

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

ELIZABETH IJAKOLI,	:	APPEAL NO. C-220192
Plaintiff-Appellee,	:	TRIAL NO. DR-1701029
	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
	:	
GABRIEL ALUNGBE,	:	
Defendant-Appellant.	:	

The court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, 1st Dist. Loc.R. 11.1(C), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E).

Defendant-appellant Gabriel Alungbe appeals from the judgments of the Hamilton County Court of Common Pleas, Domestic Relations Division. He assigns error to the trial court’s denial of his motion to terminate the appointment of a guardian ad litem (“GAL”) and his motion to reallocate GAL fees. For the reasons that follow, we affirm the judgments of the trial court.

Alungbe and plaintiff-appellee Elizabeth Ijakoli were married in 2009 and have two children. Ijakoli filed for divorce in 2017. The trial court issued a divorce decree two years later and designated Ijakoli as the residential parent of their two children. In August 2020, Alungbe filed a postdecree motion to modify the custody order. He sought full custody and requested the appointment of a GAL for the children. In September 2020, the magistrate appointed a GAL. In March 2021, Alungbe filed a motion to terminate the GAL, citing various concerns he had with the GAL. On April

7, 2021, the magistrate denied the motion to terminate the GAL. The following day, Alungbe filed a motion to reallocate GAL fees.

The case proceeded to a hearing in June 2021 to address issues related to custody modification and GAL records. On June 23, 2021, the court dismissed Alungbe's motion for custody, denied his motion to compel the GAL to produce certain records, and granted the GAL's motion to quash. From this judgment, Alungbe timely appealed to this court. *See Ijakoli v. Alungbe*, 1st Dist. Hamilton No. C-210366, 2022-Ohio-2423 (affirming the judgment of the domestic relations court).

On March 28, 2022, while that appeal was pending, the domestic relations court found Alungbe in contempt for his failure to pay \$2,151.56 in GAL fees. The court imposed 30 days of incarceration, but stated in its entry that Alungbe could avoid the imposed sentence and purge his contempt by depositing the funds with the clerk by April 11, 2022. On March 31, 2022, the magistrate denied Alungbe's April 2021 motion to reallocate GAL fees.

On April 1, 2022, Alungbe filed a motion in this court to stay the contempt order. On April 7, 2022, we denied the motion because Alungbe had not appealed from the contempt order, or moved to amend his existing notice of appeal to include it. The following day, Alungbe filed an amended notice of appeal and a renewed motion to stay the trial court's contempt order.¹ The amended notice of appeal stated that Alungbe was appealing from judgments entered on March 25, 2022, and March 31, 2022. Court entries on those dates were a scheduling order for imposition of the contempt sentence and a magistrate's order denying his motion for reallocation of

¹ We note that Alungbe filed the amended notice of appeal and the motion to stay the contempt order under the appeal numbered C-210366. However, in an entry dated May 2, 2022, the court severed the appeals and ordered the clerk to give the newly-filed appeal a separate case number, which in turn became this appeal numbered C-220192.

GAL fees. In the interest of justice, and because Alungbe was facing jail time, we construed Alungbe's amended notice of appeal as appealing the actual contempt order rather than the scheduling order for the imposition of the contempt sentence and granted the motion to stay the contempt order.

In his appellate brief, Alungbe does not raise any arguments related to the contempt order. Instead, he challenges the denial of his motion to terminate the GAL appointment and the denial of his motion to reallocate GAL fees.

In his first two assignments of error, Alungbe challenges the court's April 7, 2021 denial of his motion to terminate the GAL. However, Alungbe did not designate any judgments relating to this issue in his notice of appeal. Pursuant to App.R. 3(D), "[t]he notice of appeal shall specify the party or parties taking the appeal; shall designate the judgment, order or part thereof appealed from; and shall name the court to which the appeal is taken." This court "is vested with discretion to determine whether sanctions, including dismissal, are warranted" when there are other defects in the notice of appeal. *Transamerica Ins. Co. v. Nolan*, 72 Ohio St.3d 320, 649 N.E.2d 1229 (1995), syllabus. Therefore, because the first two assignments of error do not pertain to either of the judgments designated in his notice of appeal (or the contempt order), we dismiss this portion of the appeal.

In his third assignment of error, Alungbe challenges the magistrate's denial of his motion to reallocate GAL fees. While captioned as an "order," the March 31, 2022 entry from which Alungbe appeals is more accurately viewed as a "magistrate's decision," because it goes beyond the types of procedural activities contemplated in Civ.R. 53(C)(3), such as ruling on the admissibility of evidence and issuing subpoenas. A magistrate's decision remains interlocutory until: "the trial court reviews the magistrate's decision and (1) rules on any objections, (2) adopts, modifies, or rejects

the decision, and (3) enters a judgment that determines all the claims for relief in the action or determines that there is no just reason for delay.” *Alexander v. LJF Mgt.*, 1st Dist. Hamilton No. C-090091, 2010-Ohio-2763, ¶ 12; Civ.R. 53(D)(4). Here, the trial court never adopted the March 31, 2022 decision, or otherwise entered a judgment that determined all the claims for relief.

Even if we were to characterize the entry as an order, “magistrate’s orders are interlocutory by nature” and are not directly appealable. *Walsh v. Walsh*, 11th Dist. Ashtabula No. 2020-A-0050, 2020-Ohio-6998, ¶ 6. Accordingly, the entry from which Alungbe appeals is not a final appealable order and we are without jurisdiction to consider it. Therefore, the portion of the appeal related to the third assignment of error is dismissed.

In his fourth assignment of error, Alungbe argues that that the use of block billing by the GAL in this case was “unprofessional and fraudulent.” To support this contention, he references articles and cases from other jurisdictions that discuss concerns related to block billing. However, Alungbe has not directed the court’s attention to any appealable legal issues or supported the assignment with “the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies.” *See* App.R. 16(A)(7).

“An appellate court may disregard an assignment of error presented for review ‘if the party raising it fails to identify in the record the error on which the assignment of error is based.’” *Fontain v. Sandhu*, 1st Dist. Hamilton No. C-200011, 2021-Ohio-2750, ¶ 14, quoting App.R. 12(A)(2). “In the interest of justice, we will consider all cognizable contentions presented but will not create an argument if a pro se litigant fails to develop one.” *Marreez v. Jim Collins Auto Body, Inc.*, 1st Dist. Hamilton No.

C-210192, 2021-Ohio-4075, ¶ 4, citing *Fontain* at ¶ 15. Accordingly, we disregard the fourth assignment of error.

Therefore, we dismiss the portions of the appeal related to Alungbe's first, second, and third assignments of error, and disregard his fourth assignment of error. The judgments of the trial court are affirmed.

The court orders that the stay issued on May 2, 2022 is hereby lifted.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

CROUSE, P.J., BERGERON and BOCK, JJ.

To The Clerk:

Enter upon the journal of the court on April 19, 2023
per order of the court _____
Administrative Judge