

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WOOD COUNTY

John D. Moore

Court of Appeals No. WD-26-005

Appellant

Trial Court No. 2015DR0195

v.

Brenda Lee Moore

DECISION AND JUDGMENT

Appellee

Decided: October 16, 2026

* * * * *

Sarah Haberland, for appellee.

Martin E. Mohler, and
Michael H. Stahl, for appellant.

* * * * *

OSOWIK, P.J.

I. Introduction

{¶ 1} This matter is before the court on appeal of the judgment of the Wood County Court of Common Pleas, denying appellant, John D. Moore’s motion to terminate

or modify spousal support, finding him in contempt, and ordering him to pay appellee Brenda Lee Moore attorney fees. Finding no error, we affirm.

II. Background and Procedural History

{¶ 2} Appellant John D. Moore (Husband) and appellee Brenda Lee Moore (Wife) were married in 1989. On December 4, 2015, Husband filed a complaint for divorce on the grounds of incompatibility and “by reason of the parties living separate and apart for a period greater than one year without cohabitation.” Wife lived in Indiana at the time of filing, and in her answer she admitted to the grounds alleged in Husband’s complaint and asserted a counterclaim for divorce.

{¶ 3} On September 29, 2016, Husband filed a motion to amend his complaint to a complaint for legal separation. In his motion, Husband stated that he and Wife “have verbally reached a settlement agreement for all matters relevant to the requested legal separation and therefore both parties anticipate the legal separation action proceeding directly to a final hearing to permit the Court to consider the parties’ consent agreement.” The trial court granted the motion to amend the complaint, and Husband filed his complaint, alleging proper jurisdiction, and the matter proceeded to hearing on December 22, 2016.

{¶ 4} Following the hearing, the trial court entered a final decree of legal separation by consent that required Husband to provide health insurance for Wife through Husband’s employment, required Wife to pay for any medical costs not covered by insurance, granted each party exclusive ownership of their respective property, vehicles, bank accounts, and insurance policies, and divided the joint savings or checking accounts

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equally. The decree also equally divided the marital portion of Husband's pension, with the date of marriage determined as September 2, 1989 through August 29, 2016. Pertinent to this appeal, the decree contained the following terms regarding support payments:

[E]ffective September 1, 2016, the sum of Five Hundred and Eighty dollars (\$580.00) per week. [Husband's] spousal support payment to [Wife] shall be accomplished by weekly direct deposit or electronic transfer into [Wife's] bank account. Said support obligation shall continue until the first occurring of any of the following: either party's death, Wife's remarriage, Wife's cohabitation with another unrelated male person as if married without the benefit of a ceremonial marriage for a period in excess of thirty (30) days, or [Husband's] attainment of full retirement benefits from his employer. Spousal support shall be modifiable as to the amount of said support due to a substantial change in circumstances of either party as defined within the Ohio Revised Code including, but not limited to: [Husband's] involuntary retirement from his employer due to disability[.]

{¶ 5} On June 26, 2023, Husband filed a motion to modify and/or terminate spousal support, alleging that Wife is cohabitating with an "unrelated male person" and that Husband's earnings "have substantially decreased," citing the provisions of the separation decree permitting modification or termination of support for these circumstances. On September 28, 2023, Husband filed a second motion, seeking to vacate the separation decree for want of subject matter jurisdiction. In support, Husband argued that after he filed his complaint for divorce, he relocated to another state and, therefore, the trial court lacked jurisdiction to permit amendment to the complaint and enter the separation decree. Wife opposed the motion to vacate the judgment. The trial court scheduled the matter for hearing on the motions.

{¶ 6} On December 13, 2023, the parties appeared by Zoom for the hearing before a magistrate. The only issue addressed was Husband's argument regarding subject matter

jurisdiction relative to the complaint for legal separation. Following hearing, the trial court permitted written briefs as closing argument.

{¶ 7} On February 16, 2024, the magistrate issued the decision, denying the motion to vacate and finding R.C. 3105.03 requires the plaintiff in a divorce or annulment action to reside in the state for at least six months prior to filing the action, with no such requirement for a legal separation. In distinguishing Husband's legal argument, the magistrate noted that legal separation actions are often commenced in cases in which the residency requirements for divorce are not yet met, but the party wishes to terminate the marriage, with only personal jurisdiction needed for the court to proceed. However, in the present case, it was clear that Husband had resided in Ohio for the required period prior to filing his complaint for divorce, satisfying the residency requirements and establishing jurisdiction of the court over the action, with the amendment under Civ.R. 15(C) providing continuing jurisdiction to enter the parties' consent decree for legal separation.

