

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHELLE BEARD-QUIMBY,
Appellant,
vs.
GEORGE O'CONNER BEARD,
Respondent.

No. 44979

FILED

JAN 24 2006

MICHELLE BEARD-QUIMBY,
Appellant,
vs.
GEORGE O'CONNER BEARD,
Respondent.

No. 45840

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE (NO. 44979)
AND DISMISSING APPEAL (NO. 45840)

These are proper person appeals from a district court order denying a motion to modify the child custody arrangement and child support obligation (Docket No. 44979) and from an order enforcing a prior visitation order (Docket No. 45840). Eighth Judicial District Court, Family Court Division, Clark County; T. Arthur Ritchie Jr., Judge.

"Matters of custody and support of minor children rest in the sound discretion of the trial court."¹ This court will not disturb the district court's judgment absent a clear abuse of discretion.² Here, the district court concluded that it was in the children's best interest for the parties to continue to share joint legal custody, and for appellant to retain primary physical custody with respondent having visitation. As for child support, the district court recognized that both parties struggle financially, and

¹Wallace v. Wallace, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996).

²See Sims v. Sims, 109 Nev. 1146, 865 P.2d 328 (1993).

that a change in respondent's child support obligation was not warranted. Accordingly, we affirm the district court's order in Docket No. 44979.

With regard to the appeal from the district court's order enforcing a prior visitation order, appellant filed her notice of appeal before the district court entered a written order.³ However, under NRAP 4(a)(6), when a written disposition is entered before a premature appeal has been dismissed, the premature notice of appeal will be considered filed on the date that the written disposition is entered. Here, appellant filed her notice of appeal on August 19, 2005, and the written order resolving the matter was entered on August 30, 2005. Thus, the appeal was timely filed.

Notwithstanding, the August 30, 2005 order is not substantively appealable.⁴ This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule;⁵ there is no such authorization for an order that enforces a prior order. An order that simply enforces a prior order does not affect the rights of a party growing out of the final judgment, and is therefore not appealable as a special order after final judgment.⁶ In the present case, the August order is merely enforcing the November 2004 visitation order that allows

³Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987) (recognizing that an appeal filed before the entry of a written order, is of no effect).

⁴See NRAP 3A(b).

⁵Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

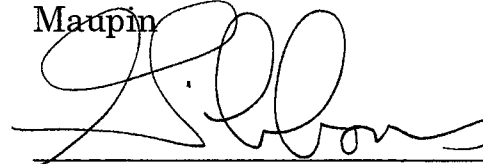
⁶See Gumm v. Mainor, 118 Nev. 912, 59 P.3d 1220 (2002).

respondent to exercise his visitation with the children in Nevada or California. Accordingly, since we lack jurisdiction to consider the appeal in Docket No. 45840, we dismiss it.

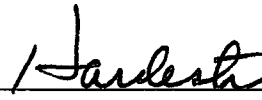
It is so ORDERED.⁷

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. T. Arthur Ritchie Jr., District Judge, Family Court Division
Michelle Beard-Quimby
George O'Conner Beard
Clark County Clerk

⁷In light of this order, we deny as moot, appellant's September 19 and 20, 2005 proper person motions for stay.