

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

LIBUSHE ANN FREHNER,
Appellant,
vs.
MICHAEL PATRICK FREHNER,
Respondent.

No. 89894-COA

FILED

FEB 03 2026

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

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

Libushe Ann Frehner (Ann) appeals from a divorce decree. Eighth Judicial District Court, Family Division, Clark County; Regina M. McConnell, Judge.

FACTS AND PROCEDURAL HISTORY

Ann and respondent Michael Patrick Frehner (Michael) were married in August 2010 and are the natural parents to two minor children, S.F., born in March 2011, and G.F., born in January 2013. Ann filed her complaint for divorce in August 2023, and Michael answered. Ann asked the district court to award her primary physical custody of the children, child support, alimony, and attorney fees. Michael sought joint physical custody of the children and opposed alimony.

In motion practice during the pre-trial litigation of this matter, Ann alleged that Michael had committed domestic violence against her on two occasions—once in April 2021 and again in February 2023—and separately against S.F.

As to the first domestic violence incident in April 2021, Ann alleged that Michael was angry with her and “got in her face,” yelling and saying that he had filed for divorce. She claimed that Michael pulled her arm to turn her toward him and, in doing so, scratched her arm. After her mother arrived and picked her up, Ann called 9-1-1 to report the situation.

The 9-1-1 operator told Ann that an officer was at her home but left after speaking with Michael and not seeing any evidence of assault. Ann's mother took photos of the injuries she sustained.

The second incident, taking place in February 2023, resulted in Michael's arrest and a charge for domestic battery. Ann provided pictures of her injuries, which were alleged to have been caused by Michael striking her during an argument.

Ann also alleged an incident of Michael punching S.F. in the ribs at a pool outing in June 2023. Michael conceded that the February 2023 arrest took place but denied all allegations of physical abuse—submitting that Ann maintained false allegations against him.

At the case management conference in November 2023, Ann requested child interviews and provided a letter to the district court from a psychiatric nurse practitioner describing alleged violence by Michael against S.F., as well as S.F.'s extreme mental suffering resulting in suicidal ideations and symptoms of agitated depression. Given the allegations of domestic violence against Ann and S.F. and the outstanding request for a child interview, the district court issued an order in January 2024 appointing a psychologist, Dr. Stephanie Holland, to prepare a report for the court after meeting with the parties and the minor children. In its order of appointment, the court clarified that the purpose of this report was for Dr. Holland to recommend "what services are necessary as to the best interest of the minor children." In advance of submitting her report in February 2024, Dr. Holland only met with S.F. She did, however, meet with both S.F. and G.F. in August 2024 shortly before trial.

Ann moved in July 2024 to present child witnesses, or court interviews of the children outside the presence of the parties, or interviews

by alternative means. The district court expressed concern over the timeliness of the motion, Ann's influence over the children, their desire to speak with the court and orally denied the request without a hearing by minute order, recognizing that S.F. had been previously interviewed by Dr. Holland.

Three witnesses provided testimony at the August 2024 trial: Dr. Holland, Ann, and Michael. Numerous documents and other evidence were also admitted. Dr. Holland testified as to her role and the process as a court-appointed evaluator, which was to aid the district court by providing it with a report and recommendations as to the best interest of the children as to psychological issues, after meeting with each of the parents and S.F. She stated that she initially declined to meet with G.F. because of his age, noting that the primary concern in preparation of the report, from her understanding, was evaluating and recommending mental health treatment for the benefit and best interest of S.F.

Dr. Holland confirmed her review of relevant documents concerning S.F.'s ongoing struggles with mental health, including notes from his psychiatric health care providers and schoolteachers that suggested S.F. had relayed his suicidal ideations to others. She also reviewed court documents that "reiterated concerns regarding [S.F.'s] mental health." From the outset of her review of the case, in Dr. Holland's mind, "there was not a question about whether or not there were concerns regarding S.F.'s well-being."

Dr. Holland also reported concerns about S.F.'s verbal and physical interactions with Michael, describing S.F.'s emotional struggles due to his father being *irritable, aggressive, and physical*, citing instances of "some *physical altercations* between the two of them that were also

concerning.” (Emphasis added.) When asked on direct examination to provide specific information or examples from the initial meeting with S.F. in January 2024, Dr. Holland testified that S.F. shared with her a “time that [Michael] got upset with the [family’s] dog and kicked the dog. [S.F.] got upset, and I believe his dad either *pushed him or punched him in his stomach*. That’s the one that stands out.” (Emphasis added.) She further testified that S.F. indicated he would feel suicidal if he had to spend more time with his father, due to communication difficulties and not wanting to be around him, and expressed concerns about S.F.’s depression, suicidal thoughts, anxiety, and evidence of mixed disturbances of mood secondary to the parental conflict.

Upon cross-examination, Dr. Holland was asked if S.F. described his encounters with Michael as “physical abuse” during the August 2024 interview, and she clarified that those specific words were not mentioned during that visit with S.F. Nor did Dr. Holland testify that S.F. recanted his descriptions of abuse that he reported to her in January regarding the “physical altercation” with Michael at the community pool. She did, however, express confidence that S.F. used the word “violent” when describing Michael during the August interview.

Dr. Holland added that S.F. was having a difficult time being with his father, and preferred spending time with his mother to avoid conflict. She believed S.F.’s estrangement from his father stemmed from their interactions, not Ann’s purported alienation, and resulted in growing and increasing anger, agitation, and depression related to time with his father. She also relayed S.F.’s concern that Michael’s negative comments about Ann forced S.F. to be defensive, and that Michael’s disparaging behavior had taken an immense toll on S.F., who unsuccessfully tried to get

his father to stop disparaging his mother. In recommending psychotherapy in the best interest of S.F.'s mental well-being, Dr. Holland reiterated that S.F. had displayed symptoms of agitated depression, anxiety, and difficulty expressing his feelings.

Ann testified and described the incident with Michael in February 2023, claiming that he committed domestic violence against her. She asserted that Michael kneed part of his body into her thigh and knocked her arms out of the way, which created bruises and scratches. Photos depicting her resulting injuries were admitted by the district court at trial. Ann further described the circumstances leading to Michael's arrest, his no contest plea to the charge of domestic battery, and the stayed adjudication subject to certain conditions. During her testimony to this end, Ann successfully sought the admission of the justice court docket outlining the details of Michael's criminal case. Ann also testified to the physical abuse of S.F. by Michael—again alleging that Michael punched S.F. in the ribs at a nearby community pool in June 2023.

Michael testified and recounted the February 2023 incident and the events leading to his arrest and charge of domestic battery—asserting that Ann was the aggressor in all their physical altercations and that he never touched her or their children. Several videos were played for the district court's consideration during this portion of direct examination, and Michael pointed out for the court several moments of the video where he alleged that Ann hit him on the head.¹ The parties also testified and offered documents as to the financial issues, including child support and alimony.

¹Although designated within the joint appellate index, neither party included copies of any video recordings in the record on appeal.

The district court entered its Findings of Fact, Conclusions of Law, and Divorce Decree in December 2024—awarding joint legal and physical custody to Ann and Michael. As to its findings on the best interest factors in NRS 125C.0035(4), the district court first determined that, based on Dr. Holland’s testimony, S.F. was of sufficient age and capacity to form an intelligent custody preference. And here, it favored Ann, though the court also found that outside factors such as Ann’s oversharing and Michael’s agitation were affecting S.F. and potentially his wishes. While S.F. wished to spend more time with Ann than Michael, the court found that balancing Ann’s oversharing with Michael’s agitation meant that this factor only slightly favored Ann’s position. *See* NRS 125C.0035(4)(a) (stating that the wishes of the child as to a custody preference must be considered).

The district court also found that although Dr. Holland’s testimony indicated S.F.’s emotional struggles were due to his father being irritable, aggressive, and physical, there was no evidence suggestive of physical abuse—citing to Dr. Holland’s admission that S.F. did not use the term “physical abuse” during her visit with him in August 2024. The district court did not, however, reconcile or otherwise comment on the statements made by S.F. in January 2024, as articulated in the February 2024 report and reiterated in Dr. Holland’s testimony, indicating that “physical altercations” between S.F. and Michael had occurred. *See* NRS 125C.0035(4)(j) (stating that any history of abuse or neglect of the child must be considered).

As to the domestic violence best interest factor in NRS 125C.0035(4)(k), which defines domestic violence as violence against a child or a parent of a child, the district court found no showing of domestic violence had been established as perpetrated against Ann by Michael under

a *clear and convincing* evidentiary standard—making no mention of S.F. or the *preponderance of the evidence* standard in relation to its consideration of this factor. More specifically, the court stated, as to subpart (4)(k), that

[t]here was evidence provided by Mom regarding Dad being arrested for domestic violence on February 13, 2023. However, the evidence provided that Dad was not convicted of domestic violence. When the Court is looking at domestic violence there is a rebuttable presumption that joint custody is not in the best interest of the children. In the case at hand, while there was testimony and evidence that Dad was arrested, he was not convicted. Further, the Court reviewed the videos that were admitted into evidence or agreed upon by the parties for the Court to review in camera in making its findings. Based upon the evidence, *the Court could not establish by clear and convincing evidence that Dad is the perpetrator of domestic violence.* Therefore, the Court finds that this factor is neutral.

(Emphasis added.) Overall, the district court ultimately determined that two best interest factors—factor (4)(a) (wishes of the child) and factor (4)(h) (nature of the relationship of the child with each parent)—slightly favored Ann and the balance of the remaining factors were either neutral or inapplicable, meaning no factors were found to favor Michael’s position.

The district court also made findings and entered orders regarding financial issues, awarding periodic alimony, rehabilitative alimony, and child support in favor of Ann. Specifically, the court awarded Ann periodic alimony in the amount of \$1,500 per month for five years starting in January 2025; rehabilitative alimony in the amount of \$4,000 to complete her associate’s degree; and child support in the amount of \$1,725.50 per month. This appeal followed.

DISCUSSION

On appeal, Ann challenges the district court’s custody determination on multiple grounds, arguing that the court should have awarded her primary physical custody and not joint physical custody. She

also argues that the awards of child support and alimony were insufficient and that the district court should have awarded her reasonable attorney fees. Michael responds that all decisions of the district court were within its discretion and supported by substantial evidence.

We agree with Ann largely because the district court abused its discretion in its child custody award by applying the incorrect evidentiary standard when evaluating the domestic violence best interest factor. We also conclude that the denial of Ann's motion for child testimony by alternative means should be reconsidered on remand because S.F. was an alleged victim of abuse or domestic violence and the children will be significantly older by the time of an evidentiary hearing than they were at the time of the original proceedings. We therefore reverse the joint physical custody award and remand for further proceedings.² We further vacate the

²Given our reversal of the physical custody award, the district court's award of child support is necessarily vacated, as it turned on the joint custodial status of Ann and Michael as obligors or obligees. *Compare* NAC 425.035 ("Obligee' means a person who is entitled to receive payments for the support of one or more children . . ."), *with* NAC 425.037 ("Obligor' means a person who incurs a legal obligation to provide support for one or more children . . . [i]f the parties have joint physical custody of at least one child, each party is an obligor."), *and* NAC 425.140 (providing the schedule for determining the base child support obligation based on the number of children and the monthly gross income of obligor).

Ann also argues that the district court imposed an improper weekend parenting-time schedule because all weekends were awarded to Michael. In doing so, the court offered no explanation as to how this arrangement was in the children's best interest. On remand, the district court should reassess this issue if joint physical custody is reimposed and make specific findings as to why this weekend parenting-time schedule is in the best interest of the children after considering both parties' weekday schedules. *See Davis v. Ewalefo*, 131 Nev. 445, 452, 352 P.3d 1139, 1143 (2015) ("Specific findings and an adequate explanation of the reasons for the custody determination

awards of periodic and rehabilitative alimony. As for the periodic alimony award, the district court contravened a statutory prohibition when it considered Ann's receipt of child support payments in the financial condition factor. The court's rehabilitative alimony award is necessarily vacated as the award of periodic alimony may change. We also direct the court to make findings as to the adequacy of the ultimate rehabilitative alimony award. Finally, we dismiss the appeal as it relates to attorney fees as that order is not yet before this court and we lack jurisdiction.

