NOT DESIGNATED FOR PUBLICATION

Nos. 124,545
124,690

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

G.S. and G.D.,
Appellees,

v.

J.P. III,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; JOHN SHERWOOD, judge pro tem. Opinion filed February 24, 2023. Affirmed in part and dismissed in part.

J.P. III, of Wichita, appellant pro se.

Anita Settle Kemp, of Wichita, for appellee G.S.

No appearance by appellee G.D.

Before ATCHESON, P.J., SCHROEDER and GARDNER, JJ.

PER CURIAM: This consolidated appeal arises from protection from stalking (PFS) orders obtained by two individuals, G.D. and G.S., against J.P. III, and a subsequent extension of the initial order obtained by G.S. J.P. appeals pro se, raising four issues in case No. 124,545 which can generally be described as due process challenges, questions about the sufficiency of the evidence, challenges to the validity of relevant evidentiary

standards, and abuse of discretion by the district court. However, these claims are largely outside the scope of the rulings identified in his notices of appeal.

We find J.P.'s notice of appeal in case No. 124,545 only challenges the district court's ruling on his motion to dismiss the PFS order and subsequent extension obtained by G.S. But this motion should have been liberally construed by the district court as a motion to alter or amend judgment under K.S.A. 2021 Supp. 60-259 and/or a motion for relief from judgment under K.S.A. 2021 Supp. 60-260(b)(2) and (b)(3). Still, a motion for relief from judgment would have been untimely given the one-year time limit of K.S.A. 2021 Supp. 60-260(c). And on appeal, J.P. fails to properly address whether he was entitled to relief under K.S.A. 2021 Supp. 60-259. Accordingly, we affirm the district court's ruling in case No. 124,545 denying J.P.'s requested relief.

We find the appeal in case No. 124,690 challenging the PFS obtained by G.D. is moot because the PFS has expired and no extension was obtained. Therefore, we dismiss case No. 124,690.

FACTS

J.P. owns and manages property near rental properties owned and managed by G.S. On February 12, 2020, G.S. filed a petition requesting an order for a PFS that was dismissed on March 12, 2020. G.S. filed a new petition for PFS on April 16, 2020, largely relying on the same allegations as his first petition, claiming J.P. threatened and harassed him. The district court granted a temporary order which remained in effect until the matter was heard on July 16, 2020. Following the hearing, the district court granted a one-year PFS order, which expired on July 16, 2021. There is no indication in the record J.P. timely sought rehearing, moved to alter or amend judgment, or appealed the original PFS order issued on July 16, 2020.

On July 15, 2021, G.S. moved to extend the PFS order for one additional year. A hearing was held on July 29, 2021, at which J.P. did not appear. The district court granted the extension, which expired on July 29, 2022. On August 23, 2021, J.P. filed a motion captioned "Motion to Dismiss with Prejudice Original Petition and Extension of Protection from Stalking, Sexual Assault, or Human Trafficking Order." On September 7, 2021, J.P. filed a motion captioned "Motion to Rehear Extension of Protection from Stalking, Sexual Assault, or Human Trafficking Order."

The district court considered both motions at a hearing on September 9, 2021. It denied J.P.'s motion to dismiss, finding it was essentially moot because J.P. was seeking to set aside the original PFS order, which had expired, and the motion was filed after the deadline to appeal the extension order. The district court also denied J.P.'s motion for rehearing, finding he received notice of the hearing on the motion for extension but did not appear at the hearing. J.P. filed a timely notice of appeal, stating, in relevant part, he "appeals from the Motion to Dismiss with Prejudice Original Petition and Extension of Protection from Stalking, Sexual Assault, or Human Trafficking Order to the Court of Appeals of the State of Kansas." This appeal was docketed as case No. 124,545.

In a separate action, G.D., an acquaintance of G.S., filed a petition for PFS against J.P. on July 12, 2021, for stalking and harassment. The district court granted the PFS petition on July 22, 2021, following a hearing. The hearing transcript is not in the record on appeal. J.P. did not timely appeal the PFS order, and the PFS order expired on July 22, 2022. On October 4, 2021, J.P. filed a motion requesting evidence, asking for a certified copy of a letter G.D. read on the record at the hearing on her PFS petition, which was not transcribed due to a recording failure. Following a hearing, the district court denied the motion, finding the letter was not relied on as a basis to grant the PFS petition. J.P. filed a notice of appeal, stating he was appealing "from the Motion Requesting Evidence Order." This appeal was docketed as case No. 124,690. G.D. chose not to participate in this appeal.

