

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
July 8, 2026 Session

FILED

07/24/2026

Clerk of the
Appellate Courts

RACHEL LORETTA TERRY¹ v. CRAIG STEVEN TERRY

**Appeal from the Chancery Court for Putnam County
No. 2013-5 William Talley Ridley, Judge**

No. M2025-01661-COA-R3-CV

Father overpaid child support, and the trial court ordered the overpayment to be credited against future monthly payments. After the judgment became final, Father filed a motion for relief from judgment under Tennessee Rule of Civil Procedure 60, seeking a judgment against Mother rather than credit against future child support payments. Father also sought to depose three State employees in an effort to determine why certain payments had been released to Mother instead of being held by the State. The trial court denied the Rule 60 motion, granted a motion to quash the depositions, and denied a motion to alter or amend. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed

JEFFREY USMAN, J., delivered the opinion of the court, in which W. NEAL MCBRAYER and KRISTI M. DAVIS, JJ., joined.

Bratten Hale Cook II, Smithville, Tennessee, for the appellant, Craig Steven Terry.

Jonathan Skrmetti, Attorney General & Reporter; and Mara L. Cunningham, Assistant Attorney General, for the appellee, Tennessee Department of Human Services.

OPINION

I.

Rachel Loretta Terry (Mother) and Craig Steven Terry (Father) were divorced in

¹ Rachel Loretta Terry did not file a brief or participate in the appeal. The Tennessee Department of Human Services is participating as Appellee.

2014. The parties have two children. In 2018, Father sought to modify his child support. The record is unclear as to the proceedings before the trial court between 2018 and 2023, but an order from this court reflects that an appeal was originally filed in 2019, that the parties sought a stay of the appeal pending resolution of some matters, that the stay was extended in October 2023 because the parties anticipated an imminent resolution, and that this court ultimately dismissed the 2019 appeal in February 2024 because no further action had been taken. *See Rachel Loretta Terry v. Craig Steven Terry*, M2019-00785-COA-R3-CV (Tenn. Ct. App. Feb. 26, 2024) (Order).

The underlying hearings regarding child support are not part of the record on appeal. However, the record reflects that the trial court held a hearing on October 5, 2023, and that the trial court rendered a decision “by way of a telephonic announcement” in November 2023. The court entered a written order on February 1, 2024, in which it made findings regarding the parties’ income and regarding child support overpayments that Father had made from 2019 to 2022. The trial court found that Father had overpaid in some years and underpaid in others,² concluding, “Based upon these calculations, the father, through 2022 has overpaid \$4,437.00, **for which he will have a credit on for any future child support payments.**” (Emphasis added). The court found that any monies held by the Child Support Office should be released to Father, and the order reiterated that Father “will receive a credit of this amount on any future child support payments.” The trial court’s order was prepared by Father’s attorney and incorporated a transcript of the November 2023 oral findings of fact made over the telephone.

Father filed a motion for a new trial or to alter and amend on February 12, 2024. In this motion, Father asserted that he had actually paid more annually than reflected in the court’s order regarding overpayment. Father’s calculations also altered the written order regarding what his monthly obligation should have been in calculating overpayment.³ The

² The written order recites the trial court’s oral findings regarding Father’s payments:

- 5. The Court went on [at the hearing] to find that defendant/father made the following payments:
 - A. 2019: \$697.00 per month which the Court stated father should have only paid \$119.00 per month for that year, so in 2019 father overpaid by \$6,936.00.
 - B. 2020: \$694.00 per month which the Court stated father should have only paid \$487.00 per month for that year, so in 2020 father overpaid by \$2,484.00.
 - C. 2021: \$709.00 per month which the Court stated father should have only [sic] paid \$1,322.00 per month for that year, so in 2021 father underpaid by \$7,359.00.
 - D. 2022: \$610.00 per month which the Court stated father should have only paid \$412.00 per month for that year, so in 2022 father underpaid [sic] by \$2,376.00.

³ For instance, Father’s calculations stated that he “had no child support obligation in 2022,”

proposed changes in the various amounts of Father's monthly obligations appear to be based on a discrepancy between the child support worksheets and the written order, in that the written order did not reduce the obligation by federal benefits Father was receiving for the child. Father's motion, however, did not expressly state that the proposed calculations included a change in the monthly child support obligations.

