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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0790-21**

VINETA LIVINGSTONE,

Plaintiff-Appellant,

v.

REUBEN DANIEL,

Defendant-Respondent.

Submitted October 31, 2022 – Decided November 21, 2022

Before Judges Whipple and Marczyk.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Middlesex County,
Docket No. FM-12-2478-07.

Hegge & Confusione, LLC, attorneys for appellant
(Michael Confusione, of counsel and on the brief).

The Law Office of Jordan B. Rickards, LLC, attorneys
for respondent (Jordan B. Rickards, on the brief).

PER CURIAM

Plaintiff, Vineta Livingstone, appeals from the October 22, 2021 Family Part order awarding defendant, Reuben Daniel, college costs and other related relief pursuant to a Marital Settlement Agreement (MSA). Following our review of the record and applicable legal principles, we affirm.

I.

The parties were divorced pursuant to an amended final dual judgment of divorce entered on August 8, 2008. The final judgment of divorce incorporated a MSA. Two children were born of the marriage, J.D. and E.D. J.D. is currently attending college, and the payment of his tuition is at issue in this matter. The parties agreed to evenly split college expenses in the MSA.

Although plaintiff contends she filed an opposition and cross-motion, the trial court's October 22, 2021 order indicates the motion was unopposed. There is also no indication in the record plaintiff ever filed a cross-motion. Moreover, the trial court never addressed the cross-motion in its order. Therefore, that issue is not properly before this court. While plaintiff attaches documents in her appendix she claims she sent to the court in response to defendant's motion, there is no indication the court ever received these papers—let alone filed them—and, therefore, they were not properly before the trial court.

Plaintiff raises several arguments in her appeal. She asserts defendant's motion before the trial court did not include all the relevant information required for the application, such as invoices for tuition and proof of financial aid. Plaintiff further argues the judge failed to consider medical expenses plaintiff expended for the parties' younger child; defendant's failure to follow the parenting time schedule; and increased transportation expenses plaintiff incurred stemming from defendant moving out of state.

Defendant contends the trial court properly granted the application to award defendant college costs because plaintiff never opposed the motion nor denied she failed to pay her share of college expenses. Additionally, plaintiff never filed a cross-motion. Accordingly, defendant notes the trial court never addressed that application, and it is not properly before us.

Defendant argues plaintiff not only failed to file an opposition or cross-motion before the trial court, but, even on appeal, she has never indicated she contributed to her share of the college expenses as required by the MSA. Defendant also notes he did not need to provide information pertaining to scholarships and receipts for tuition because he was not making an initial application for college costs. Rather, defendant was seeking to enforce a prior order enforcing the MSA. Defendant contends he provided adequate support in

his motion to sustain the trial court's finding. Finally, defendant maintains plaintiff's remedy is simply to file a new motion with the trial court concerning the issues she is improperly advancing on appeal.

II.

The trial court noted the parties' MSA required the parties to split college costs for the children. The court further indicated corroborative evidence substantiated defendant's calculations, and plaintiff failed to contradict defendant's claim by presenting any evidence to show she paid her appropriate share of J.D.'s college costs. The court found plaintiff in violation of litigant's rights and determined her share of tuition was \$12,454.88. The court noted it previously determined on April 16, 2021, plaintiff violated litigant's rights for failing to pay her share of college costs at that time. The court added \$12,454.88 to plaintiff's child support arrears through probation and required her to make a \$10,000 lump sum payment toward arrears within thirty days.¹

The court acknowledged defendant indicated he received a "stack of papers" from plaintiff in response to the motion the day before the return date. However, the court noted no cross-motion or opposition was ever filed with the

¹ The trial court denied defendant's request to compel plaintiff to contribute \$50,000 to a 529 education fund. In addition, the court awarded attorney's fees in the amount of \$1,189.50 to be paid within thirty days.

court. Moreover, defendant represented plaintiff's papers had sought a stay of the enforcement of the prior orders entered by the court. The court noted it had already denied the stay requests on April 15, 2021, and that we further denied the stay on May 13, 2021. Therefore, the trial court noted it lacked authority to modify the prior order and only had authority to enforce the order.

III.

Our scope of review of Family Part orders is limited. Cesare v. Cesare, 154 N.J. 394, 411 (1998). We accord deference to the family courts due to their "special jurisdiction and expertise" in the area of family law. Id. at 413. Our narrow review is based upon the fact "we have 'invest[ed] the family court with broad discretion because of its specialized knowledge and experience in matters involving parental relationships and the best interests of children.'" N.J. Div. of Child Prot. & Permanency v. A.B., 231 N.J. 354, 365 (2017) (alteration in original) (quoting N.J. Div. of Youth and Family Servs. v. F.M., 211 N.J. 420, 427 (2012)). The court's findings are binding as long as its determinations are "supported by adequate, substantial, and credible evidence." Triffin v. Automatic Data Processing, Inc., 411 N.J. Super. 292, 305 (App. Div. 2010) (citing Rova Farms Resort, Inc. v. Invs. Ins. Co., 65 N.J. 474, 484 (1974)).

Plaintiff appeals from the purported denial of her cross-motion. However, as discussed, there is no indication she ever filed the cross-motion, and the trial court never addressed the cross-motion by way of an order. The trial court stated it never received a copy of any cross-motion plaintiff filed. Therefore, there was no order for plaintiff to appeal regarding the cross-motion, and that issue is not properly before this court. We need not consider arguments not raised in the trial court. Selective Ins. Co. of Am. v. Rothman, 208 N.J. 580, 586 (2012); Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973). See State v. Robinson, 200 N.J. 1, 19 (2009) ("Appellate review is not limitless. The jurisdiction of appellate courts rightly is bounded by the proofs and objections critically explored on the record before the trial court by the parties themselves."); see also Zaman v. Felton, 219 N.J. 199, 226-27 (2014); see also R. 2:2-3.

The trial court appropriately addressed defendant's motion to enforce litigant's rights. As noted, the court granted certain aspects of the motion and denied others. The thrust of plaintiff's argument on appeal appears to be she is entitled to credit based on expenditures she made concerning other child-related issues. We are unpersuaded by plaintiff's arguments. Again, the trial court noted plaintiff failed to oppose defendant's motion to enforce litigant's rights and, therefore, the court did not have the opportunity to address plaintiff's

arguments. "It is a well-settled principle that our appellate courts will decline to consider . . . issues not properly presented to the trial court . . . 'unless the questions so raised on appeal go to the jurisdiction of the trial court or concern matters of great public interest.'" Nieder, 62 N.J. at 234 (quoting Reynolds Offset Co., Inc. v. Summer, 58 N.J. Super. 542, 548 (App. Div. 1959)). Neither exception applies here, and this is not the appropriate forum to raise those issues when they were never raised before the trial court. To the extent plaintiff believes there are other issues that need to be considered by the trial court, plaintiff must file an appropriate motion.

We discern no basis on this record to disturb the trial court's findings in this matter as they were supported by adequate and substantial evidence.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION