

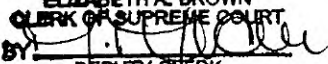
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DEXIN FRANK LIN,
Appellant,
vs.
ANNA LIN,
Respondent.

No. 85095-COA

FILED

JUL 12 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

*ORDER AFFIRMING IN PART, DISMISSING IN PART, AND
REVERSING AND REMANDING IN PART*

Dexin Frank Lin appeals from a post-decree order in a divorce matter. Eighth Judicial District Court, Family Division, Clark County; Charles J. Hoskin, Judge.

Dexin and Anna Lin were divorced by way of a decree of divorce entered in 2018. Following entry of the decree, Dexin appealed and Anna cross-appealed. As a result of that appeal, this court affirmed in part, reversed in part, and remanded the matter back to the district court. *Lin v. Lin*, No. 77351-COA, 2020 WL 1538967 (Nev. Ct. App. Mar. 30, 2020) (Order Affirming in Part, Reversing in Part and Remanding). In that order, this court directed the district court to make additional findings of fact regarding the division of community property and to correctly divide the community interest in the marital residence, which was Dexin's separate property prior to marriage. *Id.* On remand, the district court ultimately concluded that Anna was entitled to an equalization payment of \$43,486.70, concluded that Anna had presented evidence as to the amount the community paid down the mortgage principal on the marital residence, and that she was entitled to \$35,470 as her one-half interest in the community

portion of the residence. Dexin appealed but this court affirmed the district court's order. *Lin v. Lin*, No. 81858-COA, 2021 WL 4947728 (Nev. Ct. App. Oct. 22, 2021) (Order of Affirmance).

Anna subsequently moved for an examination of judgment debtor pursuant to NRS 21.270 to discover Dexin's assets necessary to satisfy the judgment. In that motion and supporting documents, Anna stated that Dexin owed in excess of \$91,265.61 with the inclusion of post-judgment interest at the statutory rate. The district court granted Anna's request and ordered the examination of Dexin to take place. The court further directed Dexin to produce certain documents related to his finances. Following the examination, the court issued writs of execution and garnishment, which permitted Anna to obtain Dexin's funds held by a financial company to satisfy the outstanding judgment. The writs stated that the judgment had accrued post-judgment interest, at the statutory rate, in the amount of \$7,956.89.

Dexin filed a motion requesting an order vacating the writs of execution and opposing Anna's efforts to collect the accrued post-judgment interest. Dexin contended that the inclusion of post-judgment interest amounted to an improper modification of the decree of divorce.

Anna opposed Dexin's motion, and she filed a countermotion requesting attorney fees and costs and seeking issuance of an order to show cause as to why Dexin should not be held in contempt. Anna asserted that the inclusion of post-judgment interest did not modify the decree but was instead interest Dexin owed as provided by NRS 17.130(2). Anna also asserted she was entitled to costs pursuant to NRS 18.160 for her pursuit of writs to enforce the judgment. Moreover, Anna contended that Dexin had performed actions to stifle the financial company's ability to provide her

with assets necessary to satisfy the judgment and that he had violated the court's order to produce financial documents. For those reasons, Anna sought an award of attorney fees pursuant to NRS 18.010(2)(b). After addressing the appropriate factors under *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), Anna asserted she was entitled to \$9,940 in attorney fees associated with Dexin's attempts to avoid satisfying the outstanding judgment.

The district court conducted a hearing concerning Dexin's motion and Anna's countermotion. Ultimately, the court entered a written order denying Dexin's motion and granting Anna's countermotion. The court rejected Dexin's assertion that the decree of divorce had been improperly modified and noted that the post-judgment interest had merely accrued as provided by NRS 17.130(2). The court also found that Dexin had failed to provide documents to Anna in violation of its prior order, that he disposed of funds in violation of its order, that he made misrepresentations concerning his finances, and that he had interfered with the writs of execution and garnishment. The court therefore granted Anna's motion for attorney fees, considered the *Brunzell* factors, and awarded Anna attorney fees in the amount of \$4,865 and costs in the amount of \$1,038.80. In addition, the court ordered Dexin to show cause as to why he should not be held in contempt. This appeal followed.