{¶ 8} Husband filed objections to the magistrate's decision, arguing the residency requirement is necessary for separation actions and that the amended complaint that converted the divorce proceeding to a legal separation proceeding did not relate back to the initial complaint. On April 30, 2024, the trial court overruled the objections and adopted the magistrate's decision as the judgment of the court. Husband did not appeal.

{¶ 9} On June 28, 2024, Husband filed a motion to show cause, arguing that Wife should appear and show cause why she continues to receive spousal support while cohabitating with an adult male. Husband also filed a motion to escrow his support

payments. Husband's June 26, 2023 motion to terminate or modify the spousal support order remained pending.

{¶ 10} On August 20, 2024, the magistrate held a hearing on Husband's pending motions. At the hearing, Husband and Wife resolved the pending motions by consenting to terminating the spousal support order "forthwith," and the magistrate issued a judgment entry on September 11, 2024. The magistrate granted the motion to terminate spousal support, according to the parties' agreement, and denied the motion to escrow support payments as moot. The magistrate dismissed the motion to show cause without prejudice, granting Husband the right to refile the motion, including the following language:

IT IS FURTHER ORDERED that any additional issues involving the parties' Qualified Domestic Relations Order, [Husband's] claim for a claw back of spousal support from [Wife] and reimbursement of fees and costs shall be preserved, [Husband] shall be allowed to proceed in those matters as he sees fit in the future.

{¶ 11} Following the termination of spousal support, by consent, Husband advised his bank to stop automatic payments to Wife. The bank erroneously stopped payment on two checks issued on August 9 and August 16, 2024, and Husband took no action to restore those payments.

{¶ 12} On December 2, 2024, Wife filed a motion to show cause, based on stopped payment orders placed on two support checks deposited into her account in August, prior to the effective date of the termination of spousal support by consent in the September 11, 2024 judgment entry.

{¶ 13} On June 16, 2025, Husband filed a new motion to terminate or modify spousal support, arguing that Wife was cohabitating with an unrelated adult male beginning in December 2016, and seeking “remittance of all overpayments of support by [Husband] to [Wife].” Husband maintained that all payments, including the two August 2024 payments, were overpayment to Wife and he was entitled to reimbursement.

{¶ 14} On August 14, 2025, the magistrate held hearing on Wife’s motion to show cause and Husband’s most recent motion to terminate or modify spousal support. The magistrate determined the court had jurisdiction over the matter and denied the motion to terminate and/or modify spousal support. The magistrate granted Wife’s show cause motion and found Husband in contempt for failing to pay the August spousal support to remedy his bank’s error. Husband filed objections to the magistrate’s decision, with a memorandum in support and transcripts of the hearings held August 20, 2024 and August 14, 2025.

{¶ 15} On December 29, 2025, the trial court overruled Husband’s objections and adopted the magistrate’s decision as part of the trial court’s judgment entry. The trial court found proper subject matter jurisdiction over the action, filed as a divorce but amended to a complaint for legal separation, with a legal separation granted on December 30, 2016. The trial court further found that the parties terminated the spousal support order within the separation decree by agreement, effective September 11, 2024.

{¶ 16} As to the pending motions, the trial court found the spousal support order terminated with the agreed entry of August 20, 2024, and denied Husband’s motion to modify or terminate the order. The trial court granted Wife’s motion to show cause and

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found Husband in contempt, imposing a suspended three-day jail sentence, with purge conditions that included reimbursing Wife the sum of “two spousal support payments in August of 2024 within thirty (30) days of Judgment Entry.” The court determined Husband was in contempt – not for the stop payment order issued on the two August checks, but for his failure to take corrective action upon learning of the bank’s action by having the checks reissued to Wife or otherwise reimburse Wife for the bank’s error. Finally, the trial court awarded Wife attorney fees pursuant to Local Rule 6.03(B)(3) in the amount of \$600.

{¶ 17} Husband filed a timely appeal of the judgment.

