IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Alida M. Pulsinelli, Petitioner	:	
v.	:	
Public Schools Employees' Retirement Board, Respondent	:	No. 156 C.D. 2025 Submitted: May 14, 2026

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE STELLA M. TSAI, Judge
HONORABLE MARY HANNAH LEAVITT, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE TSAI FILED: August 25, 2026

Petitioner Alida M. Pulsinelli (Claimant) petitions, *pro se*, for review of an order of the Public Schools Employees' Retirement Board (Board), which affirmed the decision of a hearing examiner denying Claimant's request to be paid the entirety of her monthly retirement benefits and to terminate the payment of monthly retirement benefits to her ex-husband Kenneth F. Ruffner (Ex-Husband). Upon review, we now affirm the Board's order.

I. BACKGROUND

We summarize the findings of fact of the hearing examiner and the Board as follows. Claimant is a retired public school teacher. Hearing Examiner's Opinion & Recommendation at 5 (Recommendation). Claimant and Ex-Husband were married in 1972. Board Op. at 6. That same year, Claimant became a member of the Public School Employees' Retirement System (PSERS). Recommendation at 5. In November of 2010, Claimant selected a payment plan option for her PSERS pension benefits that would provide a monthly gross payment of $4,625.50 upon retirement for the rest of her life. *Id.* at 6. At that time, Claimant designated Ex-Husband as her primary beneficiary. Claimant retired in February of 2011.

On March 6, 2013, Ex-Husband filed a complaint in divorce in the Court of Common Pleas of Lancaster County (Common Pleas Court). *Id.* About a week later, Claimant contacted PSERS and changed the beneficiary for her pension from Ex-Husband to her two children. *Id.* at 7. On October 28, 2016, the Common Pleas Court entered a decree in divorce which, among others, ordered that Claimant's pension be equally divided between her and Ex-Husband. *Id.*; S.R.R. at 188b. Subsequently, in May of 2017, upon a stipulation of Claimant and Ex-Husband, the trial court entered a domestic relations order (DRO) awarding 50% of Claimant's gross monthly pension benefits to Ex-Husband. Recommendation at 9; S.R.R. at 198b-201b. Ex-Husband's counsel sent a copy of the DRO to PSERS on May 5, 2017. Recommendation at 9; S.R.R. at 208b. PSERS accepted and approved the domestic relations order (ADRO)[1] on or about May 15, 2017. PSERS sent a letter to Claimant on May 19, 2017, which notified Claimant about the ADRO and explained that, as of June 30, 2017, her monthly gross pension payment would be reduced to $2,312.75 (*i.e.*, half of the previous monthly payment) and Ex-Husband would receive a monthly payment of $2,312.75. Recommendation at 9-10; Board Op. at 7; S.R.R. at 210b.

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[1] Section 8102 of the Public School Employees' Retirement Code (Retirement Code) defines an ADRO as "[a]ny domestic relations order which has been determined to be approved in accordance with section 8533.1 (relating to approval of domestic relations orders)." 24 Pa. C.S. § 8102. "[U]pon receipt of a DRO, the secretary of the State Employes' Retirement Board shall determine within a reasonable period of time whether the order meets the requirements for approval and notify the member and alternate payee of the determination." *Maloney v. Maloney*, 754 A.2d 36, 39 (Pa. Cmwlth. 2000); *see also* 24 Pa. C.S. § 8533.1.

Claimant sent a letter, dated July 14, 2020, to PSERS requesting that PSERS stop paying pension benefits to Ex-Husband. Recommendation at 10; S.R.R. at 214b-215b. By letter dated August 11, 2020, PSERS denied that request, explaining that it could not do so unless the Common Pleas Court entered a modified DRO. Recommendation at 10; S.R.R. at 217b. Claimant appealed the decision to PSERS' Executive Staff Review Committee (ESRC), which denied Claimant's appeal and notified her of that decision in a letter dated June 3, 2021. Recommendation at 10; S.R.R. at 219b. Claimant appealed and requested an administrative hearing. A hearing examiner conducted a hearing on October 5, 2023. Recommendation at 11. Claimant, represented by counsel, appeared for the hearing. After the hearing, Claimant submitted a brief to the hearing examiner.

On February 2, 2024, the hearing examiner recommended that the Board deny Claimant's request. Claimant timely filed a brief on exceptions to the Board. The Board issued an opinion and order (Board Opinion) on January 9, 2025, concluding that Claimant's issue was waived and, in the alternative, was meritless. Claimant filed a timely *pro se* petition for review with this Court.[2]

II. ISSUES

Claimant argues that PSERS erred by altering her pension benefits pursuant to the 2017 ADRO because this violated Claimant's due process rights and PSERS'

