

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
JEFFERSON COUNTY

JEFFERSON COUNTY CHILD SUPPORT ENFORCEMENT
AGENCY, ON BEHALF OF: TONYA LYNN BISHOP, MOTHER
AND NEXT FRIEND OF: T.B, C.B., L.B.,

Plaintiff-Appellee,

v.

JAMES KENNETH BISHOP, JR.,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY

Case No. 26 JE 0007

Civil Appeal from the
Court of Common Pleas, Juvenile Division,
Jefferson County, Ohio
Case No. 2007 MS 52

BEFORE:

Mark A. Hanni, Cheryl L. Waite, Carol Ann Robb, Judges.

JUDGMENT:

Affirmed.

Atty. M. Catherine Savage-Dylewski, for Plaintiff-Appellee and
James Kenneth Bishop, Jr., *Pro se*, Defendant-Appellant.

Dated: October 19, 2026

HANNI, J.

{¶1} Defendant-Appellant, James Kenneth Bishop, Jr., appeals from a Jefferson County Common Pleas Court, Juvenile Division, judgment overruling Appellant's (1) request for leave to file an objection, (2) request for findings of fact, and (3) objection to a magistrate's decision recommending the court overrule his motions asking the court for relief from its judgment overruling his motion for genetic testing and asking the court to require Appellant's three emancipated children submit to genetic testing. Appellant's pro se motions all relate in some way to his request for genetic testing for his three children, as he now alleges he may not be their biological father. But Appellant did not file his request for genetic testing until 2023. The child support order dates back to 2007. Appellant and his ex-wife were divorced in 2010. All three children are emancipated. And numerous judgments addressing support were entered over a 15-year period before Appellant requested genetic testing. Thus, his current request is barred by the doctrine of res judicata. Additionally, his motions were untimely. For these reasons, the trial court's judgment is affirmed.

{¶2} Appellant and Tonya were married in 1996. Three children were born as issue of the marriage on 6/4/03, 8/19/04, and 2/19/06.

{¶3} The parties separated in 2005.

{¶4} During their separation, on August 9, 2007, Plaintiff-Appellee, the Jefferson County Child Support Enforcement Agency, filed a complaint for support and medical coverage stating it had assumed the responsibility for collection of support for the children as a result of Tonya being a recipient of public assistance benefits and having assigned her right to child support to the State of Ohio, Department of Job and Family Services.

{¶5} Appellant failed to respond or appear. Consequently, on December 19, 2007, the trial court put on a judgment ordering Appellant to pay child support in the amount of \$976 per month plus arrears.

{¶6} Appellant's and Tonya's divorce was final in 2010.

{¶7} On August 11, 2011, Appellant's support obligation was reduced to approximately \$650 per month. It was reduced again on August 7, 2012, to approximately \$600 per month.

{¶8} Appellant served at least two jail terms for contempt based on failure to pay child support.

{¶9} On January 4, 2019, Appellant’s monthly support obligation was reduced to \$0. This appears to be as a result of Appellant’s conviction and resulting prison sentence in an unrelated matter.

{¶10} On August 2, 2023, Appellant filed a pro se motion to pursue genetic testing. He alleged Tonya cheated on him during their marriage, which made him question the paternity of his children.

{¶11} On October 6, 2023, the magistrate overruled Appellant’s motion to pursue genetic testing. The magistrate noted that Appellant had now amassed child support arrearages exceeding \$78,000, which had been accumulating for 15 years. The magistrate also noted that two of the three children were emancipated and the third child was 17 years old.

{¶12} Appellant did not object to the magistrate’s decision. So on October 27, 2023, the trial court adopted the magistrate’s decision and entered judgment denying the motion to pursue genetic testing. Appellant did not appeal from this judgment.

{¶13} Also, on October 27, 2023, Appellant filed a “motion for a new hearing date”, requesting a new hearing on the matter of his motion to pursue genetic testing.