III. Assignments of Error

{¶ 18} In his appeal, Husband asserts the following as error:

1. The trial court erred in failing to address multiple objections raised by [Husband], resulting in a “rubber stamp” of the magistrate’s decision without any meaningful analysis.
2. The trial court erred in affirming the denial of [Husband’s] motion to modify or terminate spousal support.
3. The trial court erred in making a contempt finding without permitting [Husband] to “show cause” as to why he was not in contempt, and further erred in imposing attorney fees.

IV. Analysis

A. Jurisdiction

{¶ 19} As an initial matter, we note that Husband challenged the trial court’s subject matter jurisdiction over the proceedings, arguing that the trial court was without authority to enter the December 30, 2016 decree of legal separation. While Husband does

not specifically raise subject matter jurisdiction on appeal, parties may not waive the requirement for subject matter jurisdiction. *Wiczynski v. Hutton*, 2024-Ohio-2660, ¶ 22 (6th Dist.), citing *Eckart v. Newman*, 2019-Ohio-3211, ¶ 8, fn. 1 (6th Dist.); *see also Rosen v. Celebrezze*, 2008-Ohio-853, ¶ 45, quoting *Pratts v. Hurley*, 2004-Ohio-1980, ¶ 11 (“subject-matter jurisdiction goes to the power of the court to adjudicate the merits of a case”).

{¶ 20} “Because subject-matter jurisdiction is a condition precedent to a court’s power to adjudicate and render judgment in a case, “[i]f a court acts without jurisdiction, then any proclamation by that court is void.” *Ostaneck v. Ostaneck*, 2021-Ohio-2319, ¶ 22, quoting *State ex rel. Tubbs Jones, v. Suster*, 84 Ohio St.3d 70, 75 (1998) (additional citation omitted..). The issue of subject matter jurisdiction may be raised by the court, sua sponte. (Citation omitted) *Doolin v. Doolin*, 123 Ohio App.3d 296, 300 (6th Dist.1997). Therefore, we address the issue as part of this appeal.

{¶ 21} Jurisdiction over divorce and legal separation proceedings is governed by R.C. 3105.03, which provides:

The plaintiff in actions for divorce and annulment shall have been a resident of the state at least six months immediately before filing the complaint. Actions for divorce and annulment shall be brought in the proper county for commencement of action pursuant to the Rules of Civil Procedure. The court of common pleas shall hear and determine the case, whether the marriage took place, or the cause of divorce or annulment occurred, within or without the state.

Actions for legal separation shall be brought in the proper county for commencement of actions pursuant to the Rules of Civil Procedure.

{¶ 22} At the time Husband filed his complaint for divorce, he alleged that he had resided in Ohio at least six months immediately prior to filing. In filing the amended complaint for legal separation, Husband reiterated facts of his residency establishing jurisdiction and did not include any facts regarding his residency at the time of amendment. However, in amending his pleading, he sought only a legal separation, which pursuant to R.C. 3105.03, does not have a jurisdictional residency requirement.

{¶ 23} In seeking a legal separation, the complaint only needed to be commenced “in the proper county” under the Rules of Civil Procedure. *See, e.g., Leathem v. Leathem*, 94 Ohio App.3d 470, 472 (3d Dist.1994) (“Upon a party’s filing a complaint for legal separation in the proper venue, the trial court has jurisdiction over the parties’ assets...”); *see also Gieg v. Gieg*, 16 Ohio App.3d 51, 54 (11th Dist.1984) (R.C. 3105.03 creates jurisdictional residency requirement for divorce or annulment, but the second paragraph of the statute references only “commencement of actions pursuant to Civil Rules” with Civ.R. 3 providing venue provisions). In this case, Civ.R. 3(C)(9) set forth the proper venue for commencing an action for legal separation. Additionally, unlike subject matter jurisdiction, parties may waive venue requirements and Husband never objected to venue, but instead, chose the venue for his action. (Citation omitted) *In re Guardianship of Lavers*, 2012-Ohio-1668, ¶ 21 (6th Dist.).