Ultimately, Father asserted that he had in fact overpaid by \$33,841.50 rather than by the \$4,437 reflected in the court's order. Father requested the following relief: "The defendant/father would ask the Court to review the attached Child Support printout showing all the payments father made during the 4 years in question and, assuming the figures are correct in this Motion, would respectfully ask the Court to enter an Amended Order correcting that portion of the Court's Order." While he asserted error as to the overpayment amount, Father raised no challenge to the method of reimbursement through future credits that had been set out in the trial court's earlier February order. He left the credit on future payments as the method of reimbursement unaddressed in his motion.

While Father's February 2024 motion to alter or amend was pending, the Tennessee Department of Human Services (the State) filed three motions seeking to set aside or alter the judgment. In one motion, the State asserted that Father had an arrearage of \$27,542. The record contains an exhibit showing that, in 2018, the court found Father owed \$25,992 in arrears, which Father was ordered to pay at the rate of \$100 per month. The State also sought to revisit Mother's income, which the trial court had imputed at the statutory amount because the State presented no testimony or other evidence of her income.⁴ *See* Tenn. Comp. R. & Regs. 1240-02-04-.04(3)(a)2(i). The State represented that it "mistakenly" did not enter medical evidence that Mother's health did not even permit her to attend trial and "mistakenly" did not enter her income tax returns. Father opposed the State's motions.

The trial court held a hearing on the parties' motions regarding the February 2024 order. At the hearing, which took place on June 20, 2024, Father did not raise any challenge to or concern regarding the method of reimbursement through credits against future payments but instead challenged only the amount of overpayment. Trial counsel for the State told the judge that she "assumed" Father's numbers were correct but that she did not "have any way to verify it independently in the courtroom." The State's trial attorney explicitly stated she did not dispute "that he overpaid that amount for those four years."

Given the State's concession, the trial court, on July 11, 2024, granted Father's motion to alter or amend, and the court did not otherwise reconsider its judgment. The trial

although the original order found his obligation was \$412 monthly. He also calculated his obligation using eleven rather than twelve months in 2019 and calculated his obligation as \$84 monthly, rather than \$487 monthly, in 2020, and as \$846 monthly, rather than \$1,322 monthly, in 2021.

⁴ The court's February order noted "substantial unexplained deposits" for Mother but also observed that it was unclear if such deposits belonged to a working spouse.

court essentially adopted Father's mathematical calculations and found the overpayment amount to be \$33,841.50. Father's attorney again prepared the order, which altered the yearly amounts that the court found Father overpaid; the order also altered the total overpayment amount to \$33,841.50.⁵ The July order stated, "All other provisions of the Order of February 1, 2024 will remain in full force and effect."⁶ No appeal was filed by either party from the July 11, 2024 judgment altering the amount of overpayment.

In November, approximately four months after the order adjusting the amount of overpayment was filed, both Father and the State filed motions attempting to alter the July order. On November 4, 2024, the State filed a "Motion to Correct Amended Order Entered July 11, 2024" under Rule 60. The State's trial attorney asserted for the first time that Father's calculations related to the overpayment had erroneously altered his monthly obligations.

Father responded on November 15, 2024, by also filing a motion under Rule 60. Father sought to be reimbursed for the overpayment by the mechanism of a judgment against Mother rather than credit against future payments. The motion, in its entirety, reads:

Comes undersigned, the attorney for Craig Steven Terry, the father in this cause, and Pursuant to Rule 60 of the Tennessee Rules of Civil Procedure would move the Court to amend the Order entered July 11, 2024 which recited that the father had overpaid his child support in the amount of \$33,841.50[;] however the Order did not grant a Judgment in favor of the father against the mother for that amount.

Accordingly, the father requests the Court to enter an Order that grants a Judgment against the mother for the amount of child support overpayments made to her by the father in the amount of \$33,841.50.

