

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHERINE ANN DAVIS,
Appellant,
vs.
WILLIAM KENNETH DAVIS,
Respondent.

No. 48333

FILED

APR 09 2007

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court divorce decree. Second Judicial District Court, Family Court Division, Washoe County; Frances Doherty, Judge.

In 2004, appellant filed a proper person complaint for divorce. Between 2004 and 2006, appellant had two different attorneys represent her in the divorce proceedings. In June 2006, appellant's second attorney was granted permission to withdraw, and appellant did not retain new counsel.

In September 2006, before a scheduled settlement conference, respondent, through counsel, filed an ex-parte motion to reschedule the settlement conference date. Apparently, respondent was unable to contact appellant regarding a continuance. The ex-parte motion was granted, and the settlement conference was rescheduled to late September. Notice of the district court's rescheduling order was served by mail on September 11, 2006. Appellant failed to appear at the settlement conference. Thereafter, the district court entered an order that imposed a \$500 sanction on appellant for failing to attend the settlement conference; the order scheduled the divorce hearing for late October 2006.

In the interim, appellant filed a “Motion to Reschedule Hearing and Dismiss Fine.” In her motion, appellant asked the district court to reschedule the settlement conference and to allow her time to retain new counsel. The district court did not resolve the motion before the divorce hearing.

As scheduled, the divorce hearing was conducted in late October 2006. Appellant was present and proceeded in proper person. The hearing transcripts show that during the morning session, the parties and the district court attempted to settle the issues presented. Following a break in the hearing, appellant announced that she intended to appeal and protested that she did not have an attorney present to represent her during the proceedings. The district court informed appellant that it did not have the legal authority, or the ability, to appoint her counsel and that it would not permit any further continuances. Thus, the district court went forward with the divorce proceeding and subsequently entered a written divorce decree. Also during the divorce hearing, the district court orally amended the sanction order by directing appellant to pay the Washoe County Law Library \$5 within thirty days of the hearing date. Appellant then filed this proper person appeal.

This court reviews family court decisions for an abuse of discretion.¹ Rulings supported by substantial evidence will not be disturbed on appeal.²

¹Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996); Williams v. Waldman, 108 Nev. 466, 471, 836 P.2d 614, 617 (1992).

²Shydler v. Shydler, 114 Nev. 192, 196, 954 P.2d 37, 39 (1998) (citation omitted).

In appellant's notice of appeal and proper person civil appeal statement, she does not point to any specific concerns with the divorce decree's terms; instead, she contends that her rights were violated when the district court failed to resolve her "Motion to Reschedule Hearing and Dismiss Fine" before the divorce hearing and to allow her time to retain new counsel.

The district court has wide discretion to control proceedings before it,³ including whether to grant a party's request for a continuance. In addition, Nevada does not have a statute that provides for appointment of counsel in divorce actions, and here, appellant was not threatened with deprivation of a constitutionally protected right or interest that would trigger a constitutional right to appointed counsel.⁴ The record reveals that since appellant's second attorney was granted permission to withdraw approximately four months before the divorce hearing was held, appellant had ample time in which to retain new counsel. Appellant does

³State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 453, 92 P.3d 1239, 1244 (2004).

⁴See generally Brinkley v. State, 101 Nev. 676, 678, 708 P.2d 1026, 1028 (1985) (stating that a defendant has a sixth amendment right to be assisted by counsel at any critical stage of a criminal proceeding); see also U.S. Const. amend. XIV, § 1 (providing that no State shall deprive any person "of life, liberty, or property, without due process of law"); Matter of Parental Rights as to N.D.O., 121 Nev. 379, 115 P.3d 223 (2005) (recognizing that parents do not have an absolute right to counsel in parental termination proceedings as a matter of due process); Rodriguez v. Dist. Ct., 120 Nev. 798, 102 P.3d 41 (2004) (concluding that due process does not require appointment of counsel in every civil contempt hearing involving an indigent party facing the threat of incarceration).

not offer any explanation as to why she was unable to retain counsel during that period.

Having reviewed the record and appellant's civil appeal statement, we conclude that the district court did not abuse its discretion when it implicitly denied appellant's request for a continuance to retain new counsel and when it sanctioned appellant for her failure to attend the settlement conference. Accordingly, and since appellant has not shown any abuse of discretion with respect to the divorce decree's terms, we

ORDER the judgment of the district court AFFIRMED.

Parraguirre, J.
Parraguirre

Hardesty, J.
Hardesty

Douglas, J.
Douglas

cc: Hon. Frances Doherty, District Judge, Family Court Division
Katherine Ann Davis
Roger R. Harada
Washoe District Court Clerk