{¶ 24} Finally, even if a complaint for legal separation required demonstration of residency as a jurisdictional matter, Ohio law provides a narrow exception regarding subject matter jurisdiction and waiver, relative to the trial court’s exercise of jurisdiction in divorce proceedings. We have previously noted that “a litigant may not collaterally

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attack a divorce decree based upon the lack of subject matter jurisdiction... *when the factual predicate for such jurisdiction was originally admitted.*” (Emphasis added.) *Wycynski*, 2024-Ohio-2660, at ¶ 22 (6th Dist.), citing *Eckart*, 2019-Ohio-3211, at ¶ 23 (6th Dist.), citing *Weightman v. Weightman*, 1999 WL 354405, *2 (10th Dist. May 13, 1999).

{¶ 25} Here, Husband alleged facts supporting proper subject matter jurisdiction in his complaint for divorce. In amending the complaint to a complaint for legal separation, Husband reiterated facts regarding residency, and the matter proceeded directly to the 2016 decree of legal separation, entered by consent and containing the provision for spousal support. Husband did not contest the facts supporting the trial court’s determination regarding proper jurisdiction over the proceedings prior to entry of judgment. Husband raised the issue for the first time in 2023. Accordingly, even if a complaint for legal separation had a jurisdictional residency requirement, the record in this case demonstrates that narrow exception for waiver, relative to Husband’s collateral attack on the consent decree for legal separation.

{¶ 26} Having found the trial court properly exercised jurisdiction over the proceedings, we address Husband’s assignments of error, challenging the judgment.

B. Review of the Magistrate’s Decision

{¶ 27} In his first assignment of error, Husband argues that there was no independent review of the magistrate’s decision to address Husband’s multiple objections, arguing the trial court deferred to the magistrate’s finding regarding jurisdiction and res judicata. In his objections, Husband challenged the magistrate’s

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determination that it lacked jurisdiction to address Husband's claim to modify his prior obligation for spousal support or consider evidence of Wife's alleged cohabitation beginning in December 2016. Based on Husband's assertion that Wife's cohabitation terminated all obligation for spousal support beginning in December 2016, Husband further objected to the contempt finding and the award of attorney fees.

{¶ 28} A trial court must conduct an independent, de novo review of the magistrate's decision "as to the objected matters to ascertain whether the magistrate has properly determined the facts and appropriately applied the law." *Kopaniasz v. Kopaniasz*, 2024-Ohio-2493, ¶ 16 (6th Dist.), citing *Brancatto v. Boersma*, 2013-Ohio-3052, ¶ 8 (6th Dist.) (additional citations omitted.). Our review of the trial court court's ruling on objections, however, is not de novo; we review the judgment for an abuse of discretion. *Kopaniasz* at ¶ 17, citing *Funkhouser v. Funkhouser*, 2019-Ohio-733, ¶ 31 (6th Dist.), quoting Civ.R. 53(D)(4)(d). "An abuse of discretion occurs when the trial court exercises its judgment, in an unwarranted way, regarding a matter over which it has discretionary authority." *Sweet v. Sweet*, 2024-Ohio-4824, ¶ 12 (6th Dist.), citing *Halbeisen v. Fantozz*, 2023-Ohio-4340, ¶ 7 (6th Dist.), citing *Johnson v. Abdullah*, 2021-Ohio-3304, ¶ 35.

{¶ 29} In arguing an abuse of discretion, Husband contends that the trial court ignored his objections and acted as a "rubber stamp" in adopting the magistrate's finding that the consent entry terminating the spousal support order precluded any subsequent modification. Because Husband believed the trial court possessed jurisdiction over his motion to modify spousal support, he also challenges the trial court's finding of contempt

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and award of nominal attorney fees, pursuant to the court's local rule. In short, Husband claimed a right to recoup the overpayment to Wife based on her alleged cohabitation, a terminating event for spousal support, and Husband believed the consent judgment permitted that claim within the legal separation proceedings. The trial court disagreed and determined it had no continuing jurisdiction to modify the spousal support order after termination of the order by consent, further finding Husband's claim for recoupment barred by res judicata after settlement.

