IN THE COURT OF APPEALS OF THE STATE OF NEVADA

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

No. 70550

FILED

OCT 19 2016

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

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.

In the underlying action, the hearing master found that appellant was the father of respondent's child and recommended that appellant be required to pay child support, including arrearages. Ultimately, the district court affirmed the hearing master's report and recommendation over appellant's objections. This appeal followed.

On appeal, appellant argues that the district court lacked jurisdiction to enter the child support order because respondent never lived in Nevada, the child's home state is Mississippi, and Mississippi has never sought Nevada's help in enforcing a child support order. Nevada has jurisdiction to enter a child support order if no order has previously been issued, the Nevada court has personal jurisdiction over the parties, and the person seeking the order does not reside in Nevada. NRS 130.401(1). In this case, no prior child support had been entered and the district court had personal jurisdiction over appellant, who is incarcerated in Nevada, and respondent, who submitted to Nevada's jurisdiction by initiating the underling action. *See* NRS 14.065(1) ("A court of this state

may exercise jurisdiction over a party to a civil action on any basis not inconsistent with the Constitution of this state or the Constitution of the United States."). Thus, appellant's challenges to the district court's jurisdiction lack merit.

Appellant also contends that the district court erred in determining paternity because respondent was married to another man when she got pregnant. Even assuming appellant's allegation is true, a paternity test established a 99.99 percent probability that appellant is the child's father. Such a result establishes a conclusive presumption that appellant is the child's father, *see* NRS 126.051(2), which outweighs the rebuttable presumption that respondent's husband was the father. *See* NRS 126.051(3) (providing that a presumption under NRS 126.051(1) may be rebutted by clear and convincing evidence, and that, "[i]f two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls").

Finally, appellant asserts that he was denied his right to a jury trial in this matter and that the hearing master and the district court should have taken respondent's testimony because appellant asserted that respondent lied in her affidavit to establish paternity. Even assuming appellant is correct that a jury trial may be available in cases such as this,[1] in light of the conclusive presumption established by the paternity

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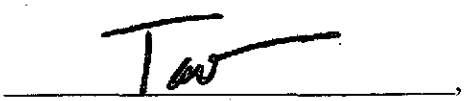
[1]Appellant's assertion that a jury trial was available is questionable at best, as NRS 126.151(3) provides that paternity actions are tried "by the court without a jury;" NRS 125B.080(1) provides that child support is determined by "[a] court of this State" applying the proper formula; and NRS 425.382(2) provides for child support and paternity hearings through a hearing master. Regardless, in light of our conclusion that there were no issues of fact for a jury to resolve, we need not address whether a jury trial was available in matters such as this one.

test, appellant has not identified any issue of fact that needed to be resolved, such that a trial or respondent's testimony was needed. *See Burks v. Wis. Dep't of Transp.*, 464 F.3d 744, 759 (7th Cir. 2006) ("The Seventh Amendment does not entitle parties to a jury trial when there are no factual issues for a jury to resolve."); *see also Drummond v. Mid-W. Growers Coop. Corp.*, 91 Nev. 698, 711, 542 P.2d 198, 207 (1975) (explaining that the Nevada Constitution "guarantees . . . the right to have factual issues determined by a jury"). Thus, reversal is not warranted based on these arguments.

As appellant has not identified any basis for reversal of the district court's decision, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

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