

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2003-408

FEBRUARY TERM, 2004

	}	APPEALED FROM:
	}	
Francis Mason	}	Chittenden Family Court
	}	
v.	}	DOCKET NO. F149-2-01 Cndm
	}	
Linsey Mason	}	Trial Judge: Linda Levitt
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Husband appeals the family court= s August 8, 2003 order, which was issued in response to wife= s motion to enforce the court= s August 8, 2002 final divorce order. We affirm.

In its final divorce order, the family court divided the parties= marital estate, valued at approximately \$1,000,000, roughly equally between husband and wife. Husband appealed, and a panel of this Court affirmed the final order. See Mason v. Mason, No. 2002-418 (May 1, 2003). Following that decision, a dispute arose between the parties regarding the distribution of the assets. Wife filed a motion to enforce, and husband filed several motions as well. Following an August 4, 2003 hearing, the family court issued an order specifically distributing each of the principal marital assets. Husband again appeals. As best as we can tell from his pro se brief, he argues that the family court abused its discretion (1) by unjustifiably awarding wife an additional \$932 for a late-arriving bill; (2) by dividing assets in a way that is inconsistent with the terms of the original final divorce order; (3) by allowing wife to take money from their child= s account to pay for the girl= s private school; (4) by condoning wife= s unauthorized withdrawals from the parties= frozen accounts during the pendency of the first appeal; (5) by awarding husband only one-half of the equity of the marital home rather than one-half of the fair market value of the home; and (6) by awarding wife a \$12,000 settlement amount after, rather than before, division of the marital assets. According to husband, these and other shortcomings demonstrate that Judge Levitt is unfit to sit on the bench.

Upon careful examination of the record, including the videotape of the August 4, 2003 hearing, we conclude that husband= s appeal is frivolous, and that each and every issue he raises is without merit. Rather than demonstrate the family court judge= s incompetence, the record reveals husband= s refusal to cooperate in the court= s concerted endeavor to distribute the marital assets evenly between the parties. Notwithstanding husband= s intransigence, the court= s asset-by-asset distribution of the parties= principal assets in its August 8, 2003 order is both equitable and entirely consistent with the original divorce order. Most of husband= s claims of error amount to untimely, collateral attacks on the original judgment. See Stein v. Stein, 173 Vt. 627, 628-29 (2002) (mem.) (claims or issues that were or should have been raised in original proceeding cannot be relitigated in enforcement action; party may not collaterally attack underlying order simply by disobeying order and then waiting for enforcement action). Further, to the extent that his arguments are timely raised, they utterly fail to demonstrate any abuse of discretion on the part of the family court. See Weaver v. Weaver, 173 Vt. 512, 513 (2001) (family court has wide discretion in dividing marital property, and its decision will be upheld absent showing of abuse of discretion).

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

John A. Dooley, Associate Justice

Paul L. Reiber, Associate Justice