{¶14} On February 5, 2024, Appellant filed a motion for leave to file objections to the October 6, 2023 magistrate’s decision. That same day, he also filed a notice of appeal with this Court.

{¶15} On February 6, 2024, the magistrate issued a decision overruling Appellant’s motion for a new hearing date. The magistrate noted the following facts. Appellant and Tonya were married in 1996, and three children were born of the marriage. The parties separated in 2005. In 2007, the CSEA submitted a complaint for support and medical coverage. At that time, all three children were in Tonya’s care and she was receiving public assistance benefits. Appellant received a copy of the CSEA complaint. The magistrate directed Appellant to pay child support for the children in a November 2007 decision. Appellant did not lodge any objections to the order of child support. The trial court subsequently adopted the magistrate’s decision. In 2008, the court issued a judgment designating Tonya as the children’s residential parent and Appellant was

designated the non-residential parent with parenting time. Over the years that followed, Appellant made multiple appearances before the court relating to matters of contempt, sentencing, arraignment, and reduction of support. The court modified his support obligation several times. At no time during any of these proceedings did Appellant raise the issue of genetic testing until August 2023.

{¶16} The magistrate then concluded that Appellant had “unreasonably delayed filing his *Motion to Pursue Genetic Testing*, as it was sixteen (16) years too late.” (Feb. 6, 2024 Mag. Decision). Therefore, the magistrate recommended the trial court issue a judgment overruling Appellant’s motion again emphasizing that (1) the parties were married when all three children were born so Appellant is presumed to be their father, and (2) Appellant had numerous opportunities to raise the issue of DNA testing but never chose to do so.

{¶17} The trial court adopted the magistrate’s decision and entered judgment accordingly on March 1, 2024.

{¶18} On February 21, 2024, this Court dismissed Appellant’s notice of appeal as untimely. We pointed out that the February 5, 2024 notice of appeal was 70 days late and, therefore, Appellant had not invoked our jurisdiction.

{¶19} On September 11, 2024, the trial court put on a judgment recognizing that the child support order for the second child terminated effective August 19, 2023. And on January 17, 2025, the court put on a judgment recognizing that the support order for the third child terminated effective May 14, 2024.

{¶20} On February 20, 2026, Appellant filed “Motions and Supporting Memorandum” asking the court for relief from its judgment overruling his motion for genetic testing and asking the court to require all of the (now emancipated) children submit to genetic testing. Appellant also requested appointed counsel.

{¶21} On February 27, 2026, the magistrate issued a decision recommending the trial court overrule Appellant’s motions. The magistrate said that Appellant’s request for relief had been judicially determined by this Court in our February 21, 2024 judgment entry.

{¶22} The trial court adopted the magistrate’s decision and entered judgment on March 20, 2026, noting that no objections had been filed.

{¶23} Three days later, on March 23, 2026, Appellant filed a motion for leave to file an objection to the magistrate’s February 27, 2026 decision, a request for findings of fact, and his untimely objection. He claimed he did not receive the magistrate’s decision until March 13, 2026.

{¶24} The trial court overruled Appellant’s request for leave, request for findings of fact, and objection on March 25, 2026. The court pointed out that it had already entered judgment.

{¶25} Appellant, still acting pro se, filed a timely notice of appeal on April 15, 2026. He now raises four assignments of error.

{¶26} Appellant’s first assignment of error states:

THE TRIAL COURT ERRED WHEN THEY DENIED EXCEPTING MY OBJECTIONS AND MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW, (WHEN THE TIME DURING WHICH A PROPERLY SERVED DECISION COUNTS TOWARDS THE TIME FOR OBJECTIONS SHOULD BE VIEWED PURSUANT TO JUV. R. 40 (D) (3) (A) (III)). WHICH DENIED ME MY RIGHTS TO DUE PROCESS UNDER THE U.S. CONSTITUTION’S 14TH AMENDMENT.

