IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CHANON SRITONGSOOK,
Appellant,
vs.
THATCHA PONGSUEA,
Respondent.

No. 67104

ORDER OF AFFIRMANCE

This is an appeal from a district court amended annulment decree. Eighth Judicial District Court, Family Court Division, Clark County; William S. Potter, Judge.

Appellate jurisdiction

In response to the multiple jurisdictional show cause orders entered by this court, the district court entered an order setting aside the initial September 16, 2011, annulment decree and subsequently entered a new amended decree to replace the December 10, 2014, amended decree, which was void based on its having been entered without first setting aside the initial decree. *See Greene v. Eighth Judicial Dist. Court*, 115 Nev. 391, 395-96, 990 P.2d 184, 186-87 (1999) (explaining that the district court cannot reopen a case once a final judgment is entered unless the "judgment is first set aside or vacated").

As the district court resolved the jurisdictional defects identified in our show cause orders by entering a valid amended decree from which an appeal can be taken, jurisdiction is properly vested in this

court, *see* NRAP 4(a)(6) (noting that "[a] premature notice of appeal does not divest the district court of jurisdiction" and that, "[i]f . . . a written order or judgment . . . is entered before dismissal of the premature appeal, the notice of appeal shall be considered filed on the date of and after entry of the order [or] judgment"), and this appeal may therefore proceed.[1] Thus, we now turn to address the merits of appellant's appeal of the amended annulment decree.

Annulment

In the underlying proceeding, respondent sought an annulment of her marriage to appellant and appellant later submitted a counterclaim which also sought an annulment, albeit on different grounds, or alternatively a divorce. Ultimately, the district court entered an amended annulment decree providing that an essential term of the parties' marriage was not satisfied, as they "married because they intended to have children, but one or both did not want to have children."

On appeal, appellant argues that the district court improperly granted the annulment on a factually inaccurate basis without holding an evidentiary hearing. Notably, appellant does not seek a different outcome, as he does not oppose the annulment of the parties' marriage and, as noted above, he himself also sought an annulment. Instead, his appellate challenges are directed at the ground on which the annulment was

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[1]We have considered respondent's December 6, 2016, filing requesting the dismissal of this appeal and conclude that dismissal is not warranted.

entered and his assertion that an evidentiary hearing should be held to establish "sufficient grounds warranting an annulment."

Although appellant makes general assertions of prejudice and harm, he has not explained how entering the amended annulment decree based on one or both of the parties not wanting to have children, as opposed to his preferred ground—the parties failing to live together and have children as intended—which had formed the basis of the parties' negotiations towards the entry of a stipulated annulment decree before those negotiations fell apart,[2] causes him prejudice or harm or otherwise affects his substantial rights. *See Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (providing that the party who alleges prejudicial error "must show that the error affects the party's substantial rights so that, but for the alleged error, a different result might reasonably have been reached").

Among other things, appellant asserts that a remand is necessary to "avoid irreparable harm regarding immigration related issues." But while appellant argues the district court improperly failed to consider these issues, he provides no explanation as to how the entry of an

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[2]While appellant fails to develop any argument that an enforceable agreement had been reached, to the extent any of his arguments could be read as suggesting that such an agreement existed, that assertion is without merit. *See* DCR 16 (providing that to be enforceable, an agreement or stipulation must be in a signed writing or entered into the district court's minutes in the form of an order); *see also Grisham v. Grisham*, 128 Nev. 679, 683-85, 289 P.3d 230, 233-34 (2012) (discussing DCR 16's procedural requirements),

annulment on the grounds relied on by the district court will cause him any harm with regard to "immigration related issues."[3] As a result, we do not consider his arguments in this regard. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that an appellate court need not consider assertions that are not cogently argued). And for the reasons set forth above, we conclude appellant's arguments do not provide a basis for reversing the district court's decision. *See* NRCP 61 (explaining that "[t]he court at every stage of the proceeding must disregard any error or defect in the proceeding

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[3]Appellant spends much of his opening brief discussing federal immigration statutes and caselaw and asserting that respondent violated those statutes by fraudulently entering into the subject marriage. While appellant presented a counterclaim below seeking an annulment based on this asserted fraud, his appellate briefing makes no mention of this claim and fails to present any argument that the annulment should have been granted based on this purported fraud. Indeed, appellant's briefs cite no Nevada caselaw discussing the granting of an annulment based on NRS 125.340 (providing for the annulment of marriages where the consent of either party was obtained by fraud), and the only reference to this statute in his briefs is to note respondent's claim for annulment based on this statute. The only relief appellant requests in conjunction with his discussion of this issue is, as noted above, that this matter be remanded to avoid the unexplained "irreparable harm regarding immigration related issues." Under these circumstances, we conclude appellant has waived any argument that the district court should have considered whether an annulment was warranted in light of his NRS 125.340 fraud based claim. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that arguments not raised on appeal are deemed waived).

which does not affect the substantial rights of the parties"). Accordingly, we affirm the amended annulment decree.

It is so ORDERED.[4]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Silver

cc: Hon. William S. Potter, District Judge, Family Court Division
Carolyn Worrell, Settlement Judge
Roberts Stoffel Family Law Group
Law Office of Daniel Marks
Eighth District Court Clerk

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[4]We have considered respondent's request that we sanction appellant for filing this appeal and conclude that sanctions are not warranted.