrey A. Swiecicki is attempting to obstruct the process of selling the marital residence. Importantly, there was not a single statement or issue raised at the hearing regarding the real estate agent or the sale process. Magistrate Morrison had no firsthand knowledge of any events occurring during the prior forty-five days while the marital residence was being prepared for sale

[10.] On November 3, 2025, [wife's attorney] filed a Second Motion to Show Cause, attached hereto as Exhibit A. On November 5, 2025, pro se Appellant Jeff Swiecicki filed an opposition to the Second Motion to Show Cause, attached hereto as Exhibit B.

{¶5} Initially, we note that, despite his references to the "trial court," husband's assignments of error all challenge the actions of the magistrate, not the trial court judge.¹

1. In his first assigned error, husband challenges the magistrate's July 18, 2025 order granting wife's motion preventing husband from changing the locks on the former marital residence. In his second assigned error, husband challenges the magistrate's August 21, 2025 order denying his motion for continuance. In his third assigned error, husband challenges the magistrate's remarks made at an August 22, 2025 hearing. In his fourth assigned error, husband challenges the magistrate's September 17, 2025 order granting wife's motions to compel and for sanctions. In his fifth assigned error, husband challenges the magistrate's conduct at trial. In his sixth assigned error, husband challenges the magistrate's January 6, 2026 order

Challenges to a magistrate's orders, decisions, and impartiality are governed by Civ.R. 53.

{¶6} Pursuant to Civ.R. 53(D)(2)(a), a magistrate may issue orders without judicial approval to regulate the proceedings. To obtain judicial review of a magistrate's order, a party may move to set aside the order. Civ.R. 53(D)(2)(b). "The motion shall state the moving party's reasons with particularity and shall be filed not later than ten days after the magistrate's order is filed. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order, though the magistrate or the court may by order stay the effectiveness of a magistrate's order." *Id.* Where a party fails to move to set aside a magistrate's order, the party forfeits his challenge to the order on appeal. *In re Z.A.D.*, 2022-Ohio-4049, ¶ 13 (11th Dist.).

{¶7} With respect to magistrate's decisions, pursuant to Civ.R. 53(D)(3)(a)(i), a magistrate may issue decisions dispositive of a party's claim. However, a magistrate's decision is not effective until adopted by the court. Civ.R. 53(D)(3)(a). A party may object to a magistrate's decision within 14 days of its filing. Civ.R. 53(D)(3)(b)(i). To the extent that the objection challenges factual findings, the objecting party is generally required to support his objection with a transcript of the relevant magistrate's hearing. Civ.R. 53(D)(3)(b)(iii). Where a party fails to object to a magistrate's finding of fact or conclusion of law, the party is precluded from challenging the court's adoption of a magistrate's finding or conclusion on appeal, aside from a claim of plain error.

requiring that the former marital residence be sold using a certain title company. In his seventh assigned error, husband challenges the magistrate's denial of his oral motions for mediation and recusal made prior to the commencement of trial. In his eighth and ninth assigned errors, husband challenges certain aspects of the February 6, 2026 magistrate's decision. In his tenth assigned error, husband challenges the magistrate's remarks to wife's counsel regarding the withdrawal of a second motion for contempt.

{¶8} Regarding challenges to a magistrate’s impartiality, Civ.R. 53(D)(6) provides that “[d]isqualification of a magistrate for bias or other cause is within the discretion of the court and may be sought by motion filed with the court.” A party that fails to move for disqualification of a magistrate in the trial court may not raise the issue of a magistrate’s alleged bias for the first time on appeal. *See State v. Quarterman*, 2014-Ohio-4034, ¶ 15 (an appellate court will not review an error that the appellant failed to bring to the attention of the trial court at a time it could have been corrected); *see also Barton v. Barton*, 2015-Ohio-5194, ¶ 42 (5th Dist.) (issue of magistrate bias was “waived” on appeal where the party failed to move to disqualify the magistrate in the trial court).

{¶9} Despite the relief provided by Civ.R. 53, husband did not move to set aside any of the magistrate’s orders, did not object to the magistrate’s decision, and did not move to disqualify the magistrate “by motion filed with the court.” *See* Civ.R. 53(D)(6).² Thus, husband has forfeited his challenges to the magistrate’s orders, decision, and impartiality for purposes of appeal.

{¶10} To the extent that husband is permitted to argue plain error as to these issues, he makes no argument that the trial judge committed error, much less plain error. *See Behrens v. Behrens*, 2024-Ohio-1121, ¶ 25 (11th Dist.) (“Appellate courts generally do not directly review a magistrate’s actions. Instead, we review the actions of the trial court relative to the magistrate’s decision.”). Moreover, “[i]n appeals of civil cases, the plain error doctrine is not favored and may be applied only in the extremely rare case involving exceptional circumstances where error, to which no objection was made at the

2. The trial court’s judgment entry indicates that prior to commencement of the magistrate’s hearing, husband “requested that the Magistrate recuse herself as he alleged that she did not treat him fairly.” However, an oral request to the magistrate for recusal does not constitute a “motion filed with the court” for purposes of Civ.R. 53(D)(6).

trial court, seriously affects the basic fairness, integrity, or public reputation of the judicial process, thereby challenging the legitimacy of the underlying judicial process itself.” (Citations omitted.) *Goldfuss v. Davidson*, 1997-Ohio-401, syllabus. This is not such a case.

{¶11} Accordingly, husband’s assigned errors lack merit.

{¶12} The judgment is affirmed.

JOHN J. EKLUND, J.,

SCOTT LYNCH, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignments of error lack merit. It is the judgment and order of this court that the judgment of the Portage County Court of Common Pleas, Domestic Relations Division, is affirmed.

Costs to be taxed against appellant.

JUDGE EUGENE A. LUCCI

JUDGE JOHN J. EKLUND,
concur

JUDGE SCOTT LYNCH,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY
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A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