First, Dexin challenges the district court's award of attorney fees. Dexin contends that the court improperly awarded fees to Anna because it wished to punish him for appealing its prior orders. Dexin also contends that Anna did not establish that the fees were reasonable and he argues that he did not act without reasonable grounds or to harass Anna.

This court reviews a district court's award of attorney fees for an abuse of discretion. *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005). An abuse of discretion occurs when the court's decision is not supported by substantial evidence. *Otak Nev., LLC v. Eighth Jud. Dist. Ct.*, 129 Nev. 799, 805, 312 P.3d 491, 496 (2013). However, "deference is not owed to legal error, or to findings so conclusory they may mask legal error." *Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (internal citations omitted). The district court may only award attorney fees where a statute, rule, or contract allows it. *Albios v. Horizon Cmtys., Inc.*, 122 Nev. 409, 417, 132 P.3d 1022, 1027-28 (2006). When awarding attorney fees in a family law case, the court must consider the factors set forth in *Brunzell*, 85 Nev. at 349, 455 P.2d at 33, and must also consider the disparity in income pursuant to *Wright v. Osburn*, 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998). *Miller*, 121 Nev. at 623-24, 119 P.3d at 730.

Here, Anna sought an award of attorney fees under NRS 18.010(2)(b). The district court thereafter made an award of attorney fees, but it failed to specify the statute or rule under which it awarded such fees. If the court awarded the fees pursuant to NRS 18.010(2)(b) as Anna requested, it failed to make any findings to support an award of attorney fees under that statute. *See Henry Prods. Inc. v. Tarmu*, 114 Nev. 1017, 1020, 967 P.2d 444, 446 (1998) (explaining that the district court's failure to state a basis for an attorney fee award is an abuse of discretion); *Roe v. Roe*, 139 Nev., Adv. Op. 21, 535 P.3d 274, 294 (Ct. App. 2023) (stating that an award of attorney fees under NRS 18.010(2)(b) is unsupportable when a district court fails to make findings that a party's "claims or defenses were either unreasonable or meant to harass"). Moreover, the court's order did not cite *Wright* and it failed to make findings or otherwise demonstrate that it considered the disparity in the parties' incomes in making the fee award.

In light of the lack of clarity regarding the basis of the court's attorney fee award and its failure to demonstrate that it considered the disparity in income between the parties, we reverse the award of attorney fees and remand this matter to the court for additional findings concerning those issues. *See Miller*, 121 Nev. at 622-24, 119 P.3d at 729-30.

Second, Dexin argues the district court abused its discretion by awarding Anna costs in the amount of \$1,038. This court reviews awards of costs for an abuse of discretion. *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 493, 117 P.3d 219, 227 (2005). A judgment creditor may seek costs associated with the issuance of writs for the enforcement of an order or judgment and service costs incurred in connection with those writs. NRS 18.160(1). Here, Anna sought costs for the issuance of writs to enforce the judgment and her expenses related to the service of those writs and asserted she was entitled to an award of those costs pursuant to NRS 18.160(1). Anna also submitted a memorandum listing the costs she sought to recover. The district court thereafter awarded Anna costs in the amount of \$1,038.

On appeal, Dexin does not provide cogent argument concerning the district court's award of costs. As a result, we decline to consider this issue and affirm the costs award. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (providing that the appellate courts need not consider claims unsupported by cogent argument).

Third, Dexin argues that the district court improperly modified the decree of divorce to require him to pay interest to Anna. "The district court has inherent authority to interpret and enforce its decrees." *Byrd v. Byrd*, 137 Nev. 587, 590, 501 P.3d 458, 462 (Ct. App. 2021). "But a decree of divorce cannot be modified or set aside except as provided by rule or

statute.” *Id.* (internal quotation marks omitted). “When no rate of interest is provided by contract or otherwise by law, or specified in the judgment, the judgment draws interest from the time of service of the summons and complaint until satisfied.” NRS 17.130(2).

Here, the district court found that the decree of divorce had not been modified by the inclusion of post-judgment interest. Rather, the court concluded that Dexin had not satisfied the judgment and therefore the judgment accrued interest pursuant to NRS 17.130(2). The district court therefore found that the amount of post-judgment interest, as reflected in the writ of execution, was not a modification of the judgment but instead was an accounting of the interest Dexin owed pursuant to NRS 17.130(2). The district court’s findings in this regard are supported by the record. In light of the district court’s inherent authority to interpret and enforce its decrees, we conclude Dexin is not entitled to relief based on this claim and affirm the challenged decision to the extent it required Dexin to pay interest.