We consolidated the cases on appeal. In case No. 124,690, we issued a show-cause order based on potential mootness because the PFS order obtained by G.D. had expired and there was no indication it was extended. J.P. did not respond to the order.

In case No. 124,545, after the appeal was docketed, G.S. filed a motion for attorney fees, arguing the appeal is frivolous. We subsequently issued a show-cause order regarding jurisdiction, specifically whether J.P.'s notice of appeal identifies a final appealable order. As part of their responses to the show-cause order, the parties were ordered to explain whether the motion for attorney fees can be considered if we do not have jurisdiction based on J.P.'s notice of appeal. G.S. and J.P. responded.

In January 2023, prior to this matter being heard, J.P. filed two requests for additions to the record on appeal. One request was for a partial transcript of a July 28, 2022 hearing relating to this appeal and two documents in an unrelated case; the other request was for documents of two other unrelated cases. Additional facts are set forth as necessary.

ANALYSIS

Case No. 124,690 Is Moot

The PFS petition was granted on July 22, 2021, and the PFS order expired on July 22, 2022. There is nothing in the record reflecting the order granting the PFS petition was appealed. There is also no indication an extension was obtained, nor has any appeal been taken therefrom. Several months after the PFS petition was granted, J.P. filed a motion requesting evidence, asking for a certified copy of the letter G.D. read at the hearing on the petition for her PFS.

As a general rule, we do not decide moot questions or render advisory opinions. The mootness doctrine is one of court policy, under which the court is to determine real controversies about the legal rights of persons and properties that are actually involved in the case properly before it and to adjudicate those rights in a way that is operative, final, and conclusive. Because mootness is a doctrine of court policy, which courts developed through precedent, appellate review of the issue is unlimited. *State v. Roat*, 311 Kan. 581, 590, 466 P.3d 439 (2020). An issue on appeal will only be dismissed as moot if it can be "clearly and convincingly shown the actual controversy has ended, the only judgment that could be entered would be ineffectual for any purpose, and [the judgment] would not impact any of the parties' rights." *Wiechman v. Huddleston*, 304 Kan. 80, 84, 370 P.3d 1194 (2016).

J.P.'s notice of appeal indicated he was appealing "from the Motion Requesting Evidence Order." K.S.A. 2021 Supp. 60-2103(b) provides: "The notice of appeal shall specify the parties taking the appeal; *shall designate the judgment or part thereof appealed from*, and shall name the appellate court to which the appeal is taken." (Emphasis added.) Our jurisdiction is generally limited to the rulings identified in the notice of appeal. *State v. Huff*, 278 Kan. 214, 217, 92 P.3d 604 (2004). To the extent J.P. advances any other arguments related to the PFS order obtained by G.D., we do not have jurisdiction to consider those issues.

Even assuming the issues were properly briefed and we have jurisdiction to consider all the points raised by J.P. in relation to the PFS order obtained by G.D., no meaningful relief can be granted at this time. The PFS order has expired, and there is no indication it was extended. Even with J.P.'s late request for a copy of the letter G.D. read into the record at the PFS hearing, there is no ongoing case or controversy which could affect the parties' rights. To remand based on J.P.'s request for the letter evidence would provide no practical relief in the underlying litigation because J.P. failed to timely appeal

the PFS order. Thus, any ruling from us would be an advisory opinion—something we refuse to render. See *Roat*, 311 Kan. at 590. Case No. 124,690 is dismissed as moot.

We Have Jurisdiction in Case No. 124,545

We issued a show-cause order in case No. 124,545, questioning whether we have jurisdiction over the appeal. Whether jurisdiction exists is a question of law subject to unlimited review. See *Via Christi Hospitals Wichita v. Kan-Pak*, 310 Kan. 883, 889, 451 P.3d 459 (2019).

J.P.'s notice of appeal indicated he "appeals from the Motion to Dismiss with Prejudice Original Petition and Extension of Protection from Stalking, Sexual Assault, or Human Trafficking Order to the Court of Appeals of the State of Kansas." G.S. argues the appeal should be dismissed because J.P. fails to designate the judgment or part thereof from which he is appealing. G.S.'s argument is unpersuasive as J.P.'s notice of appeal can be liberally construed as appealing from the denial of his motion to dismiss.