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[2] We note that while we may liberally construe materials filed by a *pro se* litigant, *pro se* status does not confer any special benefit upon a litigant. *See Kozicki v. Unemployment Comp. Bd. of Rev.*, 299 A.3d 1055, 1063 (Pa. Cmwlth. 2023). Further, "it is not the responsibility of [an appellate c]ourt to scour the record to prove that an appellant has raised an issue" in the proceedings below to preserve that issue for appellate review. *Phillips v. Lock*, 86 A.3d 906, 920 (Pa. Super. 2014) (citation and quotation marks omitted); *see also Lerch v. Unemployment Comp. Bd. of Rev.*, 180 A.3d 545, 550 (Pa. Cmwlth. 2018) (explaining that "[i]n general, Superior Court decisions are not binding on this Court, but they offer persuasive precedent where they address analogous issues"); Pa.R.A.P. 2117(c) (requiring that the statement of the case indicate where a party preserved an issue in the proceedings below).

fiduciary obligations to Claimant.[3] Additionally, Claimant asserts that PSERS employees deceived her for six years while she was pursuing administrative appeals.

III. DISCUSSION

Before we address the merits of Claimant's issues, we must first consider whether she has waived them on appeal. *See Trigg v. Children's Hosp. of Pittsburgh of UPMC*, 229 A.3d 260, 269 (Pa. 2020) ("The issue of waiver presents a question of law, and, as such, our standard of review is *de novo* and our scope of review is plenary").

Claimant asserts that in July of 2017 she contacted PSERS regarding the change in her pension payment pursuant to the ADRO and was referred to PSERS' appeal process. Claimant's Brief at 6. Claimant also argues that unidentified individuals (presumably at PSERS) "deceitfully led [her] through six years of their so called 'appeals process'." *Id.* at 4. Claimant does not specifically allege that she appealed the approval of the ADRO in July of 2017.

The Board contends that "[a]ny challenge to PSERS' 2017 approval of the ADRO is waived. To challenge that determination, Claimant was required to file an appeal within thirty (30) days of the date of the May 2017 letters." Board's Brief at 10-11. The Board further argues that, because Claimant did not appeal from the May 2017 approval of the DRO, "PSERS' determination that the ADRO is approved is final." *Id.* at 11.

The Superior Court[4] has explained:

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[3] Our standard of review "of the Board's opinion and order is limited to determining whether substantial evidence supported the Board's necessary findings of fact, whether the Board violated constitutional rights, or whether the Board committed an error of law." *Lebron v. Pub. Sch. Employees' Ret. Bd.*, 245 A.3d 300, 315 n.22 (Pa. Cmwlth. 2020).

[4] *See Lerch*, *supra*.

> The rights of the spouses to the distribution of marital property vests upon entry of the divorce decree, which constitutes a final determination of the rights between the parties.
>
> It is well-settled that "[e]ach spouse has a reasonable expectation of enjoying the monies received from an employee retirement fund. In order to effectuate economic justice between the parties, equity demands that both parties share in this asset acquired during the marriage." *Conner v. Conner*, 217 A.3d 301, 311 (Pa. Super. 2019) (cleaned up). Thus, pension funds accrued during marriage, including state employees' pension funds, constitute marital property that is subject to equitable distribution.
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> . . .
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> A [qualified domestic relations order (QDRO)] effectuates the distribution in that it "creates or recognizes the rights of an alternate payee to receive all or a portion of the benefits payable to a participant under [the] pension plan." *Getty v. Getty*, 221 A.3d 192, 195 n.4 (Pa. Super. 2019).

Jagnow v. Jagnow, 258 A.3d 468, 472 (Pa. Super. 2021) (some citations and quotation marks omitted); *see also* 24 Pa. C.S. § 8533(c) (providing that rights under the Retirement Code "shall be subject to attachment in favor of an alternate payee as set forth in an [ADRO]").

An order directing equitable distribution becomes final and appealable upon the entry of a decree in divorce. *See Wilson v. Wilson*, 828 A.2d 376, 378 (Pa. Super. 2003). A notice of appeal from a divorce decree must be filed "within 30 days after the entry of the [decree] from which the appeal is taken." Pa.R.A.P. 903(a).

Section 8533.1 of the Retirement Code provides, in relevant part:

> [T]he exclusive remedy of any member, participant or alternate payee aggrieved by a decision of the secretary of the board, or his designated representative, shall be the right to an adjudication by the board under 2 Pa. C.S. Ch. 5 (relating to practice and procedure) with appeal therefrom to the Commonwealth Court under 2 Pa. C.S. Ch. 7 (relating to judicial review) and 42 Pa. C.S. § 763(a)(1) (relating to direct appeals from government agencies).

24 Pa. C.S. § 8533.1(b).

Under the Board's regulations, an appeal to the ESRC from the action of a PSERS subordinate officer must be submitted in writing and received by PSERS within thirty days of the date of the subordinate officer's action. *See* 22 Pa. Code § 201.3a(b)-(c) (relating to non-adjudicatory benefit appeals). The failure to timely appeal an action or decision of PSERS results in the action or decision becoming final. *See id.* § 201.3a(c) (stating that "[i]f a claimant fails to appeal an action or determination by a subordinate officer to the ESRC within the prescribed time, the action of the subordinate officer will become final").