The district court applied an incorrect evidentiary standard when evaluating the domestic violence best interest factor

Ann's primary contention on appeal is that the district court abused its discretion in conducting its best interest of the child analysis, arguing that the court applied the incorrect evidentiary standard under the domestic violence factor. *See* NRS 125C.0035(4)(k). Michael responds that the district court correctly applied the clear-and-convincing-evidence standard, arguing it properly determined that Ann failed to demonstrate the occurrence of domestic violence in this case. We agree with Ann and reiterate that allegations of domestic violence must be carefully and properly considered in child custody proceedings.

"The Nevada Supreme Court has recognized the 'very real threat' domestic violence poses to a child's safety and well-being when determining custody between parents." *Soldo-Allesio v. Ferguson*, 141 Nev., Adv. Op. 9, 565 P.3d 842, 844 (Ct. App. 2018) (quoting *Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004)). The Nevada Legislature, "mindful of the harmful effects of domestic violence on child safety and child

are crucial to enforce or modify a custody order and for appellate review." (internal quotation marks omitted)).

development,” enumerated “a rebuttable presumption against awarding physical custody to a perpetrator of domestic violence and [separately] included domestic violence as a best interest factor that must be considered when determining child custody.” *Soldo-Allesio*, 141 Nev., Adv. Op. 9, 565 P.3d at 845 (citing NRS 125C.0035(5) and NRS 125C.0035(4)([k])).

While the best interest analysis requires the district court to consider “[w]hether either parent . . . has engaged in an act of domestic violence against the child [or] a parent of the child,” it contains no language specifying an applicable evidentiary standard. *See* NRS 125C.0035(4)(k). Even so, “preponderance of the evidence is still the default evidentiary standard in family law absent clear legislative intent to the contrary.” *Monahan v. Hogan*, 138 Nev. 58, 69, 507 P.3d 588, 597 (Ct. App. 2022). By contrast, the statutory language regarding the rebuttable presumption against joint physical custody under NRS 125C.0035(5) clearly states that, to apply the presumption, the occurrence of domestic violence must be proven by clear and convincing evidence. *See* NRS 125C.0035(5) (requiring a “finding by clear and convincing evidence that either parent . . . has engaged in one or more acts of domestic violence against the child, a parent of the child or other person residing with the child” for the presumption to apply); *see also* NRS 125C.003(1)(c) (same); NRS 125C.230(1) (same).

In *Soldo-Allesio*, we clarified that clear and convincing evidence of domestic violence is the standard when applying the rebuttable presumption against a parent seeking sole or joint physical custody, but preponderance of the evidence is the standard when evaluating the impact of domestic violence as a best interest factor. 141 Nev., Adv. Op. 9, 565 P.3d at 845. We recognize that the district court here did not have the benefit of our decision in *Soldo-Allesio* when it erroneously applied the clear-and-

convincing-evidence standard to its best interest analysis instead of the preponderance-of-the-evidence standard which it should have applied.

This error is particularly problematic in light of the evidence proffered in support of the allegations of Michael’s domestic violence against Ann and S.F., where the district court did not address its purported occurrence or its effect on S.F. And, as we observed in *Soldo-Allesio*, an error is reversible if we cannot conclude that the result would have been the same if the error had not occurred. *See id.* at 845, 850; *see also Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (“[D]eference is not owed to legal error.”). Further, the district court found that two of the best interest factors slightly favored Ann and none favored Michael—potentially magnifying the impact of the court’s application of the incorrect standard of proof in examining the domestic violence best interest factor. *See In re Guardianship of B.A.A.R.*, 136 Nev. 494, 500, 474 P.3d 838, 844 (Ct. App. 2020) (“[B]ecause it is not clear that the district court would have reached the same conclusion . . . had it applied the correct standard of proof, we must reverse the district court’s decision and remand for further proceedings.”).

Under these circumstances, we conclude that the district court abused its discretion in making its joint physical custody determination, and we therefore reverse that decision and remand for further proceedings on the issue of child custody.