The motion did not specify which subsection of Rule 60 provided the basis for relief

⁵ The amended judgment reflected that the court ordered:

that paragraph 5 of the February 1, 2024 Order is amended to reflect that in paragraph 5 A instead of father overpaying \$6,336.00 [sic], father overpaid \$11,568.00; in paragraph 5 B instead of father overpaying \$2,484.00, father overpaid \$11,208.00; in paragraph 5 C instead of father underpaying \$7,359.00, father overpaid \$3,373.50; and in paragraph 5 D instead of father underpaying [sic] \$2,376.00, father overpaid \$7,692.00.

Paragraph 6 of said Order of February 1, 2024 is amended to reflect an overpayment of \$33,841.50 instead of \$4,437.00.

⁶ Accordingly, the February order's finding the amounts of Father's monthly obligations appeared to remain in place and was not amended to reflect the federal benefits, even though the calculation of overpayment relied on a different set of monthly obligations.

or what the factual basis was for revisiting the order. The motion did not explain why granting credit against future payment rather than a judgment was error or why Father was entitled to relief.

Father then filed notices for the deposition of three State employees connected to child support services. Father sought the depositions because, while a distribution hold was purportedly placed on his child support by Child Support Fiscal Services so that any disputed monies could be retained by the State, the hold was not actually put into place and the child support payments had been given to Mother rather than held by the State. Father attached emails tending to show that a hold had been placed on his payments for three months in 2021. The State moved to quash the depositions, noting that the case had been resolved in July and that the judgment had become final.

On June 27, 2025, the trial court denied Father's and the State's Rule 60 motions. In denying Father's motion, the trial court found:

The Plaintiff's Motion to Amend the Order Entered July 11, 2024, is hereby denied. The Court has reviewed the transcript from the telephonic hearing on this issue and finds that the Amended Order entered on [the] 11th day of July 2024 is consistent with the transcript. Additionally, the Court did not rule on the issue of whether the overpayment should be converted to a Judgement as that issue was never proper[l]y before the Court.

The court granted the motion to quash, finding that "this case is over and the depositions proposed in this case would not lead to relevant information."

On July 22, 2025, Father moved to alter or amend the ruling on the Rule 60 motion. Father essentially raised sufficiency of the evidence grounds. Father argued that the court erred in saying the issue of reimbursement was never properly before the court, citing to his November Rule 60 motion, which first raised the issue regarding the method of reimbursement. Father continued to advocate against quashing the subpoenas. Father argued the case was not "over" because he had overpaid. On September 25, 2025, the trial court denied the motion to alter or amend, concluding that Father's motion was merely rehashing previously raised issues.

We note here that the proceedings before the trial court, and certainly the record before this court, do not necessarily provide clarity regarding some of the underlying facts. For instance, it is unclear whether Father owes a substantial arrearage, what Father's monthly obligations were, why the State did not timely object to the alteration in Father's monthly child support obligation,⁷ and what Mother's income or economic circumstances

⁷ The State's November Rule 60 motion asserted that the State did not have a chance to adequately review the July order before it was filed due to service issues, but it does not explain why counsel did not

were. In this appeal, however, we are faced with a narrow issue: Father appeals the denial of his Rule 60 motion and the granting of the motion to quash the depositions.⁸ The State defends the trial court’s ruling as to both.

II.

We review a trial court’s ruling on a Rule 60 motion and a motion to quash for abuse of discretion. *State v. Mangrum*, 403 S.W.3d 152, 166 (Tenn. 2013) (“Our standard of review of a ruling on a motion to quash is whether the trial court committed an abuse of discretion.”); *Discover Bank v. Morgan*, 363 S.W.3d 479, 487 (Tenn. 2012) (holding that Rule 60.02 motions are reviewed for abuse of discretion); *Burke v. Huntsville NH Operations LLC*, 491 S.W.3d 683, 686 (Tenn. Ct. App. 2015) (“A trial court’s decision to grant a Tennessee Rule of Civil Procedure 60.01 motion to correct a clerical error in a judgment is reviewed under an abuse of discretion standard.”). Insofar as Father challenges the denial of the motion to alter or amend, such a decision is also reviewed for abuse of discretion. *Harmon v. Hickman Cmty. Healthcare Servs., Inc.*, 594 S.W.3d 297, 305 (Tenn. 2020) (“It is well-settled that a trial court’s ruling on a motion to alter or amend may be reversed only for an abuse of discretion.”). A trial court in general abuses its discretion when it applies “incorrect legal standards, reaches an illogical conclusion, bases its decision on a clearly erroneous assessment of the evidence, or employs reasoning that causes an injustice to the complaining party.” *West v. Schofield*, 460 S.W.3d 113, 120 (Tenn. 2015) (citing *State v. Banks*, 271 S.W.3d 90, 116 (Tenn. 2008)).