As previously noted, K.S.A. 2021 Supp. 60-2103(b) provides: "The notice of appeal shall specify the parties taking the appeal; *shall designate the judgment or part thereof appealed from*, and shall name the appellate court to which the appeal is taken." (Emphasis added.) And an appellate court's jurisdiction is generally limited to the rulings identified in the notice of appeal. *Huff*, 278 Kan. at 217. However, Kansas appellate courts may liberally construe pro se notices of appeal, although the liberal construction rule is generally stricter in civil cases. *Garetson Brothers v. American Warrior, Inc.*, 56 Kan. App. 2d 623, 643, 435 P.3d 1153 (2019).

Garetson Brothers provides a helpful summary on applying the liberal construction rule to pro se notices of appeal in civil cases. The panel explained:

"[I]n *Key v. Hein, Ebert & Weir, Chtd.*, 265 Kan. 124, 129-30, 960 P.2d 746 (1998), the Kansas Supreme Court construed a civil notice of appeal to confer jurisdiction over all the issues raised on appeal when it was drafted by a pro se litigant and included 'catch-all' language. Key's notice of appeal stated he was appealing from the December 19, 1996 order. An order granting Key's motion for summary judgment was issued in December 1995, and an order denying Key's motion to amend that decision was issued in December 1996. On appeal, the defendants argued that the notice of appeal failed to identify the trial court's order from December 1995.

"In rejecting this argument, our Supreme Court noted a liberal construction of the notice of appeal was particularly appropriate because it was drafted by a pro se litigant. The Supreme Court held that the language '"grant[ing] the defendant Memorandum Decision order"' in the notice of appeal could be construed to include references to both the December 1995 and 1996 orders, and noted that the 'catch-all' language in his notice of appeal—'"And from each and every order entered [contrary] to plaintiff"'—encompassed the 1995 summary judgment order, and found that the defendants had not been prejudiced by the notice of appeal. 265 Kan. at 129-30." *Garetson Brothers*, 56 Kan. App. 2d at 643-44.

Garetson Brothers further explained the holding in *In re Marriage of Lay v. Sternadori*, No. 91,701, 2004 WL 2384238, at *6 (Kan. App. 2004) (unpublished opinion), as follows:

"There, appellant's notice of appeal stated: '"Notice is hereby given that Appellant Rich Sternadori appeals the Division 8 Court's January 2, 2004 decision in the above case."' 2004 WL 2384238, at *6. Applying the Supreme Court's decision in *Key*, the *Lay* panel determined that the liberal construction approach did not apply because the notice of appeal did not reference any earlier decisions by the district court nor did it contain any 'catch-all' language. Therefore, the *Lay* panel determined it only had jurisdiction to address the issues in the January 2004 decision. 2004 WL 2384238, at *6." *Garetson Brothers*, 56 Kan. App. 2d at 644-45.

The *Garetson Brothers* panel noted three other Court of Appeals decisions applying similar rationale: *Gates v. Goodyear*, 37 Kan. App. 2d 623, 627-29, 155 P.3d 1196 (2007) (failure to include catch-all language in notice of appeal limited appellate jurisdiction to ruling identified in notice of appeal); *In re J.D.D.*, 21 Kan. App. 2d 871, 873, 908 P.2d 633 (1995) (appellate jurisdiction limited to rulings specified in notice of appeal); and *Raney-Neises v. HCA Health Service of Kansas, Inc.*, No. 93,740, 2006 WL 1460614, at *9 (Kan. App. 2006) (unpublished opinion) (same). *Garetson Brothers*, 56 Kan. App. 2d at 645. Based on these decisions, the *Garetson Brothers* panel found it did not have jurisdiction to consider five issues raised in pretrial motions which were not addressed in the district court's permanent injunction order—the only ruling identified in the notice of appeal—because there was no catch-all language in the notice of appeal challenging any other adverse rulings or judgments. 56 Kan. App. 2d at 645.

In response to our show-cause order, J.P. asserts we should "liberally apply, or construe, or even dissect the . . . Notice of Appeal from a technical perspective, to avoid dismissal." While he generally notes the principles of liberal construction of pro se pleadings, J.P. also claims that G.S. has repeatedly violated Supreme Court Rule 7.043 (2022 Kan. S. Ct. R. at 50) by not referring to certain individuals by their initials. J.P. further argues G.S. failed to timely request dismissal on jurisdictional grounds. His jurisdiction argument is unpersuasive because "subject matter jurisdiction may be raised at any time, whether for the first time on appeal or even on the appellate court's own motion." *Sandate v. Kansas Dept. of Revenue*, 58 Kan. App. 2d 450, 452, 471 P.3d 700 (2020).