{¶ 30} As Husband argues, “[a] trial court may not merely rubber stamp a magistrate’s decision.” *Grubb v. Couture-Grubb*, 2015-Ohio-74, ¶ 19 (6th Dist.). However, the substance of Husband’s motion, decided by the magistrate, sought modification of the spousal support award that had been terminated by consent judgment. In addressing Husband’s objections to the magistrate’s decision, the trial court determined it had no basis to consider Husband’s claim for recouping historic spousal support, based on the alleged cohabitation, finding the court lacked jurisdiction to modify the spousal support order after settlement and termination. Thus, while Husband argues the trial court deferred to the magistrate’s findings, it is clear the trial court addressed the motion seeking modification and applied the law as part of its independent review in overruling Husband’s objections.

{¶ 31} The issue before the trial court was limited to Husband’s motion for modification and the court’s authority to modify a spousal support order that was terminated by the parties’ agreement. Based on this limited issue, the trial court’s ruling on objections addressed the substantive issues raised, and we presume the trial court

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conducted an independent review lacking Husband's demonstration to the contrary. *Hine v. Hine*, 2019-Ohio-734, ¶ 5 (6th Dist.). Additionally, we find any failure to specifically address each objection in turn resulted in no error. "When a trial court fails to expressly address every objection to the magistrate's decision, 'it is presumed that the trial court, *sub silentio*, overruled the objections when it proceeded to enter judgment disposing of the objections.'" *Stump v. Stump*, 2026-Ohio-3522, ¶ 14 (3d Dist.), quoting *Shaffer v. Shaffer*, 109 Ohio App.3d 205, 212 (3d Dist. 1996); *see also Syslo v. Syslo*, 2006-Ohio-6053, ¶ 30 (6th Dist.) ("Generally, if the trial court fails to rule on a motion or an objection, an appellate court will presume that the objection or motion was overruled.") (citations omitted.).

{¶ 32} Considering the scope of the issues before the magistrate on Husband's motion, Husband sought to modify a spousal support order that had already been terminated by agreement of the parties. The trial court found that the parties agreed to terminate spousal support "forthwith," and while Husband preserved his "claim for a claw back of spousal support," Husband referenced nothing in the consent entry that contemplated continuing jurisdiction of the trial court to address such a claim. Accordingly, we find no error by the trial court in conducting its own review of the issues presented by Husband's motion for modification and adopting the magistrate's decision. We find Husband's first assignment of error not well-taken.

C. Husband's Motion for Retroactive Modification of Spousal Support

{¶ 33} In his second assignment of error, Husband challenges the trial court's failure to conduct an evidentiary hearing regarding Wife's alleged cohabitation and his

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claim for retroactive termination of his obligation to pay spousal support. Husband argues that he presented evidence that Wife had been living with an unrelated male since December 2016, and that the trial court abused its discretion in failing to consider this evidence and order retroactive modification of his spousal support obligation.

{¶ 34} As previously noted, Husband filed a motion to modify his spousal support obligation *after* he entered into an agreement to terminate the spousal support order “forthwith.” R.C. 3105.18 clearly contemplates a court’s authority to “modify an *existing* order for spousal support.” (Emphasis added.). Moreover, while the terms of the parties’ agreement included Husband’s preservation of his right to seek reimbursement of funds he claimed to have overpaid, there were no terms expressing a reservation of jurisdiction by the trial court to adjudicate such claims after the parties reached their settlement and terminated spousal support.

{¶ 35} At the time the parties entered into an agreement to terminate spousal support “forthwith,” there were divorce proceedings filed in another state. Husband’s trial counsel outlined the agreement reached with Wife in the following colloquy with the court:

COUNSEL: I represent the plaintiff, Mr. John Moore. And, Your Honor, the motion that’s pending in front of you today, as you’ve said, motion terminate and/or modify spousal support, it’s my understanding that the defendant, Mrs. Moore, has agreed to terminate the support effective today. The issues that we haven’t dealt with today relate to any claim for a clawback and also show cause motion, which we would either leave in abeyance or dismiss without prejudice with the right to re-file.

THE COURT: Okay. If we’re not going to – and I think I expressed to counsel, I’m unable to continue the pending motion.

COUNSEL: Right. We understand.

COURT: However, if there's a provision that counsel wants to dismiss with the right to re-file, I understand why you'd do that, given that there's litigation in another court that might be dealing with those things.

Following this exchange, the parties testified under oath regarding their understanding of the settlement. As to his claim for overpayment of spousal support, Husband testified in response to his trial counsel's questioning:

Q: ...And it's my understanding, Mr. Moore, that you may have a claim for monies that were paid to spousal support to Mrs. Moore, is that correct?