Fourth, Dexin challenges the district court’s order of contempt. But the court did not find Dexin in contempt in its June 29, 2022, order denying Dexin’s motion requesting an order vacating the writs of execution and opposing Anna’s efforts to collect the accrued post-judgment interest. Rather, in its June 29 order, the court merely ordered Dexin to show cause as to why he should not be held in contempt. Following further proceedings, the court entered an order on August 17, 2022, holding Dexin in contempt. But we lack jurisdiction to consider Dexin’s challenge to the August 17 contempt order.

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule. *Taylor Constr. Co. v. Hilton*

Hotels Corp., 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984). No statute or court rule provides for an appeal from a separately filed contempt order. See NRAP 3A(b) (enumerating the orders and judgments from which an appeal may be taken); *State, Div. of Child & Fam. Servs. v. Eighth Jud. Dist. Ct.*, 120 Nev. 445, 449-50, 92 P.3d 1239, 1242 (2004) (explaining that a contempt order is not appealable and the proper way for a party to challenge a contempt order is through a writ petition); cf. *Vaile v. Vaile*, 133 Nev. 213, 217, 396 P.3d 791, 794-95 (2017) (“[I]f the contempt finding or sanction is included in an order that is otherwise independently appealable, this court has jurisdiction to hear the contempt challenge on appeal.”). Because the district court entered a separate order finding Dexin in contempt, that order is not independently appealable and we lack jurisdiction to consider this portion of Dexin’s appeal. See *Taylor Constr. Co.*, 100 Nev. at 209, 678 P.2d at 1153. Thus, we dismiss the portion of Dexin’s appeal challenging the district court’s contempt order.

Fifth, Dexin argues that the district court was biased against him. We conclude that relief is unwarranted on this point because Dexin has not demonstrated that the court’s decisions in the underlying case were based on knowledge acquired outside of the proceedings and the court’s decision does not otherwise reflect “a deep-seated favoritism or antagonism that would make fair judgment impossible.” *Canarelli v. Eighth Jud. Dist. Ct.*, 138 Nev. 104, 107, 506 P.3d 334, 337 (2022) (internal quotation marks omitted) (explaining that unless an alleged bias has its origins in an extrajudicial source, disqualification is unwarranted absent a showing that the judge formed an opinion based on facts introduced during official judicial proceedings and which reflects deep-seated favoritism or antagonism that would render fair judgment impossible); see *In re Petition*

to *Recall Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) (providing that rulings made during official judicial proceedings generally “do not establish legally cognizable grounds for disqualification”); *see also Rivero v. Rivero*, 125 Nev. 410, 439, 216 P.3d 213, 233 (2009) (stating that the burden is on the party asserting bias to establish sufficient factual grounds for disqualification), *overruled on other grounds by Romano v. Romano*, 138 Nev. 1, 6, 501 P.3d 980, 984 (2022), *abrogated in part on other grounds by Killebrew v. State ex rel. Donohue*, 139 Nev., Adv. Op. 43, 535 P.3d 1167, 1171 (2023). Therefore, Dexin is not entitled to relief based on this claim.

It is so ORDERED.¹


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

¹Dexin also challenges the decree of divorce and the district court’s decisions concerning marital waste, the division of community assets and debts, and its findings concerning the marital residence. However, Dexin’s challenges to those are not timely, *see* NRAP 4(a)(1), and an untimely notice of appeal fails to vest jurisdiction in this court, *Healy v. Volkswagenwerk Aktiengesellschaft*, 103 Nev. 329, 331, 741 P.2d 432, 433 (1987). Thus, we lack jurisdiction to consider this portion of Dexin’s appeal and we must therefore dismiss it.

In addition, to the extent Dexin seeks relief based on proceedings and any resulting order that followed the filing of his July 25, 2022, notice of appeal, those issues are not properly before this court and we decline to consider them. Further, we deny Anna’s requests for relief—including her requests for attorney fees and costs—as set forth in her response to Dexin’s informal brief.

cc: Hon. Charles J. Hoskin, District Judge, Family Division
Dexin Frank Lin
Anna Lin
Eighth District Court Clerk