Notwithstanding some of the other problems with J.P.'s response, we find there is no prejudice to G.S. as the nature of the claims advanced in J.P.'s motion to dismiss was clear enough. We liberally construe J.P.'s notice of appeal as appealing from the denial of his motion to dismiss the original PFS order and the extension order to the extent of the grounds raised in his motion to dismiss—the original PFS order was obtained by fraud or

false information; thus, it was invalidly granted and extended. However, J.P.'s notice of appeal does not include catch-all language challenging any other adverse rulings or judgments, and many of the issues raised in his brief largely do not specifically address or relate to his motion to dismiss.

But a two-fold liberal construction of J.P.'s motion to dismiss and notice of appeal is required because "[t]he denial of a motion to dismiss is usually held not to be an appealable order until final judgment has been rendered *and is appealed from*." (Emphasis added.) *Donaldson v. State Highway Commission*, 189 Kan. 483, 485, 370 P.2d 83 (1962). Here, the relevant final judgments were the PFS order granted to G.S. in July 2020 and the one-year extension granted in July 2021. J.P. has not explicitly appealed from either of those orders, and any appeal from the original PFS order would have been time-barred well before J.P. filed his motion to dismiss.

Although he fails to fully explain the point, J.P.'s motion to dismiss was essentially a motion to alter or amend judgment under K.S.A. 2021 Supp. 60-259 and/or a motion for relief from judgment based on newly discovered evidence and alleged fraud, misrepresentation, or misconduct by the opposing party under K.S.A. 2021 Supp. 60-260(b)(2) and (b)(3). However, contrary to J.P.'s arguments, we do not construe his notice of appeal as also appealing from the denial of his motion for rehearing. That claim was based on an alleged lack of notice, which was not an argument asserted in his motion to dismiss. And J.P. largely concedes he received adequate notice; he was just ignorant of the law.

Even though we find J.P. has sufficiently identified an appealable order in his notice of appeal—the order denying his motion to dismiss—that does not mean we have jurisdiction over all of the issues raised in his brief. As G.S. points out, the issues J.P. purports to raise in his brief significantly differ from the ruling identified in his notice of appeal. Under the liberal construction rule, we consider any discrepancies between the

ruling(s) identified in the notice of appeal, the proposed issues set forth in J.P.'s docketing statement, and the arguments raised in J.P.'s brief. See *State v. Wilkins*, 269 Kan. 256, 270, 7 P.3d 252 (2000); *Key v. Hein, Ebert & Weir, Chtd.*, 265 Kan. 124, 129, 960 P.2d 746 (1998).

J.P.'s docketing statement lists the date of the order appealed from as September 9, 2021, which is the date the district court ruled on his motion for rehearing and motion to dismiss. J.P. identifies the proposed issues to be raised as:

> "The district court violated my due process rights by not giving me notice or an opportunity to be heard, prior to extending the PFS order; the district court abused its discretion in first extending the PFS order, and subsequently upholding that extension based solely on the petitioner's word at the hearing on my Motion to Dismiss with Prejudice Original Petition and Extension of Protection from Stalking, Sexual Assault or Human Trafficking Order; and, the court should have granted me relief from judgment at said Motion due to newly discovered evidence of fraud and misconduct by [G.S.]"

Some of these issues track with the grounds for relief set forth in his motion to dismiss. However, his complaint about a lack of notice generally goes to the arguments in his motion for rehearing, which is not before us and will not be considered. But the issues raised in J.P.'s brief are largely different from the ruling identified in his notice of appeal and the proposed issues set forth in his docketing statement, and the arguments advanced within the respective issues often have little relation to J.P.'s statement of the issues.

Issue I

J.P. essentially argues his right to a fair trial was violated. He generally complains he was unable to call witnesses because his motion to dismiss and motion for rehearing were heard at the same time despite being scheduled for separate hearings on different dates. Specifically, he complains he could not call witnesses to testify in support of his

motion for rehearing, which was scheduled to be heard on September 23, 2021, but was denied at the hearing on his motion to dismiss on September 9, 2021. Based on the arguments made, we do not have jurisdiction over this issue because the substance of J.P.'s complaints relates to his motion for rehearing, not his motion to dismiss.

