

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLIFTON JAMES JACKSON,
Appellant,
vs.
NEVADA STATE WELFARE DIVISION,
AND STACI WATKINS,
Respondents.

No. 49645

FILED

MAY 14 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a proper person appeal from a district court order affirming a master's recommendations regarding paternity and child support. Second Judicial District Court, Family Court Division, Washoe County; Deborah Schumacher, Judge.

On appeal, appellant Clifton Jackson argues that the district court erred by (1) failing to establish paternity, (2) deviating upward an additional \$100 per month for child care costs from a statutory minimum child support obligation of \$100 per month per child, and (3) awarding the child care support without proof of respondent Staci Watkin's child care expenses.

Jackson filed a motion to modify a child support order which, under NRS 425.3828(2)(a)(1) and (2), declared him to be the father of Watkins' two children and ordered him to pay \$221 per month in child support. Shortly before the hearing on the motion to modify child support, Jackson also filed a motion contesting paternity of the two children. Following a hearing, the court master found that Jackson was the father of the children, but ordered paternity testing within thirty days under NRS 425.384(1)(c). The master also reduced Jackson's support obligation to the statutory minimum of \$100 per month per child due to his incarceration, but departed upward an additional \$100 per month under

NRS 125B.080(9)(b) for child care costs, for a total support obligation of \$300 per month. Under NRS 425.3841, this recommendation was a temporary support recommendation until paternity could be established.

Jackson filed a notice of objection to the court master's recommendations, contesting, among other things, paternity, the interest and penalties that would accrue during his incarceration, and the increase in his monthly support obligation from \$221 to \$300 per month.

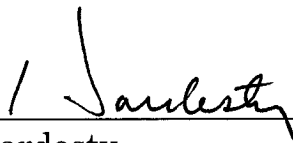
Following a hearing on Jackson's objections, the district court granted Jackson's request to waive interest and penalties on support arrearages during his incarceration and found that the hearing master did not abuse her discretion in deviating upward for child care costs.¹ However, the district court failed to make a finding as to Jackson's paternity. Nor does it appear that the results of the paternity tests ordered by the court master were presented or otherwise admitted to the district court.

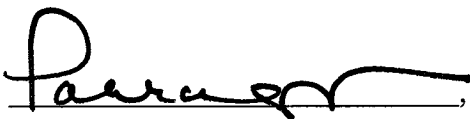
Under NRS 425.3844(5), if a notice of objection to the court master's recommendations "includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity." Here, the district court approved the master's support findings without resolving the threshold issue of Jackson's paternity.

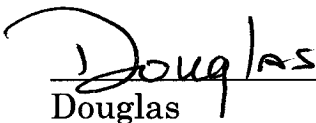
¹We do not address these issues here, as the district court's order is in error. However, upon remand, should the district court establish paternity and uphold the master's recommendations regarding appellant's child support obligation, appellant may appeal the district court's findings if he so chooses, once the district court has entered a final order.

Because the district court did not rule upon paternity, its order regarding Jackson's child support obligation is not supportable. Accordingly, we reverse and remand the district court's order for a proper determination on the issue of paternity. We also stay the temporary support recommendations of the court master, pending the district court's ruling on paternity.²

It is so ORDERED.³


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

²NRS 425.3844(5).

³On August 24, 2007, appellant filed a supplemental motion to appeal. This motion contained additional legal authority in support of appellant's arguments on appeal and requested similar relief. We have read and considered this document in resolving this appeal; since no additional relief is requested, no further action on the motion is necessary.

Appellant also filed a motion on April 9, 2008, to strike documents attached to respondent Nevada State Welfare Division's response as exhibits A and B. Because the documents included in the response do not bear a district court file stamp, nor do they otherwise appear to have been included in the record below, we grant appellant's motion and order exhibits A and B of respondent's response stricken. We note that, as exhibits A and B were not part of the record on appeal, we did not consider them in resolving this appeal. See Carson Ready Mix v. First Nat'l. Bk., 97 Nev. 474, 635 P.2d 276 (1981) (noting that this court may not consider matters outside of the record on appeal).

cc: Hon. Deborah Schumacher, District Judge, Family Court Division
Clifton James Jackson
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney/Family Support Division
Washoe District Court Clerk