

IN THE SUPREME COURT OF THE STATE OF NEVADA

MITCHELL STIPP,
Appellant/Cross-Respondent,
vs.
CHRISTINA STIPP,
Respondent/Cross-Appellant.

No. 62299

FILED

APR 29 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

*ORDER DISMISSING APPEAL AND
ORDER TO SHOW CAUSE ON CROSS-APPEAL*

This is an appeal and cross-appeal from a post-divorce decree district court order concerning child support, enforcement of prior orders, and attorney fees. On April 12, 2013, appellant Mitchell Stipp filed a motion to voluntarily withdraw his appeal. Having considered the motion, we grant it, and dismiss the appeal filed by Mitchell Stipp. See NRAP 42(b). The parties shall bear their own costs and attorney fees as to Mitchell's appeal.

As for the appeal by cross-appellant Christina Stipp, our preliminary review of the docketing statement reveals potential jurisdictional defects. In the order, the district court denied Christina's request to hold Mitchell in contempt for violating various parenting and custodial orders, granted Christina's claim for unpaid medical premiums against Mitchell, denied Mitchell's request for an offset, and ordered that each party bear their own attorney fees and costs. As for Christina's request to modify Mitchell's child support obligation, the district court directed the parties to file an action through the Family Support Division of the district attorney's office, and indicated that either party may file appropriate objections to the Division's findings if unsatisfied with the result.

According to Christina's docketing statement, she identifies the following issues for her appeal: (1) whether the district court erred in not holding Mitchell in contempt for violating various orders regarding parenting and custody; (2) whether the district court erred in its decision regarding attorney fees; and (3) whether the district court erred in not granting Christina's request to modify child support. It appears that the portions of the district court's order that Christina challenges on appeal are not substantively appealable.


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, 678 P.2d 1152 (1984). NRAP 3A(b)(8) allows an appeal to be taken from a special order entered after a final judgment, and such order must affect the rights of some party to the action growing out of the judgment. *Gumm v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002). In the context of post-divorce proceedings, an order denying a motion to amend a divorce decree is appealable as a special order after final judgment, if "the motion is based upon changed factual or legal circumstances and the moving party is not attacking the original judgment." *Burton v. Burton*, 99 Nev. 698, 700, 669 P.2d 703, 705 (1983). Finally, an order concerning contempt is not appealable. *Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000).

Here, Christina challenges the portion of the district court's order that referred the parties to the district attorney's office for review of Mitchell's child support obligation. But, the district court did not actually grant or deny a child support modification, and the issue is still pending. The district court may review the district attorney's decision upon objection by either party, and thus, an appeal at this time appears to be

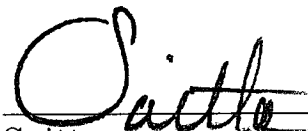
premature. Also, it appears that the portion of the district court's order denying Christina's request to hold Mitchell in contempt is not appealable under *Pengilly*. Finally, it is unclear whether the district court's decision directing the parties to bear their own attorney fees and costs is appealable as a special order after a final judgment under *Gumm*. To the extent that Christina requested the attorney fees in conjunction with contempt, the order may not be appealable; and to the extent that she sought the attorney fees in connection with the request to modify child support, the appeal may be premature because the support issue has not been resolved.

Accordingly, Christina shall have 20 days from the date of this order to show cause why her appeal should not be dismissed for lack of jurisdiction. We caution Christina that failure to demonstrate that this court has jurisdiction may result in this court's dismissal of her appeal. The briefing schedule shall be suspended pending further order of this court. We defer ruling on the January 24, 2013, request concerning transcripts.

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Mitchell D. Stipp
Radford J. Smith, Chtd.
Vaccarino Law Office