

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMY DZIEDZIC, N/K/A AMY HANLEY,
Appellant,
vs.
MICHAEL DZIEDZIC,
Respondent.

No. 86131

FILED

APR 21 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from multiple post-divorce decree district court orders. Eighth Judicial District Court, Family Court Division, Clark County; Mary D. Perry, Judge and Eighth Judicial District Court, Family Court Division, Clark County; Nadin Cutter, Judge.

Appellant indicates in her case appeal statement that she cannot fully discern what relief she is seeking due to issues with service of various court documents. However, appellant has provided copies of four district court orders she intends to appeal. This court's review of the documents before it reveals jurisdictional defects related to the orders challenged in the notice of appeal.

The district court order dated November 29, 2022, does not appear to be substantively appealable. This court has jurisdiction to consider an appeal only when authorized by statute or court rule. *Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court "may only consider appeals authorized by statute or court rule."). Under NRAP 3A(b)(7), an appeal may be taken from an order that finally establishes or alters the custody of minor children. However, the district court makes clear in its order that its decision is temporary and that the court will readdress the issue of custody once a psychological evaluation is received. Because the issue of child custody remains subject to further

review and modification, the challenged order is not appealable. *See In re Temporary Custody of Five Minors*, 105 Nev. 441, 777 P.2d 901 (1989).

Notice of appeal from the order dated December 30, 2022, was untimely filed. Under NRAP 4(a)(1), notice of appeal must be filed no later than 30 days after written notice of entry of an order is served. It appears appellant was served via the district court's electronic eFile system on the same date the order was entered. Appellant did not file notice of appeal until February 12, 2023, after the 30-day appeal period for the order had lapsed. This court lacks jurisdiction over an untimely notice of appeal. *Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 741 P.2d 432 (1987). Additionally, the December 30 order remands the matter back to a different department of the district court. No statute or court rule allows for an appeal from such an order. *See Brown*, 129 Nev. at 345, 301 P.3d at 851.

Appellant timely appeals two additional orders, both dated January 13, 2023. The first is an order declining to award child support to respondent until he submits a financial disclosure form. Only an aggrieved party has standing to file an appeal. NRAP 3A(a). A party is aggrieved "when either a personal right or right of property is adversely and substantially affected by a district court's ruling." *Las Vegas Police Protective Ass'n Metro, Inc. v. Eight Judicial Dist. Court*, 122 Nev. 230, 239-240, 130 P.3d 182, 189 (2006). Appellant does not appear to be aggrieved by the district's court's decision to deny child support to respondent pending additional documentation and thus has no standing to appeal this portion of the order.

The same order also requires appellant to turn over to respondent copies of birth certificates and social security cards belonging to

subject minor children. This appears to be in furtherance of the court's prior order, dated November 29, 2022, granting temporary legal and physical custody of the minor children to respondent until appellant obtains a psychological evaluation. This portion of the order does not appear to be appealable as a special order after final judgment under NRAP 3A(b)(8) because it does not appear to affect appellant's rights growing out of the divorce decree, *see Gumm v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002) (a special order after final judgment is one that affects the rights of a party growing out of the final judgment), and no other statute or court rule appears to authorize an appeal from this portion of the order.

The second order dated January 13, 2023, titled "Order (re: Miscellaneous Filings)," denies multiple motions filed by appellant on the basis that the motions are untimely, moot, fail to identify relief being sought, or were filed in the wrong case.¹ Further, it strikes appellant's correspondence demanding re-service of previously filed documents as improperly filed. Finally, the order requires appellant to submit to a psychological evaluation and to refrain from filing additional motions until a written report is provided to the court. It appears the majority of this order relates to procedural aspects of the case. These decisions do not affect any

¹The motions filed by appellant and denied by the district court include the following: (1) motion to set aside a March 30, 2021, order modifying custody; (2) motion to set aside a November 16, 2022, order temporarily modifying custody; (3) motion to set aside order denying appellant's demand to change venue to the Second Judicial District court; (4) motion to set aside order denying appellant's petition to revoke media access by Our Nevada Judges; (5) motion to set aside order denying appellant's motion to strike prior miscellaneous filings; (6) motion to set aside any orders decided following appellant's filing of a peremptory challenge; and (7) two identical motions to disqualify and/or disbar various attorneys.

right growing out of the divorce decree and thus do not confer jurisdiction on this court under NRAP 3A(b)(8). *See Gumm*, 118 Nev. at 920, 59 P.3d at 1225.

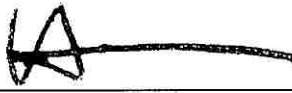
In addition to the denial of various procedural motions, the district court's order also denies two of appellant's motions to set aside orders relating to modifications of child custody, dated March 30, 2021, and November 29, 2022.² As previously addressed above, the November 29, 2022, order is a temporary modification of custody, and is not subject to appeal. *See* NRAP 3A(b)(7). By contrast, the March 30, 2021, order does appear to have been intended as a final order at the time it was entered. Further, it does alter the child custody rights arising from the initial divorce decree by awarding primary physical custody to respondent and imposing child support in the amount of \$137 per month upon appellant. However, the district court superseded these terms when it issued the temporary custody order on November 29, 2022. This court's duty is to resolve actual controversies with an enforceable judgment and not to give advisory opinions on moot questions. *Personhood Nev. v. Bristol*, 126 Nev. 599, 245 P.3d 572 (2010). Even though a case may present a live controversy at its beginning, subsequent events may render the case moot. *Id.* This court cannot grant effective relief in response to an order that is no longer in place and thus the order denying appellant's request to set aside the March 30, 2021, custody order is not appropriate for judicial review.

This court has reviewed all portions of the four orders provided by appellant and concludes that no order contains an appealable issue.

²The challenged order refers to the district court's November 16, 2022, minute order. However, it appears that the written order was filed November 29, 2022

Therefore, dismissal of the appeal as a whole is appropriate. Accordingly,
we

ORDER this appeal DISMISSED.


_____, J.
Herndon


_____, J.
Lee


_____, J.
Parraguirre

cc: Hon. Mary D. Perry, District Judge, Family Court Division
Hon. Nadin Cutter, District Judge, Family Court Division
Amy Dzedzic
Michael Dzedzic
Eighth District Court Clerk