NOT DESIGNATED FOR PUBLICATION

No. 107,990

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

IN THE MATTER OF THE MARRIAGE OF
TONYA ANJARD,
Appellee,

and

RONALD ANJARD, JR.,
Appellant.

MEMORANDUM OPINION

Appeal from Johnson District Court; THOMAS KELLY RYAN, judge. Opinion filed August 16, 2013. Affirmed.

Ronald Anjard, Jr., appellant pro se.

No appearance by appellee.

Before BUSER, P.J., ATCHESON, J., and BUKATY, S.J.

Per Curiam: This is the third appeal Ronald Anjard, Jr., has brought related to issues arising from divorce proceedings in Johnson County District Court. Ronald is representing himself. Tonya Anjard, his ex-wife, has not filed a brief with this court. Based on the issues presented here, we find no grounds warranting relief to Ronald. We, therefore, affirm the district court.

Before turning to the precise issues before us now, we briefly outline the course of the litigation. Ronald filed for divorce in 2006. The assigned district court judge entered

various temporary orders related to child custody, support, real property the parties owned, and various other financial matters. In late 2007 and early 2008, the district court judge entered additional orders culminating in the sale of a residence the couple owned in Johnson County, referred to in the litigation as the Lamar property. About 2 weeks later, Ronald filed a motion to dismiss the divorce action. The district court judge granted that motion. On February 7, 2008, Tonya filed a petition for divorce in Johnson County. The same district court judge entered new temporary orders in that case, mirroring the ones entered in the 2006 case. Tonya's divorce action for all practical purposes picked up where Ronald's had left off.

In April 2008, the district court judge granted Tonya a default divorce but reserved ruling on the division of property. The parties filed a series of motions related to the property and other matters. They disposed of a second residential property they owned in Johnson County. Along the way, a different district court judge had taken over the case. The newly assigned district court judge conducted a 2-day trial in March 2009 and on July 31, 2009, entered a journal entry dividing the assets and liabilities of Ronald and Tonya, granting limited spousal support to Tonya, setting child support, and resolving other issues. Ronald disputed the reasonableness of the price paid for the Lamar property and disputed the allocation of costs related to the second property, but the district court disagreed.

After both parties' motions to alter or amend were decided, Ronald filed an appeal challenging the division of assets and liabilities and the allocation of litigation costs. This court affirmed the district court's rulings in an unpublished opinion. *In re Marriage of Anjard* (*Anjard I*), No. 103,426, 2011 WL 5389679 (Kan. App. 2011) (unpublished opinion), *rev. denied* 294 Kan. ___ (June 13, 2012).

While the appeal in *Anjard I* was pending, Ronald filed a separate action in Johnson County District Court against Tonya, her lawyer, the real estate agents involved

in the sale of the Lamar property, and the purchaser alleging they engaged in improper dealings in that transaction. Ronald alleged Tonya's lawyer had impermissible ex parte contact about the sale with the first district court judge handling the divorce. A third district court judge dismissed the suit based on res judicata and collateral estoppel. This court affirmed the judgment in *Anjard v. Anjard-Hillard* (*Anjard II*), No. 105,892, 2012 WL 1920375 (Kan. App. 2012) (unpublished opinion), *rev. denied* 296 Kan. ____ (2013). This court found that Ronald had an appropriate forum in the divorce action to challenge the sale of the property and to seek an adjustment in the property division if the price were demonstrably too low. Because Ronald and Tonya were parties to both suits and the remaining parties in *Anjard II* were effectively in privity with Tonya, collateral estoppel barred the independent action related to the sale. 2012 WL 1920375, at *3-5. In short, Ronald had a full and fair opportunity to challenge the sale of the property during the trial in *Anjard I* and did so.

With that background, we turn to the issues Ronald has presented on this appeal. The precipitating dispute concerns income tax deductions and related adjustment of child support payments. Some of the pertinent filings in the district court are not part of the record on appeal, but we have otherwise gathered the nature of the dispute from what is before us. Tonya has had physical custody of the couple's two children. Ronald has paid child support and has claimed the federal income tax deduction for the children. At some point, Ronald filed a motion to reduce the child support payments because of the tax considerations, and the motion was granted, apparently without a hearing.

Tonya promptly filed a motion for a hearing and to correct the order. At the hearing, Tonya pointed out that Ronald had always claimed the children as deductions on his income tax returns and continued to do so. Accordingly, her child support should not have been reduced—something that might have been in order had she been taking deductions for them on her income taxes. The district court agreed the earlier order was in error and restored Ronald's child support payments to their previous level.