{¶27} Appellant contends he was not served with a copy of the February 27, 2026 decision within three days as required by Juv.R. 40(D)(3)(a)(iii). He claims he received it on March 13, 2026, after the prison mailroom received it on March 10, 2026. Because of when he received a copy of the magistrate’s decision, Appellant argues the trial court should have allowed a reasonable extension of time in which to file his objections. Thus, he claims the trial court erred in overruling his motion for leave to file his objections.

{¶28} Juv.R. 40(D)(3)(a)(iii), upon which Appellant relies, provides in relevant part: “A magistrate’s decision shall be in writing, identified as a magistrate’s decision in the caption, signed by the magistrate, filed with the clerk, and served on all parties or their attorneys no later than three days after the decision is filed.”

{¶29} Juv.R. 40(D)(5) provides:

For good cause shown, the court shall allow a reasonable extension of time for a party to file a motion to set aside a magistrate's order or file objections to a magistrate's decision. "Good cause" includes, but is not limited to, a failure by the clerk to timely serve the party seeking the extension with the magistrate's order or decision.

{¶30} Thus, the rule allows for a reasonable extension of time to file objections upon "good cause" and includes failure by the clerk to timely serve.

{¶31} In this case, both the magistrate and the clerk complied with the requirements of the Juvenile Rules.

{¶32} The magistrate issued his decision on February 27, 2026. The docket indicates that the clerk mailed the magistrate's February 27 decision to Appellant the very same day – February 27.

{¶33} After waiting longer than the 14-day time period to file objections, the trial court entered judgment on the magistrate's decision on March 20, 2026. At this point, the trial court's judgment became a final order.

{¶34} Three days after the trial court entered its judgment, Appellant filed for leave to file his untimely objections to the magistrate's February 27, 2026 decision (the 24th day after the magistrate filed his decision). The trial court overruled Appellant's motion for leave.

{¶35} We previously addressed this same situation, where the trial court has adopted the magistrate's decision and entered judgment accordingly before a party files untimely objections, and agreed with the Twelfth District's analysis of the matter:

Appellate courts have held that a trial court has discretion to consider untimely objections. *Ramsey v. Ramsey*, 10th Dist. No. 13AP-840, 2014-Ohio-1921, ¶ 20. Recent appellate court decisions have indicated this discretion is permitted when the trial court has not already ruled on the magistrate's decision. *Id*; *Patrick v. Ressler*, 10th Dist. No. 04AP-149, 2005-Ohio-4971, ¶ 22. If the trial court considers the untimely objections prior to adopting, reversing or modifying the magistrate's decision, it is deemed an implicit finding that an extension for good cause is found and the trial court

acts within its discretion to consider the untimely objections. *Ramsey* (interest of justice language used to consider the objections).

However, those cases do not address the situation before us where the trial court has adopted the magistrate's decision and objections are later filed that are untimely. The Twelfth Appellate District has concluded that the trial court has no discretion to consider the untimely objections in that scenario. *Losekamp v. Losekamp*, 12th Dist. No. CA2013-11-213, 2014-Ohio-4422, ¶ 25; *Learning Tree Academy, Ltd. v. Holeyfield*, 12th Dist. No. CA2013-10-194, 2014-Ohio-2006, ¶ 16[,] 17. It explained there is no automatic stay of the trial court's decision when objections are not timely filed, and the trial court adopts the magistrate's decision during the 14-day objection period. *Losekamp*. Or in other words, a judgment that is entered by a trial court during the 14-day objection period is final if neither party files timely objections to the magistrate's decision. *Id.* If a trial court rules on those untimely objections, under that scenario, the ruling is void because the trial court's jurisdiction terminated when it entered its initial judgment adopting the magistrate's decision. *Id.* (Trial court's decision to consider untimely objections and reverse magistrate's decision was void because the trial court lacked jurisdiction); *Learning Tree* (court does not have "jurisdiction to permit objections to the magistrate's decision when the magistrate's decision was adopted and already made a final judgment by the trial court"). See also *Yazdani-Isfahani v. Yazdani-Isfahani*, 170 Ohio App.3d 1, 10, 2006-Ohio-7105, 865 N.E.2d 924, fn. 2 (4th Dist.) ("The trial court, having not yet adopted the magistrate's decision, exercised its discretion to consider the father's untimely objections sua sponte."); *In re Malone*, 10th Dist. No. 03AP-489, 2003-Ohio-7156, ¶ 32.

We agree with the Twelfth Appellate District's reasoning because it gives finality to the trial court's rulings regarding the magistrate's decisions. If objections are permitted to be filed at any time and the trial court is given vast discretion to consider those objections, finality is taken away from the

trial court's initial ruling on a magistrate's decision. For instance, a trial court would be authorized to consider objections that were filed years after the initial order became final.

Olson v. Olson, 2015-Ohio-5550, ¶ 36-38 (7th Dist.).

{¶36} In the present case, the trial court's judgment was final on March 20, 2026. Thus, the trial court was divested of jurisdiction after this point. Had the court granted Appellant's motion for leave and considered his objections, the court's resulting judgment would have been void.

{¶37} Accordingly, Appellant's first assignment of error is without merit and is overruled.

{¶38} Appellant's second assignment of error states:

THE TRIAL COURT ERRED AS A MATTER OF LAW WHEN THEY DENIED MY MOTION FOR RELIEF UNDER ORC ANN. 3119.961 (BECAUSE MY SUBSTANTIAL RIGHTS WERE VIOLATED). IN ADDITION, THE STATUTE[S] WERE ENACTED TO MAKE IT LESS LIKELY THAT A PERSON WOULD BE FORCED TO SUPPORT A CHILD THAT WAS NOT HIS. THIS STATUTE ENTITLES COURTS TO GRANT RELIEF WHEN YOUR SUBSTANTIAL RIGHTS ARE VIOLATED. WHICH DENIED ME MY RIGHTS TO DUE PROCESS UNDER THE U.S. CONSTITUTION'S 14TH AMENDMENT.

{¶39} On February 20, 2026, Appellant filed a motion for relief from judgment from the trial court's March 1, 2024 judgment overruling his motion for genetic testing based on the fact that the parties were married at the time when the children were born. He also again requested genetic testing. Appellant stated that he was relying on R.C. 3119.961(A) for relief.

{¶40} The magistrate recommended the trial court overrule the motion. Appellant did not file objections to the magistrate's decision. On March 20, 2026, the trial court entered judgment overruling Appellant's request for relief from judgment. The court

stated that Appellant’s request for relief was judicially determined by this Court when we dismissed his appeal as untimely on February 21, 2024. See Appeal No. 24 JE 0002.

{¶41} Here, Appellant again argues he was entitled to relief under R.C. 3119.961(A), which provides in part:

Notwithstanding the provisions to the contrary in Civil Rule 60(B) and in accordance with this section, a person may file a motion for relief from a final judgment, court order, or administrative determination or order that determines that the person . . . is the father of a child or from a child support order under which the person or male minor is the obligor.

{¶42} Appellant contends the trial court determined that he was the father of the children at issue due to his marriage to their mother at the time of their birth. He claims the court erred in denying his motion for genetic testing. Appellant states he requested genetic testing because he believes his ex-wife cheated on him.

{¶43} R.C. 3119.962(A)(1) provides:

(A)(1) Upon the filing of a motion for relief under section 3119.961 of the Revised Code, a court shall grant relief from a final judgment, court order, or administrative determination or order that determines that a person or male minor is the father of a child or from a child support order under which a person or male minor is the obligor if all of the following apply:

(a) The court receives genetic test results from a genetic test administered no more than six months prior to the filing of the motion for relief that finds that there is a zero per cent probability that the person or male minor is the father of the child.

(b) The person or male minor has not adopted the child.

(c) The child was not conceived as a result of artificial insemination in compliance with sections 3111.88 to 3111.96 of the Revised Code.

So the statute only requires the court to grant relief from judgment under R.C. 3119.961 *if* the court received genetic test results that find a zero percent probability that the person is the father of the child at issue.