A: Yes.

Q: And you also have some questions about the QDRO that was apparently never filed in this case?

A: Yes, I ---

Q: And you've been legally separated for about eight years now?

A: Yes, since December '16.

Q: And you've paid spousal support dutifully all that time?

A: Yes, sir, I have.

Q: Okay. You understand now that the support is going to be terminated as of today?

A: Yes, sir, I do.

Q: And the other issues are going to be either refiled or dealt with in Indiana. Do you understand that?

A: Yes, sir.

Q: Do you have any questions about the proceeding today?

A: No. As long as there's a chance for me to recover my money.

Q: Okay. You understand the Court is not dealing with that today?

A: Yes, I do, I understand that.

Q: And you may have a claim for fees and expenses, we're not dealing with that today as well.

A: Okay.

Q: Correct?

A: Yes, sir. I understand that.

{¶ 36} Wife similarly testified regarding her understanding of the agreement to terminate spousal support and indicated she filed a complaint for divorce in Indiana, which remained pending at the time of the hearing. Wife testified that no QDRO was ever filed in the present case, and that she intended to pursue issues in her Indiana divorce proceeding regarding life insurance policies that were paid.

{¶ 37} Following the parties' testimony, the trial court accepted and approved the consent agreement, terminating spousal support. Trial counsel for Husband agreed to prepare the judgment entry for the court. The judgment entry recited no reservation of jurisdiction for the trial court, but instead included only the following:

This 20th day of August, 2024, this cause came on for hearing on the motion of [Husband to] modify or terminate spousal support. Appearances were made by the parties and their counsel of record. It being represented to the Court that the [Wife] has agreed to terminate the spousal support payments from [Husband] forthwith, the Court finds, for good cause shown, that the motion of [Husband] should be granted.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that the spousal support obligation of the [Husband] be terminated forthwith.

IT IS FURTHER ORDERED that the show cause motion filed by [Husband] herein be dismissed, without prejudice, with the right to refile the same against the [Wife].

IT IS FURTHER ORDERED that the motion of [Husband] to escrow spousal support payments be dismissed as moot.

IT IS FURTHER ORDERED that any additional issues involving the parties' Qualified Domestic Relations Order, [Husband's] claim for a claw back of spousal support from [Wife] and reimbursement for fees and costs shall be preserved, [Husband] shall be allowed to proceed in those matters as he sees fit in the future.

{¶ 38} In seeking to pursue his claim to recoup alleged overpayments of spousal support, Husband filed a motion to modify the spousal support order, retroactively. The spousal support order, however, terminated pursuant to the parties' settlement. The consent entry, drafted by Husband's counsel, preserved Husband's right to pursue his "claim for a claw back of spousal support" but did not include findings reducing the claim to judgment, and did not include language purporting to grant the trial court continuing jurisdiction over a preserved claim.

{¶ 39} Procedurally, Husband's complaint for legal separation had been granted in 2016, with no appeal, and Husband and Wife terminated the spousal support order as resolution of their dispute over spousal support. Therefore, nothing remained pending before the trial court at that time, although Wife had a pending divorce action in Indiana and intended to pursue her additional issues in that jurisdiction. Husband's motion to modify the spousal support order, moreover, cited no authority that would permit the trial

court to revisit spousal support after the parties resolved the matter through a consent judgment, even if Husband purported to preserve claims independent of that resolution.

{¶ 40} In addressing Husband’s motion to modify the spousal support order, the trial court determined the matter had been fully litigated and resolved through the parties’ settlement and agreed judgment terminating the order “forthwith.” Therefore, the trial court determined Husband’s attempt to relitigate the issue of spousal support was barred by res judicata. We agree.

{¶ 41} The parties fully litigated the matter before the trial court. Therefore, any attempt to relitigate the issue of spousal support, after settlement, was barred by res judicata as an issue previously determined by final judgment. *See Blymiller v. Blymiller*, 111 Ohio App.3d 644, 647 (7th Dist.1996), quoting *Hicks v. DeLa Cruz*, 52 Ohio St.2d 71, 74 (1977) (res judicata “embraces the doctrine of collateral estoppel,” preventing subsequent litigation of issues already determined by a final judgment).