On remand, the district court shall reconsider its denial of Ann’s motion seeking child testimony

Ann argues that the district court abused its discretion in denying her motion to permit child testimony directly or by alternative means. Because we are reversing the joint physical custody determination,

we need not decide whether the district court's denial of Ann's motion was proper. Nevertheless, because this issue will necessarily be raised by the parties on remand, we take this opportunity to clarify the potential importance of S.F.'s testimony in this case. Given that S.F.'s custody preference was inextricably linked to the claims of abuse and domestic violence, and Nevada's mandate to hear all information pertaining to domestic violence before issuing the child custody determination, we direct the district court to reconsider its previous denial of Ann's motion. *See Soldo-Allesio*, 141 Nev., Adv. Op. 9, 565 P.3d at 850 (supporting that the district court should "properly consider the allegations of domestic violence in its best interest analysis before making its custody award").³

On remand, therefore, the court must revisit its ruling excluding child testimony and make specific and detailed written findings

³Because it appears that S.F.'s testimony would implicate the information provided at the case management conference and his disclosures to Dr. Holland regarding the physical altercations with Michael, as was included within her February 2024 report, the district court should reconsider the admission of S.F.'s testimony at trial. NRCP 16.215 controls the procedure for child witnesses under the facts and circumstances of this case, mandating that district courts "use these procedures and considerations in child custody proceedings." *See* NRCP 16.215(a). The same subpart notes that "the court should find a balance between protecting the child, the statutory duty to consider the wishes of the child, and the probative value of the child's input while ensuring to all parties their due process rights." *Id.* When considering testimony by alternative means, the court must support its determination by stating findings of fact and conclusions of law in an order, and the "order may be no more restrictive of the rights of the parties than is necessary under the circumstances to serve the purposes of the order." *Gordon v. Geiger*, 133 Nev. 542, 548, 402 P.3d 671, 676 (2017); *see also* NRS 50.600(1) ("An order allowing or disallowing a child witness to testify by an alternative method must state the findings of fact and conclusions of law that support the [court's] determination.").

as to whether S.F.'s prospective testimony, directly or by an alternative method, should be considered in light of the directive in NRCP 16.215(a) to "find a balance between protecting the child, the statutory duty to consider the wishes of the child, and the probative value of the child's input" and the mandate to hear all relevant and admissible evidence pertaining to domestic violence before issuing a child custody determination. *Cf. Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004) ("The court must hear *all* information regarding domestic violence in order to determine the child's best interests."). Finally, we note that Dr. Holland's role was not to substitute for child testimony under NRCP 16.215(c) or to replace the services of the Family Mediation Center. Rather, she was to assess what psychological services would be necessary in assisting S.F. Therefore, under the circumstances of this case, with allegations of abuse and domestic violence, the court must reconsider its order.

The district court abused its discretion in awarding alimony

Ann challenges both the district court's awards of periodic and rehabilitative alimony, claiming each was insufficient in amount. Michael asks this court to defer to the district court's deliberation and calculation of what it believed to be fair, just, and equitable amounts consistent with Nevada's statutory language.

The Nevada Legislature has provided for two types of alimony. The first, periodic alimony, is a form of alimony that a court may award to satisfy the demands of justice and equity. NRS 125.150(1)(a). Rehabilitative alimony, the second type of alimony, is designed to provide necessary training or education "relating to a job, career or profession." NRS 125.150(10) & (11). District courts enjoy wide discretion in alimony determinations. *Fick v. Fick*, 109 Nev. 458, 464, 851 P.2d 445, 450 (1993).

Absent an abuse of discretion, we will not disturb the district court's award or denial of alimony. *Daniel v. Baker*, 106 Nev. 412, 414, 794 P.2d 345, 346 (1990).

We address periodic alimony first. Here, the district court expressly stated that it considered the statutory factors under NRS 125.150(9), as well as Nevada caselaw interpreting those factors, regarding Ann's request for periodic alimony. However, the court considered in this analysis that Ann's financial condition under subpart (9)(a) was impacted because she "is receiving child support and will continue receiving it in the amount of \$1,725.50." The court then expressly used this amount in calculating Ann's gross monthly income and in determining her financial needs for purposes of periodic alimony. This finding and process contravenes the language provided directly under subpart (9)(j) of NRS 125.150—noting that an award of property "other than child support and alimony" may be considered in determination of a just and equitable alimony award. *See, e.g., Kogod v. Cioffi-Kogod*, 135 Nev. 64, 69, 439 P.3d 397, 402 (2019) (explaining that subpart (9)(j) is properly considered under the needs-based criterion).