III.

Father asserts error in the denial of his Rule 60 motion and the denial of his motion to alter or amend the Rule 60 motion.⁹ Father’s motion filed in the trial court did not specify whether he sought relief under Rule 60.01 or under Rule 60.02. Even on appeal,

review Father’s February motion, which clearly laid out, e.g., that Father thought he had no 2022 obligation and only 11 months of obligation in 2019.

⁸ Father’s issues as stated are:

I. As a Matter of Law and the Finding of Facts, Did the Trial Court Err in Quashing the Notice of Depositions and Subpoenas Issued by the Appellant?

II. Did the Trial Court Err as a Matter of Law and Contrary to the Findings of Fact When the Court Failed to Rule on the Issue of the Child Support Overpayment by Appellant Being a Judgment Against the Appellee When the Trial Court Recited That This Issue Was Never Properly Before the Court?

⁹ This court has previously held that, “upon the denial of a Rule 60 motion, the ‘affected party may, at its option, pursue a direct appeal or seek a re-examination of the order pursuant to [Rule] 59.’” *Burstiner v. Boyd*, No. M2025-01241-COA-R3-CV, 2026 WL 1675104, at *4 (Tenn. Ct. App. June 10, 2026) (quoting *Third Nat. Bank of Nashville v. Estes*, No. 85-142-II, 1986 WL 3155, at *2 (Tenn. Ct. App. Mar. 12, 1986)).

Father does not clarify under which Rule, or under which subsection of Rule 60.02, he believes he is entitled to relief.

Instead, Father relies on a case that concluded that a trial court has no authority “to exercise its discretion to forgive one party from reimbursing another for an overpayment of child support.” *Huffman v. Huffman*, No. M2012-01538-COA-R3-CV, 2013 WL 1858798, at *3 (Tenn. Ct. App. May 1, 2013). Father then takes a leap to assert that failure to reduce the overpayment to a judgment against Mother would “basically forgive the thousands of dollars that he overpaid.” However, the trial court did not “forgive” the amount Father overpaid. Instead, it ruled that the overpayment would be credited against Father’s future child support obligation. The language from *Huffman* upon which Father relies explicitly permits this type of reimbursement: “The trial court’s failure to award Father *a credit* or judgment in the amount of his overpayment resulted in an ‘injustice’ to Father.” *Id.* (emphasis added) (citing cases which granted a credit in order to reimburse for overpayment). In his briefing, Father has presented no argument, in the trial court or on appeal, that the trial court acted outside its discretion in choosing this method of reimbursement.¹⁰

Father does not otherwise present any argument regarding the standards of Rule 60 relief, and he did not do so in the trial court. Father’s Rule 60 motion was skeletal at best, offering no rationale for overturning the final judgment entered months before and including no legal analysis supporting an entitlement to relief. He likewise has never laid out facts from which the basis for Rule 60 relief could be gleaned. The trial court was presented with a motion which was essentially a black box. The motion asserted Father was entitled to judgment, but it did not articulate a basis for Rule 60 relief from the order permitting reimbursement through credits. Faced with a skeletal motion, the trial court was not required to guess at or ferret out the reason that Father believed reimbursement through credit, rather than judgment, was grievous legal error and why this legal error should be addressed under Rule 60.