Ronald has appealed that ruling. He argues that he has never taken a deduction as a head of household on his income taxes and, therefore, the district court erred in restoring the child support payments. But Ronald misunderstands the basis for the district court's ruling. The district court reset the child support payments, effectively negating the reduction, because Ronald, in fact, enjoyed the tax benefit from claiming the children as deductions. That Ronald never took a head-of-household deduction was beside the point and didn't figure in the district court's ruling. The argument Ronald raises on appeal is, therefore, similarly beside the point. The district court's order on child support was appropriate and is affirmed.

Ronald also argues that the district court erred in awarding $250 in attorney fees to Tonya because her lawyer had to attend a hearing. Based on the district court journal entry, the fee award appears to be related to the tax deduction issue. But the journal entry does not state the precise reason for the award. On appeal, Ronald presents a five sentence argument on the point. One sentence is devoted to the standard of review, and two sentences consist of rhetorical questions. The result is an argument so abbreviated and abstract that it presents no comprehensible basis for reversing the district court. We, therefore, decline to disturb the fee award. See *Herrell v. National Beef Packing Co.*, 292 Kan. 730, 736, 259 P.3d 663 (2011) (an issue inadequately briefed on appeal deemed abandoned).

In this appeal, Ronald also argues that the district court judge originally handling both his 2006 divorce action and Tonya's 2008 action acted improperly when he entered temporary orders in the 2008 case that matched what he had done in the earlier proceeding. Ronald says that conduct somehow deprived the district court of subject matter jurisdiction in this case. And Ronald complains that he was unable to obtain time records from Tonya's lawyer to bolster his position that the lawyer had inappropriate ex parte communication with that judge. Apparently some or all of the records Ronald

wanted had been introduced as an exhibit at some earlier hearing in this litigation, were returned to the proffering party (not Ronald), and were no longer in existence when he again requested them.

None of that deprives the district court of subject matter jurisdiction—the legal authority to hear a divorce action. Ronald cites no caselaw to that effect. He simply offers case citations standing for the general legal principles that subject matter jurisdiction may be challenged at any time and a judgment entered by a court lacking subject matter jurisdiction is void. While those propositions are true, Ronald does not (and in our view cannot) explain how they apply here.

To the extent Ronald has some other complaints about the temporary orders or sought the billing records to support some aspect of those complaints, his effort fails under law of the case. Law of the case functions much the same way as res judicata in the sense that it bars a party from proceeding on issues he or she has already had a full and fair opportunity to litigate. See *State v. Collier*, 263 Kan. 629, Syl. ¶ 3, 952 P.2d 1326 (1998) (describing law of the case); *Cornwell v. Moss*, 99 Kan. 522, Syl. ¶ 2, 162 P. 298 (1917) (same). Res judicata prevents a party from pursuing a new suit against an adverse party against whom it has already litigated an action to a judgment on the merits when the suits arise from the same circumstances, even if the second one relies on different theories. See *Estate of Belden v. Brown County*, 46 Kan. App. 2d 247, 259, 261 P.3d 943 (2011). Res judicata operates across cases. Law of the case essentially does the same within a single case. Thus, a party who has once appealed in a case may not raise in a later appeal issues he or she did raise or could have raised in the first appeal. *Cornwell*, 99 Kan. 522, Syl. ¶ 2 ("Ordinarily, a decision of questions which were presented upon a former appeal or which were involved and might have been raised therein will be deemed to be the law of the case in a subsequent appeal where the issues are substantially the same . . . ."); *JGR, Inc. v. Thomasville Furniture Industries*, 550 F.3d 529, 532 (6th Cir. 2008) (law of the case bars challenge to ruling that could have been asserted in an earlier

appeal and was not); *United States v. Abreu-Cabrera*, 94 F.3d 47, 49 (2d Cir. 1996) ("[U]nder a corollary to the law-of-the-case doctrine, appellate courts will refuse to consider trial court rulings that could have been raised on an earlier appeal.").[*]

[*]Some courts treat the general rule precluding a party from raising an issue on a second or successive appeal in a case if it could have been raised in an earlier appeal as a type of waiver. They nonetheless refer to it as an aspect of law of the case. See *Crocker v. Piedmont Aviation, Inc.*, 49 F.3d 735, 739 (D.C. Cir.), *cert. denied*, 516 U.S. 865 (1995). Whether described as waiver or law of the case, the doctrine has the same effect.

Here, Ronald could have asserted any challenges he had to the temporary orders entered in the 2008 case in his appeal in *Anjard I*. Consistent with law of the case, he cannot now tack them on to this appeal. While law of the case is not a wholly unyielding doctrine—it may be put aside to allow a court to address a fundamental error or injustice—Ronald has made no showing of manifest unfairness warranting that kind of dispensation. See *Collier*, 263 Kan. 629, Syl. ¶ 2 (law of the case "not an inexorable command"). Accordingly, he has failed to raise any point with respect to the temporary orders or time records justifying relief.

Affirmed.