The district court, therefore, improperly factored Ann's receipt of child support into its calculation of the alimony award in the amount of \$1,500 per month for five years "based upon her need" and Michael's "ability to pay." As a result, the district court erroneously determined Ann's financial condition to be more affluent than it would have been had the court adhered to the applicable statutory prohibitions within Nevada's alimony statutes. *See, e.g., Shydler v. Shydler*, 114 Nev. 192, 198-99, 954 P.2d 37, 40-41 (1998) (reversing the district court's determination that pre-divorce support and post-divorce property equalizing payments obviated the need

for any post-divorce alimony). By calculating Ann's monthly income to include her child support award as a metric of her financial condition, the alimony award was reduced and must be reassessed. We therefore vacate the periodic alimony award and remand with instructions to the district court to follow the statutory restrictions enumerated under NRS 125.150(9) upon issuance of a revised order.

Turning to the rehabilitative alimony award, Ann contends that insufficient alimony was awarded for her to pursue the education necessary to be trained in the field of radiology. The district court directed that Ann receive "rehabilitative alimony in the lump sum of \$4,000 to finish her associate's degree." Ann argues that the district court's order provided little explanation or reasoning for the amount awarded regarding the training or education relating to her career and that she needed \$20,000 to complete a bachelor's degree. *See* NRS 125.150(10). She notes that amounts that may be awarded include payments for tuition, books, and fees for college courses "directly applicable" to her career goal. *See* NRS 125.150(11)(c)(6)(II).

Here, an explanation from the district court would facilitate appellate review. The district court effectively found that there was a need for a college education in light of its determination that the evidence supported awarding Ann \$4,000 for the completion of an associate's degree. However, at the same time, the court implicitly found it unnecessary to grant her request for \$20,000 to cover the tuition cost of the bachelor's degree at UNLV, the degree Ann testified was necessary to achieve her career goal. *See* NRS 125.150(11)(c)(6)(II).

Accordingly, because we vacate the award of periodic alimony, we necessarily vacate the award of rehabilitative alimony as the amount of periodic alimony might change upon remand and the need for a different

amount of rehabilitative alimony may exist. We therefore direct that, upon remand, the district court revisit the amount of the rehabilitative alimony award. Upon issuance of a revised award or in reinstatement of its prior award, the court is instructed to provide sufficient rationale in support of the amount awarded under the applicable statutory provisions.

This court does not have jurisdiction to resolve the district court's award of attorney fees

Ann also purports to appeal from the district court's order within the divorce decree awarding her attorney fees, suggesting that there has been significant delay in the court's issuance of a separate order with specific findings outlining the amount of attorney fees to be awarded.

The appellate record indicates, and the parties concede, that the district court has yet to issue an order on the amount of attorney fees it will award Ann. As no final or separate order on a reasonable fee amount has yet been issued in this matter, no final determination of the amount of attorney fees exists for this court to review. *See Rennels v. Rennels*, 127 Nev. 564, 569, 257 P.3d 396, 399 (2011) (providing that a final order "disposes of the issues presented" leaving "nothing for the future consideration of the court" (internal quotation marks omitted)); *see also Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 346-47, 301 P.3d 850, 852-53 (2013) (explaining that only an order "finally and completely" resolving a claim is appealable).

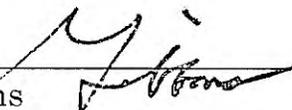
Because the district court has yet to issue a final order as to the amount of fees awarded to Ann, she retains her right to pursue a subsequent and separate appeal of that forthcoming order by the district court. *See Smith v. Crown Fin. Servs.*, 111 Nev. 277, 280 n.2, 890 P.2d 769, 771 n.2 (1995); *see also Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417

(2000) (holding that a post-judgment order on fees or costs “may be appealed as a special order made after final judgment”); NRAP 4(a)(6) (providing that a premature notice of appeal does not divest the district court of jurisdiction).

Thus, to the extent Ann challenges the district court’s delay in issuance of an order awarding attorney fees, such a challenge is not before us without a final order and therefore must be dismissed.

Accordingly, we ORDER the judgment of the district court REVERSED IN PART, VACATED IN PART, DISMISSED IN PART, AND REMAND this matter to the district court for proceedings consistent with this order.⁴


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

⁴Insofar as the parties have raised arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Hon. Regina M. McConnell, District Judge, Family Division
McFarling Cohen Fic & Squires
Law Offices of Louis C. Schneider, LLC
Eighth District Court Clerk