Given the nature of the motion with which it was presented, we cannot say the trial court erred in denying the motion; it is not the role of the trial court to make Father’s case for him. *See* Tenn. R. App. P. 36(a) (“Nothing in this rule shall be construed as requiring relief be granted to a party responsible for an error who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error.”); *Sneed v. Bd. of Prof’l Resp. of Sup. Ct.*, 301 S.W.3d 603, 615 (Tenn. 2010) (“It is not the role of the courts,

¹⁰ During oral argument, Father argued that the children were now over 18 and that a credit against future child support payments might leave him with no reimbursement. Father did not raise this as a reason to grant Rule 60 relief before the trial court or in his appellate briefing. The record reflects that Mother has filed a motion below to extend child support based on the children’s disabilities, and Father acknowledged that if the motion were granted, his overpayment could be credited against any future support. Father has also not addressed how any arrearages impact his contention.

trial or appellate, to research or construct a litigant's case or arguments for him or her, and where a party fails to develop an argument in support of his or her contention or merely constructs a skeletal argument, the issue is waived.”); *Jackson by Jackson v. Vanderbilt Univ. Med. Ctr.*, No. M2022-00476-COA-R3-CV, 2022 WL 16545403, at *4 (Tenn. Ct. App. Oct. 31, 2022) (“Failure by a party to construct an argument regarding his or her position constitutes waiver of that issue.”).

In any event, Father would not be entitled to relief under Rule 60. As the State notes, Father does not allege, as a predicate for Rule 60.01¹¹ relief, that the written order somehow fails to accurately reflect the trial court's judgment. See *Jackman v. Jackman*, 373 S.W.3d 535, 542 (Tenn. Ct. App. 2011) (holding that Rule 60.01 is intended to be used to correct errors “which cause the judgment to fail to reflect the court's ruling accurately,” such as errors of omission or oversight (quoting *Addington v. Staggs*, No. 88-214-II, 1989 WL 5453, at *3 (Tenn. Ct. App. Jan. 27, 1989))); see *Discover Bank*, 363 S.W.3d at 489 n.19 (noting that Rule 60.01 is intended to address errors such as typographical errors); *Burke*, 491 S.W.3d at 688 (holding Rule 60 may correct the listing of a party's name).

Furthermore, Father is not entitled to relief under Rule 60.02.¹² Significantly for this case, Rule 60.02 “does not ‘permit a litigant to slumber on her claims and then belatedly attempt to relitigate issues long since laid to rest.’” *Henderson v. Wilson*, No. M2009-01591-COA-R3-CV, 2011 WL 683905, at *3 (Tenn. Ct. App. Feb. 25, 2011) (quoting *Thompson v. Firemen's Fund Ins. Co.*, 798 S.W.2d 235, 238 (Tenn. 1990)); *Furlough v. Spherion Atl. Workforce, LLC*, 397 S.W.3d 114, 128 (Tenn. 2013). Rule 60.02 “is not for the purpose of relieving a party from free, calculated, and deliberate choices the party has made. A party remains under a duty to take legal steps to protect his own interests.” *Oldsmith Grp., LLC v. Mosby Cool Springs, LLC*, No. M2022-01584-COA-R3-CV, 2026 WL 262220, at *16 (Tenn. Ct. App. Feb. 2, 2026) (quoting 11 Charles A. Wright et al., *Fed. Prac. & Proc. Civ.* § 2864 (3d. 2025)); see *Federated Ins. Co. v. Lethcoe*, 18

¹¹ Rule 60.01 provides that “Clerical mistakes in judgments, orders or other parts of the record, and errors therein arising from oversight or omissions, may be corrected by the court at any time on its own initiative or on motion of any party. . . .” Tenn. R. Civ. P. 60.01.

¹² Rule 60.02 provides an avenue to revisit final judgments in certain limited circumstances:

On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise or excusable neglect; (2) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (3) the judgment is void; (4) the judgment has been satisfied, released or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that a judgment should have prospective application; or (5) any other reason justifying relief from the operation of the judgment.

S.W.3d 621, 625 (Tenn. 2000); *In re Joeda J.*, 300 S.W.3d 710, 715 (Tenn. Ct. App. 2009) (“Carelessness is not synonymous with excusable neglect.” (quoting *Wilkerson v. PFC Glob. Grp., Inc.*, No. E2003-00362-COA-R3-CV, 2003 WL 22415359, at *6 (Tenn. Ct. App. Oct. 23, 2003))).

