

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACEY K. AMMONS,
Appellant,
vs.
GORDON A.J. SOUZA,
Respondent.

No. 41835

FILED

DEC 03 2004

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER AFFIRMING IN PART AND
DISMISSING APPEAL IN PART

This is a proper person appeal from various post-decree orders concerning child custody and support, an order for contempt and sanctions, and orders denying a motion to disqualify the district court judge. Eighth Judicial District Court, Family Court Division, Clark County; William O. Voy, Judge.

The parties were divorced in Nevada in 1998, and Judge Voy has presided over the case since its inception. Over the years, the parties have engaged in extensive litigation, primarily over issues relating to the custody, visitation, and support of their minor son.

Appellant first appeals from Judge Voy's February 7, 2003 order denying her motion for his disqualification, and Judge Gene Porter's March 17, 2003 oral order denying disqualification. We conclude that we

lack jurisdiction to consider these orders. An order is a “special order made after final judgment”¹ if it “affect[s] the rights of some party to the action, growing out of the judgment previously entered.”² The orders denying disqualification do not affect rights growing out of the decree, and so they are not appealable. In addition, no appeal may be taken from an oral order.³ Thus, the appeal is dismissed as to the disqualification orders.

Appellant also appeals from a written order filed on September 20, 2002,⁴ which took under submission various motions of the parties and simply required respondent to continue to maintain his credit union savings account for the benefit of the minor child. Because appellant does not appear to be aggrieved by the order, the appeal is dismissed as to the order of September 20, 2002.⁵

Additionally, appellant purports to appeal from an order entered on February 26, 2003. The district court record, however, reveals

¹NRAP 3A(b)(2).

²Gumm v. Mainor, 118 Nev. 912, 914, 59 P.3d 1220, 1221 (2002); see also Ham v. District Court, 93 Nev. 409, 566 P.2d 420 (1977) (noting that disqualification orders are properly challenged by writ petition).

³See NRAP 4(a)(1); Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

⁴We note that no written notice of entry was served with respect to this order.

⁵See NRAP 3A(a); Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 874 P.2d 729 (1994).

no written order filed or entered on that date, and only a minute order rendered orally, which is not appealable.⁶ Accordingly, the appeal is also dismissed as to the February 26, 2003 minute order.

Appellant further appeals from a written order entered on February 28, 2003. This was an order to show cause why both parties should not be held in contempt, and warning them that the court would consider incarceration as a sanction. The order also set an evidentiary hearing regarding the contempt issues and respondent's motion for change of custody. It further ordered appellant to comply with the airline travel arrangements for the minor child's visitation with respondent in April 2003. This order is not substantively appealable as a special order made after final judgment, because it does not affect the rights of a party growing out of the judgment previously entered.⁷ Accordingly, to the extent that appellant appeals from the order filed on February 28, 2003, her appeal is dismissed.

As to the appeal from the written orders regarding child custody and support⁸ filed on June 27, 2003, and July 15, 2003, we conclude that substantial evidence supports the district court's findings


⁶See NRAP 4(a)(1); Rust, 103 Nev. 686, 747 P.2d 1380.

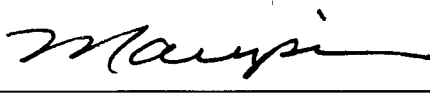
⁷See NRAP 3A(b)(2); Gumm, 118 Nev. 912, 59 P.3d 1220.

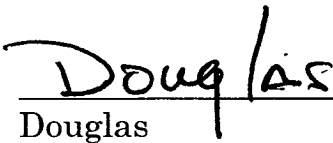
⁸These orders also found appellant in contempt of court and imposed sanctions against her. Contempt orders are not appealable. See Pengilly v. Rancho Santa Fe Homeowners, 116 Nev. 646, 5 P.3d 569 (2000).

and that the court did not abuse its discretion in making its rulings.⁹ Accordingly, we affirm these orders of the district court.

It is so ORDERED.¹⁰


_____, J.
Rose


_____, J.
Maupin


_____, J.
Douglas

⁹See Wallace v. Wallace, 112 Nev. 1015, 922 P.2d 541 (1996) (stating that child custody and support matters rest in the district court's sound discretion); Sims v. Sims, 109 Nev. 1146, 865 P.2d 328 (1993) (concluding that the district court enjoys broad discretionary powers in determining child custody issues and this court will not disturb the district court's judgment absent a clear abuse of discretion).

¹⁰Although appellant was not granted leave to file papers in proper person, see NRAP 46(b), we have considered all proper person documents received from appellant and conclude that the relief requested is not warranted.

In light of this order, we deny as moot appellant's motion for emergency stay of judgments and for injunction provisionally received on September 24, 2003.

cc: Hon. William O. Voy, District Judge, Family Court Division
Tracey K. Ammons
Gordon A.J. Souza
Clark County Clerk