{¶44} In addressing the applicability of R.C. 3119.961 and the requirements of 3119.962, the Eighth District held, “[t]he trial court was under no affirmative duty to order genetic testing simply because appellant requested it.” *State ex rel. Ohio Child Support Enf’t Agency*, 2004-Ohio-6707, ¶ 15 (8th Dist.).

{¶45} Thus, pursuant to the statutes, Appellant did not meet the threshold requirement for relief from judgment.

{¶46} Accordingly, Appellant’s second assignment of error is without merit and is overruled.

{¶47} Appellant’ third assignment of error states:

THE TRIAL COURT ERRED WHEN THEY FAILED TO RECOGNIZE THAT UNDER ORC ANN. § 3111.03 PRESUMPTION OF PATERNITY, CAN ONLY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE, THAT INCLUDES THE RESULTS OF GENETIC TESTING. WHICH DENIED ME MY RIGHTS TO DUE PROCESS UNDER THE U.S. CONSTITUTION’S 14TH AMENDMENT.

{¶48} Appellant argues the only way paternity can be finalized is through genetic testing. He asserts that once he requested genetic testing, the trial court was obligated to grant his request.

{¶49} Appellant relies on R.C. 3111.03, which provides:

(A) A man is presumed to be the natural father of a child under any of the following circumstances:

(1) The man and the child's mother are or have been married to each other, and the child is born during the marriage . . .

(B) A presumption that arises under this section can only be rebutted by clear and convincing evidence that includes the results of genetic testing[.]

{¶50} R.C. 3111.03(B) merely sets forth the evidentiary standard that must be met by a party seeking to rebut the martial presumption of paternity. It does not require a trial court to grant all motions for genetic testing.

{¶51} Moreover, Appellant's overriding argument here, that he is entitled to genetic testing to establish paternity, is barred by the doctrine of res judicata.

{¶52} This Court has addressed the issue of res judicata as applied to a paternity action:

We find that the doctrine of res judicata can be invoked to give conclusive effect to a determination of parentage contained in a dissolution decree and, as such, acts as a bar to a subsequent paternity action brought under R.C. Chapter 3111. *In re Gilbraith* (1987), 32 Ohio St.3d 127, 130-131; *Sherrill v. Harroff*, 85 Ohio St.3d 339, 1999-Ohio-269, reversing *Sherrill v. Harroff* (Nov. 3, 1998), 7th Dist. No. 96CO36. See *Cuyahoga Support Enforcement Agency v. Guthrie* (1999), 84 Ohio St.3d 437, 443. Regarding public policy supporting the application of the doctrine to parentage cases, the Court explained:

"In our estimation, the same considerations underpinning res judicata as a doctrine of general significance apply with equal force in parentage actions, and there is, accordingly, no sound policy reason for denying effect to the doctrine in such cases. The establishment and maintenance of the various aspects of the relationship between parent and child is a particularly intricate, sensitive and emotional process with which courts should be reluctant to interfere. In those cases where, by force of events, judicial intervention occurs, where the matter of parentage is determined with finality and in the absence of fraud, and where that determination is not later vacated, either on direct appeal or pursuant to a recognized legal remedy such as that set forth in Civ.R. 60(B), the policy of this state requires, in sum, that the parent-child relationship be shielded from the unsettling effects of further judicial inquiry, and that relitigation of

parentage be barred, as a general rule, in any subsequent actions, including those initiated under R.C. Chapter 3111.” *In re Gilbraith*, supra, at 131.

The Ohio Supreme Court has also indicated that finality is particularly compelling in a case involving determinations of parentage, visitation and support of a minor child. *Strack [v. Pelton]*, supra, [70 Ohio St.3d 172] at 175 [1994].

In re K.R., 2010-Ohio-6582, ¶ 11-13 (7th Dist.).