The record shows that, faced with many opportunities to raise an issue regarding the method of reimbursement with the trial court, Father failed to act. Father did not seek judgment rather than credit in his initial motion to alter or amend (when he sought a change in the amount of overpayment); he did not raise the issue during the hearing on the motions to alter or amend; he drafted for the trial court the July 2024 order but never sought the relief of a judgment prior to submitting the order to the court; he did not file a separate motion to address this matter prior to entry of the order; and he did not appeal or otherwise revisit the July order prior to it becoming final thirty days after it was filed. In the approximately six months that passed between the trial court’s February and July orders, Father filed multiple documents with the court but never sought relief from reimbursement through credit. Father, nevertheless, argues that the court erred when it stated the issue of the reimbursement method was “never properly before the Court” because he raised the issue in his Rule 60 motion. However, the context of this statement makes it abundantly clear that the trial court was stating that the method of reimbursement had not been raised as an issue prior to the July 11, 2024 judgment. This is a correct observation from the trial court. We conclude the trial court was basing its ruling on a determination that Father had slept upon his claims and was first attempting to raise them in the Rule 60 motion despite plentiful opportunity to do so in a timely manner. Insofar as Father asserts in his statement of the issues that the court failed to rule on the Rule 60 issue, the court clearly denied Rule 60 relief. We conclude there was no abuse of discretion in the Rule 60 analysis.

We likewise conclude the trial court did not err in denying the motion to alter or amend. Insofar as this issue is raised on appeal,¹³ relief may be granted under a Tennessee Rule of Civil Procedure 59.04 motion to alter or amend under the following grounds: (1) a clear error of law; (2) newly discovered evidence; (3) an intervening change in law; and (4) other manifest injustice. *Relliford v. Burks*, No. W2022-00997-COA-R3-CV, 2025 WL 26106, at *4 (Tenn. Ct. App. Jan. 3, 2025) (citing *Parigin v. Mills*, No. E2016-00640-COA-R3-CV, 2017 WL 1032740, at *5 (Tenn. Ct. App. Mar. 16, 2017)). Conversely, post-judgment motions should not be granted “if they are simply seeking to relitigate matters that have already been adjudicated.” *Vaccarella v. Vaccarella*, 49 S.W.3d 307, 312 (Tenn. Ct. App. 2001) (citation omitted). The court did not err in ruling that the motion was “similar to the previous motions” and simply attempting to relitigate the Rule 60 issue. The trial court did not abuse its discretion in denying relief.

IV.

¹³ We note Father’s brief fails to cite authority or even Rule 59.04. Father observes that the motion to alter or amend was decided based upon the written motion, but he does not argue this was error.

Father also challenges the granting of the State’s motion to quash the depositions. Having concluded that the Rule 60 and Rule 59.04 motions were properly denied, we observe that there was no pending action before the trial court. “Without the pending action, there was no further right to discovery” *Jasmine, LLC v. Jasmine Asian Cuisine, Inc.*, No. M2025-01201-COA-R3-CV, 2026 WL 1459655, at *3 (Tenn. Ct. App. May 22, 2026) (citing *Cheetah Lounge, Inc. v. Sarasota Cnty.*, 387 S.W.3d 10, 14-15 (Tenn. Ct. App. 2012)); see *West*, 460 S.W.3d at 125 (“Accordingly, before compelling discovery under Rule 26, a trial court first must determine what is included in ‘the subject matter involved in the pending action.’” (quoting Tenn. R. Civ. P. 26.02(1))).

In any event, Father offers no insight into how the deposition testimony, which only sought to assign fault in the release of funds, could be relevant to a decision regarding the method of reimbursement or could affect the court’s ruling on the Rule 60 motion. Father’s argument on this issue is simply an assertion that he introduced emails tending to show that a hold was erroneously not placed on the child support payments by the State of Tennessee and that they were improperly distributed to Mother. He provides no explanation for the information’s relevance to the reimbursement issue he was attempting to advance, and he cites no relevant authority. It is not the proper role of the court to develop such an argument for him. See *Sneed*, 301 S.W.3d at 615. Simply stated, the trial court did not abuse its discretion in granting the motion to quash.

V.

Based on the foregoing reasoning, we affirm the judgment of the Chancery Court for Putnam County. Costs of this appeal are taxed to the appellant, Craig Steven Terry, for which execution may issue if necessary.

s/ Jeffrey Usman
JEFFREY USMAN, JUDGE