"This Court may raise the issue of waiver *sua sponte*." *Gibraltar Rock, Inc. v. New Hanover Twp.*, 118 A.3d 461, 464 (Pa. Cmwlth. 2015) (quoting *Commonwealth v. Edmondson*, 718 A.2d 751, 752 n.7 (Pa. 1998)).

This Court has repeatedly held that the failure to file a timely administrative appeal from an action or decision of an agency waives any subsequent challenges to that action or decision. *See, e.g.*, *Borough of W. Conshohocken v. Soppick*, 164 A.3d 555, 560 (Pa. Cmwlth. 2017) (explaining that the failure to appeal the notice of a violation of the borough zoning ordinance makes that violation conclusive) (*Soppick*); *Han v. Unemployment Comp. Bd. of Rev.*, 42 A.3d 1155, 1157 (Pa. Cmwlth. 2012) (stating that under Section 502 of the Unemployment Compensation Law, 43 P.S. § 822, the decision of a referee becomes final if an appeal to Unemployment Compensation Board of Review is not timely filed); *Martella v. Dep't of Transp.*, 841 A.2d 633, 637 n.13 (Pa. Cmwlth. 2004) (noting that when the General Rules of Administrative Practice and Procedure require an aggrieved party to file exceptions, "the effect of a failure to file timely exceptions will be deemed a waiver to objections to a proposed report of the hearing officer").

Here, the hearing examiner concluded that Claimant waived her challenge to the division of her pension benefits between Claimant and Ex-Husband because Claimant failed to file a timely administrative appeal from the May 19, 2017 letter from PSERS informing Claimant that the ADRO had been approved and that there would be a change in pension benefit payments going forward. *See* Recommendation at 12, 14-15. The Board agreed with the hearing examiner that Claimant had failed to take timely appeal from the approval of the ADRO. *See* Board Op. at 2-3.

Based on our review of the record, we discern no error of law by the Board. *See Lebron*, 245 A.3d at 315 n.22. The Common Pleas Court entered a decree in divorce on October 28, 2016. Claimant did not appeal from the divorce decree. Next, the Board approved the DRO dividing Claimant's pension between her and Ex-Husband and sent notice of that decision to Claimant in a letter dated May 19, 2017. The deadline to file an administrative appeal from the approval of the DRO was June 19, 2017. *See* 22 Pa. Code § 201.3a(c). Although Claimant asserts in the statement of the case portion of her brief that she contacted PSERS about the appeals process in July 2017, she does not claim that she **filed** an administrative appeal from the approval of the ADRO in July 2017. Additionally, Claimant's brief does not include any citation to the record supporting her assertions that she made inquiries into the PSERS appeal process in 2017. It is not this Court's responsibility to "scour the record" to confirm that Claimant filed an appeal in July of 2017.[5] *See Phillips*, 86 A.3d at 920. Further, in the counseled brief that Claimant submitted to the hearing officer, Claimant admitted that she waited for three years after the approval

[5] Even if Claimant had filed an administrative appeal in July of 2017, it would have been untimely because, as stated above, the thirty-day period to appeal from PSERS' approval of the ADRO expired on June 19, 2017.

of the ADRO to submit a request to PSERS to restore her benefits to the full amount. *See* Claimant's Br., 12/19/23, at 6 (stating that "[a]fter struggling on her reduced pension for 3 years, in June of 2020 [Claimant] appealed the reduction in her pension to PSERS"). Therefore, based on the record before this Court, we conclude Claimant failed to file a timely administrative appeal from the approval of the ADRO, and that approval became final on June 19, 2017. *See* 22 Pa. Code § 201.3a(c).

The record establishes that Claimant submitted a request to PSERS to stop the payment of pension benefits to Ex-Husband on July 14, 2020, over three years after the Common Pleas Court entered of the divorce decree dividing Claimant's pension benefits evenly between her and Ex-Husband and PSERS approved the ADRO effectuating that divorce decree. Therefore, any issues Claimant seeks to raise in connection with either the equitable distribution aspects of the divorce decree or PSERS' approval of the ADRO are waived because Claimant's July 14, 2020 request to PSERS to terminate the payment of monthly retirement benefits to Ex-Husband is patently untimely with respect to both. *See Soppick*, 164 A.3d at 560; *Han*, 42 A.3d at 1157; *Martella*, 841 A.2d at 637 n.13; Pa.R.A.P. 903(a).

IV. CONCLUSION

For the reasons stated above, we affirm the Board's order denying Claimant's request.[6]

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STELLA M. TSAI, Judge

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[6] *See In re K.L.S.*, 934 A.2d 1244, 1246 n.3 (Pa. 2007) (explaining that when all of the issues an appellant seeks to raise on appeal are waived, an appellate court should affirm the order being appealed instead of quashing the appeal because "[a]n appeal is 'quashed' when the court lacks jurisdiction over the appeal in the first instance").

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<u>O R D E R</u>

AND NOW, this 25th day of August, 2026, the order of the Public Schools Employees' Retirement Board is AFFIRMED.

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STELLA M. TSAI, Judge