

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID AUGUST KILLE,
Appellant,
vs.
DEBBIE L. OLSON,
Respondent.

No. 67641

FILED

SEP 16 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order affirming a hearing master's report and recommendation regarding paternity and child support in a family law matter. Eighth Judicial District Court, Family Court Division, Clark County; William S. Potter, Judge.

After a hearing master issued a report and recommendation finding appellant was the father of the minor child who is the subject of the underlying proceeding and respondent had an obligation to pay child support, appellant filed objections to that report on February 17, 2015. Despite appellant's filing of objections to the report and recommendation, the district court clerk marked the box on the master's report indicating that no objections had been filed within the ten-day objection period and deemed the recommendation approved and entered judgment against appellant on that basis. This appeal followed.

Our review of the record demonstrates appellant timely filed his objections. The master's report was entered on February 2, 2015.

Even if we were to assume appellant received the report that same day, the ten-day window for him to file objections began on February 3, 2015. *See* EDCR 1.40(e) (providing that the ten-day objection period begins to run from receipt of the child support master's report); EDCR 1.42(c) (same, but for paternity hearing master reports); NRCP 6(a) (stating that "the day of the act . . . from which the designated period of time begins to run shall not be included" when computing periods of time). Excluding Saturdays, Sundays, and February 16, 2015, which was a nonjudicial day,¹ appellant's objections were timely filed on February 17, 2015, which was the last day of the ten-day period.² *See* NRCP 6(a) (excluding Saturdays, Sundays, and nonjudicial days from time computation when the prescribed time period is less than 11 days).

On appeal, appellant notes, among other things, that the district court failed to hear his objections prior to entering its order. As noted above, despite appellant having filed timely objections, the district court clerk marked the box on the report and recommendation indicating no such objections were filed and thus deemed the report approved and

¹Pursuant to NRS 236.015, the third Monday in February of each year is a public holiday on which Nevada state courts are closed. In 2015, the third Monday in February fell on February 16, 2015.

²Although appellant's objections were timely filed, he does assert that there was an uncalled-for delay from the date his objections were mailed, February 6, 2015, and the file-stamped date, February 17.

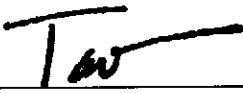
entered judgment on the recommendations contained therein. As a result, the district court failed to consider and rule on appellant's objections as required by EDCR 1.40(e), (f) (establishing how the district court may enter judgment upon a hearing master's report and recommendations regarding child support when timely written objections are filed), EDCR 1.42(c) (same, but for reports and recommendations regarding paternity), and NRS 425.3844(3)(b) (providing that, if timely objections are filed to a hearing master's report, "the district court shall review the matter"). Indeed, the Nevada Revised Statutes only authorize a district court clerk to deem a report approved and enter judgment on the report and recommendation when no timely objections are filed. *Compare* NRS 425.3844(3)(a) (providing that if timely objections are *not* filed, "the recommendation entered by the master shall be deemed approved by the district court, and the clerk of the district court may file the recommendation . . . and judgment may be entered thereon"), *with* NRS 425.3844(3)(b) (requiring the district court to review the matter when objections are timely filed).

Under these circumstances, we conclude the district court erred in deeming the report and recommendation approved and entering judgment thereon without reviewing and ruling upon appellant's timely

filed objections to the master's report and recommendation.³ Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

³Ordinarily, we would provide respondent with the opportunity to file a response before reversing the district court's decision. But here, the applicable statutes and court rules clearly required the district court to review and rule upon appellant's objections before entering judgment upon the master's report and recommendation and our directing of a response would only further delay the resolution of the underlying matter. Under these circumstances, we determine no response is necessary and reverse and remand this matter for the district court to address the merits of appellant's objections once respondent has been afforded the opportunity to respond to those objections. And because our reversal is predicated solely on the procedural defects in the underlying proceedings, we do not comment on the merits of the issues raised by appellant's objections or his civil appeal statement.

cc: Hon. William S. Potter, District Judge, Family Court Division
David August Kille, Sr.
Debbie L. Olson
Clark County District Attorney
Eighth District Court Clerk