{¶53} An initial child support order in this case was issued in 2007, while the parties were still married. Appellant did not object to this order of child support. In 2008, the court issued a judgment designating Tonya as the children’s residential parent and Appellant as the non-residential parent with parenting time. Over the years that followed, Appellant made multiple appearances before the court relating to matters of contempt, sentencing, arraignment, and reduction of support. The court modified his support obligation several times. At no time during all of these proceedings did Appellant raise the issue of genetic testing until August 2023.

{¶54} Moreover, on October 6, 2023, the magistrate overruled Appellant’s first motion for genetic testing. In so doing, the magistrate pointed out Appellant had amassed child support arrearages exceeding \$78,000, which had been accumulating for 15 years, and two of the three children were emancipated at that time. Appellant did not object to this decision. Subsequently, on October 27, 2023, the trial court adopted the magistrate’s decision and entered judgment denying the motion to pursue genetic testing. Appellant did not timely appeal from this judgment. And on February 21, 2024, this Court dismissed his untimely appeal.

{¶55} Appellant could have, and should have, raised the issue of genetic testing at some earlier point in these proceedings. He waited until he had accumulated over \$78,000 in child support arrearages and all of his children were emancipated before raising the issue. Moreover, when he finally did request genetic testing for the first time in 2023, he did not object to the magistrate’s decision denying his request and did not timely appeal from the trial court’s judgment adopting the magistrate’s decision. For all of these reasons, the doctrine of res judicata applies.

{¶56} Accordingly, Appellant’s third assignment of error is without merit and is overruled.

{¶57} Appellant’s fourth assignment of error states:

THE TRIAL COURT HAS ERRED IN SIGNIFICANT RESPECTS WHICH HAVE THE EFFECT OF DEPRIVING PUTATIVE FATHERS OF DUE PROCESS PROTECTION UNDER ORC ANN. § 3111.09 (WHICH REQUIRES THE COURTS TO GRANT ANY MOTION FOR SUBMITTED FOR GENETIC TESTING). WHICH DENIED ME MY RIGHTS TO DUE PROCESS UNDER THE U.S. CONSTITUTION’S 14TH AMENDMENT.

{¶58} Appellant asserts here the trial court was required by statute to order genetic testing upon his request. He also claims his due process rights were violated by the denial of genetic testing.

{¶59} Appellant relies on R.C. 3111.09(A)(1) for support, which provides:

In any action instituted under sections 3111.01 to 3111.18 of the Revised Code, the court, upon its own motion, may order and, upon the motion of any party to the action, shall order the child's mother, the child, the alleged father, and any other person who is a defendant in the action to submit to genetic tests.

{¶60} By its terms, this section applies to any action instituted under R.C. 3111.01 to R.C. 3111.18. In this case, however, Appellee instituted the present action under “Ohio Revised Code (ORC) Section 2151.23(B)(4), 2151.231, and 3103.03.” (Aug. 9, 2007 Complaint for support and medical coverage). And Appellant filed his motion for relief from judgment under R.C. 3119.961. Thus, R.C. 3111.09(A)(1) does not apply here.

{¶61} Accordingly, Appellant’s fourth assignment of error is without merit and is overruled.

{¶62} In addition to Appellant’s assignments of error, we further note that Appellant filed a “motion for prior authorization for an extension of time”, on August 4, 2026. Appellant seeks permission from this Court for an extension of 20 days from the date in which he receives this Court’s judgment to file a motion for reconsideration. He

cites the “prisons [sic] broken mailing system” and the time he needs for “keeping up my deadlines in other cases.”

{¶63} App.R. 26(A)(1) requires “any application for reconsideration must be filed no later than 15 days after the court's judgment is filed by the clerk of the court of appeals[.]” This Court will not provide “pre-authorization” for an extension of time based on the Appellate Rule. Therefore, Appellant’s “motion for prior authorization for an extension of time” is denied.

{¶64} For the reasons stated above, the trial court’s judgment is hereby affirmed.

Waite, P.J., concurs.

Robb, J., concurs.

For the reasons stated in the Opinion rendered herein, the assignments of error are overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas, Juvenile Division, Jefferson County, Ohio, is affirmed. Costs to be waived.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.