Issue II

J.P. essentially purports to argue the preponderance of the evidence standard is invalid because it invites fraud on the court and violated his right to a fair trial. And he admits the issue is not specifically preserved. Moreover, the issue as stated in J.P.'s brief is well beyond the scope of the ruling identified in his notice of appeal. There is no meaningful argument or explanation about the validity of the preponderance of the evidence standard—a point we have no jurisdiction to consider. See *Huff*, 278 Kan. at 217. Instead, the bulk of this issue is a series of complaints questioning the weight and sufficiency of the evidence underlying the original PFS order—a ruling he did not appeal—and, thus, a point we will not consider. See *Wiechman*, 304 Kan. at 86-87 (timely notice of appeal is jurisdictional requirement).

The only relevant contention J.P. makes in relation to his motion to dismiss is a conclusory allegation claiming G.S. committed perjury in the original PFS hearing. We find this argument waived due to improper briefing as J.P. does not cite pertinent authority in support of his point, which he also fails to fully argue or explain. See *In re Marriage of Williams*, 307 Kan. 960, 977, 417 P.3d 1033 (2018) (issues not adequately briefed deemed waived or abandoned); *In re Adoption of T.M.M.H.*, 307 Kan. 902, 912, 416 P.3d 999 (2018) (failure to support point with pertinent authority or failure to show why point is sound despite lack of supporting authority or in face of contrary authority is akin to failing to brief issue).

We dismiss J.P.'s arguments about the preponderance of the evidence standard, sufficiency of the evidence, and insufficient notice for lack of jurisdiction. To the extent he makes any argument over which we have jurisdiction, they are unpersuasive on the merits.

Issue III

J.P.'s third issue is unclear. His statement of the issue is:

> "Whether it is fraud on the Court, under the right to a fair trial, when [counsel] and the court deny a party to be heard by badgering and creating a ruse to hear an irrelevant or moot issue not docketed and not hear the motion docketed, that notice was an issue to distract and preclude the defendant from presenting the gravamen of the matter, the newly discovered evidence."

The issue, as stated, is outside the scope of the ruling identified in the notice of appeal, and we dismiss it for lack of jurisdiction.

J.P.'s briefing of this issue is difficult to follow, and J.P. seems to be repeating earlier arguments that are unrelated to the denial of his motion to dismiss. As best we can decipher, his arguments essentially amount to: (1) general due process complaints; (2) alleged lack of notice; and (3) the district court's failure to admit or consider newly discovered evidence. We dismiss the first two points for lack of jurisdiction because those arguments are aimed at the denial of his motion for rehearing, which he did not timely appeal and is not before us.

The only points he raises relating to his motion to dismiss are: (1) He was prevented from arguing or presenting evidence in support of his motion, and (2) the district court erred in denying his motion based on newly discovered evidence. But these points are unpersuasive as J.P.'s newly discovered evidence claim should be construed as

a request for relief from judgment under K.S.A. 2021 Supp. 60-260(b)(2), and he filed his motion beyond the one-year time limit set forth in K.S.A. 2021 Supp. 60-260(c), so the district court correctly denied relief. All other asserted bases for attacking the original PFS order are barred because he did not timely appeal that order. See *Wiechman*, 304 Kan. at 86-87.

Issue IV

J.P. essentially argues he was denied a fair trial because the PFS order and extension order were fraudulently obtained in bad faith and he was not allowed to present witnesses. On its face, the majority of the issue, as stated, tends to relate to the substance of his motion to dismiss. The remainder of his issue statement generally relates to his motion requesting evidence in case No. 124,690, which we have dismissed as moot. The overall thrust of his complaints in this issue are: (1) The district court abused its discretion in concluding any complaints with the original PFS order were moot because the order had expired, and (2) G.S.'s counsel prevented J.P. from arguing or presenting evidence in support of his motion to dismiss by bringing up the disputed notice issue set forth in his motion for rehearing. Notwithstanding various deficiencies in his briefing, these issues are unpersuasive because J.P.'s motion to dismiss was, as discussed above, effectively an untimely motion for relief from judgment.

