IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JANETH DIAZ A/K/A JANETH STURM,
Appellant,
vs.
MARIO CERVANTES,
Respondent.

No. 70986

FILED

AUG 25 2017

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

ORDER OF AFFIRMANCE

Janeth Diaz a/k/a Janeth Sturm appeals from a district court order sustaining an objection to a hearing master's recommendation to grant her NRCP 60(b) relief in an action for child support and arrears. Eighth Judicial District Court, Family Court Division, Clark County; Sandra L. Pomrenze, Judge.

Diaz, with the assistance of the Clark County District Attorney, Family Support Division (DAFS), commenced the underlying proceeding against respondent Mario Cervantes by filing a notice and finding of financial responsibility that sought, among other things, child support arrears for the period from September 2014 through February 2015. *See* NRS 125B.150(1) (requiring the district attorney to assist custodial parents in establishing and enforcing support obligations). The district court ultimately entered a consent order, which the parties both signed, that required Cervantes to pay arrears for the period from September 2014 through April 2015. But Diaz, through her newly obtained counsel, later moved for relief from the consent order under NRCP 60(b)(1), asserting that she also requested DAFS's assistance in obtaining arrears for the period

from the date of the parties' separation in March 2013 through August 2014, but that DAFS refused to pursue them in negotiating the terms of the consent order with Cervantes.

The hearing master recommended granting Diaz's motion based on inadvertence and conducting an evidentiary hearing to determine the period for which arrears should be awarded. In support of that decision, the hearing master found that while Diaz asked for DAFS's assistance in pursuing arrears going back to March 2013, DAFS negotiated a different arrears period with Cervantes based on an internal policy against pursuing arrears that predate a custodial parent's request for its assistance. Cervantes objected to that recommendation, and the district court sustained his objection and denied Diaz NRCP 60(b) relief, finding that she had sufficient opportunity to review the consent order before signing it. This appeal followed.

On appeal, Diaz argues that she was entitled to relief under NRCP 60(b) because, notwithstanding NRS 125B.030, which authorizes custodial parents to recover up to four years of support that was furnished before bringing an action to establish a support obligation, DAFS refused to pursue arrears that predated her September 2014 request for its assistance. Moreover, she contends that she was never offered a hearing on the matter before the consent order was entered. But the record reveals that Diaz did not request a hearing or otherwise inform the district court that she was seeking arrears going back to March 2013 or that DAFS refused to fully assist her in that endeavor before any action was taken on the consent order. To the contrary, Diaz signed the consent order, which expressly provided for an arrears period from September 2014 through April 2015,

and she did not raise her concerns regarding the pre-September arrears in the underlying arrearages proceeding until approximately six months later when she filed her NRCP 60(b) motion. And because the consent order was signed by both Diaz and Cervantes, it constituted an enforceable agreement to settle the litigation provided that the parties mutually agreed to its terms. *See Grisham v. Grisham*, 128 Nev. 679, 683-85, 289 P.3d 230, 233-35 (2012) (explaining that signed settlement agreements are enforceable and that they are governed by the general principles of contract law and therefore require mutual assent).

With regard to whether the parties mutually agreed to the terms of the consent order, the only relevant argument that Diaz presents is that a DAFS employee purportedly advised her, erroneously, that she would not waive any arrears prior to August 2014 by signing the consent order. But that argument is insufficient to warrant relief, as Diaz did not provide any testimony or documentation to demonstrate that any DAFS employee advised her in this manner.[1] And because Diaz does not otherwise argue that she did not agree to the terms of the consent order, we conclude that it constituted an enforceable agreement to settle the litigation and that

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[1]Although Diaz made a similar assertion regarding advice that she purportedly received from a DAFS employee in her opposition to Cervantes' objection to the hearing mater's recommendation to grant her NRCP 60(b) relief, the self-serving declaration that accompanied that document regarding the truthfulness of the assertions therein is insufficient to prove that the DAFS employee so advised her. *Cf. Clauson v. Lloyd*, 103 Nev. 432, 434-35, 743 P.2d 631, 633 (1987) (holding that a broad self-serving affidavit was not sufficient to support summary judgment).

the district court could properly enter it without a hearing. *See id.*; *see also* EDCR 5.207(a) (authorizing district courts to consider uncontested, stipulated, or resolved matters without a hearing unless otherwise required by statute).

Diaz nevertheless contends that reversal is warranted because the district court, which also presided over the parties' separate divorce proceeding, directed her in the divorce proceeding to file the NRCP 60(b) motion in the arrearages proceeding, but subsequently denied the request for that relief in the arrearages proceeding.[2] That contention fails, however, because Diaz signed the consent order without objection as discussed above, and the district court's subsequent directions in a separate proceeding do not render it unenforceable. Thus, given the foregoing, we conclude that the district court did not abuse its discretion in sustaining Cervantes' objection to the hearing master's recommendation and in denying Diaz NRCP 60(b) relief. *See Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264,

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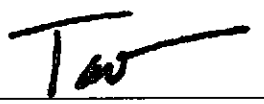
[2]Insofar as Diaz challenges the district court's refusal to award her arrears going back to March 2013 in the divorce proceeding, that decision is not properly before us in the context of this appeal arising from the separate arrearages proceeding and no separate appeal from the decision from the divorce case has been filed. Moreover, we do not consider the four transcripts from the divorce proceeding that Diaz filed with this court because they were not a part of the district court record in the arrearages proceeding. *See Carson Ready Mix, Inc. v. First Nat'l Bank of Nev.*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981) (explaining that appellate courts cannot consider documents not properly appearing in the record on appeal).

265 (1996) (explaining that the district court's denial of an NRCP 60(b) motion is reviewed for an abuse of discretion). Accordingly, we

ORDER the judgment of the district court AFFIRMED.[3]

_____, C.J.
Silver



_____, J.
Tao

_____, J.
Gibbons

cc: Hon. Sandra L. Pomrenze, District Judge, Family Court Division
Janeth Diaz
Huggins & Maxwell, Ltd.
Eighth District Court Clerk

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[3]We have considered Diaz's remaining arguments and conclude they do not provide a basis for reversal.