{¶ 42} While Husband claims that his obligation to pay spousal support should have terminated in 2016, the time he believed Wife began cohabitating, this was a matter to be litigated within the domestic relations proceeding, prior to final judgment. In *Blymiller v. Blymiller*, 111 Ohio App.3d 644 (7th Dist.1996), the Seventh District Court of Appeals considered a similar issue, where the parties settled all issues, including an agreement that the husband would retain his military pension. After the agreed judgment entry of divorce, the husband claimed his former wife had converted a pension check through financial misconduct during the marriage. In affirming the trial court’s determination that res judicata applied to this claim, the Seventh District held, “Under the

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facts of this case, the property interest of the parties relative to the proceeds of the pension checks could have and should have been resolved in the domestic proceeding.” *Blymiller* at 647.

{¶ 43} The judgment in this case may not preclude all subsequent claims by Husband against Wife, but Ohio law precludes subsequent property-based injury claims that were or could have been asserted in the domestic relations court. *See Sullinger v. Sullinger*, 849 Fed.Appx. 513, 519–520 (6th Cir. 2021) (interpreting Ohio law), citing *Smith v. Smith*, 2007-Ohio-512, ¶ 6 (9th Dist.) (wife’s post-decree challenge, asserting entitlement to husband’s pension barred where the issue could have been raised in direct appeal); *see also Karras v. Karras*, 2016-Ohio-8511, ¶ 21 (2d Dist.) (issue of the right to possession was resolved in the probate proceeding, barring a different finding in a subsequent forcible entry and detainer claim regarding the same property) (additional citations omitted.). While the domestic relations court does not adjudicate property-injury claims, that court does consider property-injury allegations in determining the “equitable division of the property that is the subject of those claims” *Sullinger* at 520, citing *Gibson v. Gibson*, 87 Ohio App.3d 426, 431 (4th Dist.1993). The record in this case demonstrates a divorce proceeding filed by Wife in Indiana and pending at the time of the parties’ settlement within the Ohio case.

{¶ 44} Considering the facts in Husband’s case, he consented to termination of the spousal support order without pursuing his claim for recoupment, then sought to modify the support order after it was terminated. Husband cites no authority that would permit the trial court to modify a terminated order, or address matters that could have been

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resolved prior to the parties' agreement, ending the litigation. Accordingly, we find the trial court correctly determined the motion to modify the spousal support order and Husband's claim for monetary damages was barred by res judicata. Husband's second assignment of error is not well-taken.

D. Contempt Finding

{¶ 45} In his third and final assignment of error, Husband argues the trial court erred in not permitting evidence of Wife's cohabitation so that Husband could demonstrate he was not in contempt of the court's order regarding spousal support and the two August payments, canceled by his bank. Husband argues that "the contempt finding must be vacated, along with the improper award of attorney fees." Husband raises no other legal challenge to the trial court's imposition of attorney fees, pursuant to Wood County Loc.R. 6.03(B)(3).

{¶ 46} "Contempt for non-payment of spousal support is governed by R.C. 2705.031. Failure to pay court-ordered spousal support is civil contempt." *Kim v. Kim*, 2003-Ohio-4969, ¶ 11 (6th Dist.), citing *Pugh v. Pugh*, 15 Ohio St.3d 136, 139-140 (1984). In reviewing the trial court's contempt holding, we will not reverse absent an abuse of discretion. (Citations omitted) *Kim* at ¶ 4.

{¶ 47} Here, Husband does not dispute any of the facts underlying the trial court's findings. He does not dispute that two payments in August 2024 were canceled by his bank and he does not claim that he repaid Wife the amounts erroneously withheld from Wife. Instead, Husband's argument rests on his assertion that he owed no spousal support, retroactive to 2016, based on evidence of Wife's cohabitation that the trial court would

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not consider. Having found no error in the trial court's judgment, relative to Husband's motion to modify the spousal support order, Husband's argument regarding contempt is also without merit. Accordingly, Husband's third and final assignment of error is not well-taken.

V. Conclusion

{¶ 48} Based on the foregoing, we affirm the judgment of the Wood County Common Pleas Court. Husband is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, P.J.

JUDGE

Gene A. Zmuda, J.

JUDGE

Myron C. Duhart, J.

CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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