We dismiss Issue I in its entirety for lack of jurisdiction. We also dismiss J.P.'s arguments in Issue II about the validity of the preponderance of the evidence standard, sufficiency of the evidence underlying the original PFS order, and sufficiency of notice on the motion for extension for lack of jurisdiction. Likewise, we dismiss the majority of the arguments in Issue III for lack of jurisdiction, although it is difficult to clearly define those arguments from J.P.'s briefing. We find we have jurisdiction over the relevant portions of Issues II, III, and IV, although they are unpersuasive on the merits.

Merits

J.P.'s arguments are unpersuasive on the merits because his motion to dismiss was effectively an untimely motion for relief from judgment. See K.S.A. 2021 Supp. 60-260(c). The district court denied J.P.'s motion to dismiss on the basis the initial PFS order had expired and was, therefore, moot, and J.P. did not timely appeal the extension order. We observe the district court was incorrect as the issues concerning the original PFS order were not necessarily moot if the original order was invalid, because that could affect the extension order. Still, we can affirm the district court as right for the wrong reason. *Gannon v. State*, 302 Kan. 739, 744, 357 P.3d 873 (2015).

In his motion to dismiss, J.P. only alleged flaws underlying the original PFS order; he did not assert separate reasons why the extension order was invalid. As previously explained, the grounds set forth in his motion should be construed as a request for relief from judgment under K.S.A. 2021 Supp. 60-260(b)(2) and (b)(3). But his motion was untimely under K.S.A. 2021 Supp. 60-260(c). We determine J.P.'s motion to dismiss could also be construed as a timely motion to alter or amend judgment under K.S.A. 2021 Supp. 60-259, but only to the extent it challenged the extension order. See K.S.A. 2021 Supp. 60-259(f) ("A motion to alter or amend a judgment must be filed no later than 28 days after the entry of judgment."). However, we see nothing in J.P.'s brief meaningfully addressing this point; therefore, we deem any such argument waived or abandoned. See *State v. Davis*, 313 Kan. 244, 248, 485 P.3d 174 (2021) (issue not briefed deemed waived or abandoned).

Further, the decision to grant or deny a motion to alter or amend judgment is within the discretion of the district court. See *City of Mission Hills v. Sexton*, 284 Kan. 414, 421, 160 P.3d 812 (2007). Given the convoluted manner of his arguments, we would be hard-pressed to find any abuse of discretion by the district court had it construed J.P.'s

motion to dismiss as a motion to alter or amend judgment. Thus, the district court was correct in denying J.P.'s motion to dismiss.

Requests for Additions to the Record on Appeal

J.P. filed two motions requesting additions to the record on appeal after this case was assigned to the summary calendar docket. On January 4, 2023, J.P. filed a motion requesting a partial transcript of a hearing and an order denying a PFS to G.D. in an unrelated case, both dated July 28, 2022, be added to the record. We deny this motion because the partial transcript is already in the record on appeal and the order regarding G.D.'s petition in another case is not germane to this case.

On January 10, 2023, J.P. filed a motion requesting documentation of a PFS petition G.S. allegedly filed against another individual be added to the record on appeal. We deny this motion because any such documentation concerning a nonparty is irrelevant to the present matter.

Attorney Fees

G.S. filed a motion requesting attorney fees on appeal, arguing J.P.'s appeal is frivolous. J.P. responded to this motion, claiming his appeal is not frivolous and was not taken for the purposes of harassment or delay. He also asserts the motion is untimely. We need not consider whether J.P.'s appeal is frivolous because he is correct the motion is untimely. Under Supreme Court Rule 7.07(b)(2) (2022 Kan. S. Ct. R. at 52), a motion for attorney fees must be filed within 14 days of the letter assigning the case to the nonargument calendar or the date oral argument is waived, whichever is later. Oral argument was never requested or waived. The letter assigning the case to the summary calendar was sent on October 20, 2022. But G.S. did not file his motion until November 14, 2022; therefore, we deny his request as untimely. See *In re Marriage of Dean*, 56

Kan. App. 2d 770, 778-79, 437 P.3d 46 (2018) (motion for attorney fees filed more than 14 days after letter sent assigning case to non-argument calendar denied as untimely); see also *In re Marriage of Humphries*, No. 121,442, 2020 WL 6816222, at *9 (Kan. App. 2020) (unpublished opinion) (letter assigning case to summary argument calendar, not notice of summary calendar date, triggers time for filing motion for appellate attorney fees).

Case No. 124,690 is dismissed as moot. Case No. 124,545 is affirmed in part and dismissed in part.

Affirmed in part and dismissed in part.