

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA STIPP,
Appellant,
vs.
MITCHELL STIPP,
Respondent.

No. 62299

FILED

AUG 26 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK

*ORDER DISMISSING APPEAL IN PART
AND REINSTATING BRIEFING*

This is an appeal from a district court post-divorce decree order concerning child support, enforcement of prior court orders, and attorney fees. When our preliminary review of the docketing statement revealed a potential jurisdictional defect, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. In particular, it appeared that the portions of the district court's order challenged by appellant were not substantively appealable. Appellant has filed a response to our show cause order, to which respondent has filed a reply.

Having considered the parties' arguments, we conclude that we lack jurisdiction to consider this appeal with the exception of the district court's order regarding attorney fees. First, appellant challenges the portion of the district court's order that referred the parties to the district attorney's office for review of respondent's child support obligation. 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). Here, 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. Thus, an appeal at this time is premature, and we lack jurisdiction to consider it.

Next, we conclude that we lack jurisdiction over the portion of the district court's order denying appellant's request to hold respondent in contempt. 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). We are not persuaded by appellant's argument that unlike the case in *Pengilly*, she is not challenging the issuance of a contempt sanction, but rather is challenging the district court's refusal to impose sanctions or, at the very least, issue an order to show cause against respondent for his contemptuous conduct. No statute or court rule allows an appeal from an order refusing to impose contempt sanctions. See NRAP 3A(b); *Taylor Constr. Co.*, 100 Nev. at 209, 678 P.2d at 1153.¹


Finally, to the extent that the district court's order denied appellant's request for attorney fees and costs, we conclude that it is appealable as a special order made after a final judgment. See NRAP 3A(b)(8); *Gumm*, 118 Nev. at 919, 59 P.3d at 1225 (recognizing that a post-judgment order awarding attorney fees and costs is appealable as a special order made after final judgment); see also *Burton v. Burton*, 99 Nev. 698,

¹Appellant requests that, to the extent we lack jurisdiction over her appeal, we treat her pleadings as a writ petition. We deny that request.

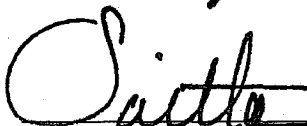
700, 669 P.2d 703, 705 (1983) (setting forth the circumstances under which an order denying a post-judgment motion is appealable). Accordingly, this appeal may proceed only as to the portion of the district court's November 9, 2012, order that denied appellant's request for attorney fees and costs.

We reinstate the briefing schedule in this appeal. Appellant shall have 60 days from the date of this order to file and serve the opening brief and appendix. Briefing shall thereafter proceed in accordance with NRAP 31(a)(1).

It is so ORDERED.²


Gibbons, J.


Douglas, J.


Saitta, J.

²Because appellant's appeal in Docket No. 57327 was resolved by a final dispositional order on May 24, 2013, we deny as moot appellant's motion to consolidate the appeals filed on May 29, 2013, and appellant's request to transfer transcripts filed on January 24, 2013. Appellant may include any necessary transcripts in the appendix. We also deny appellant's motion for an award of attorney fees resulting from respondent's cross-appeal, which was voluntarily dismissed on April 29, 2013.

cc: Hon. William S. Potter, District Judge, Family Court Division
Vaccarino Law Office
Mitchell D. Stipp
Radford J. Smith, Chtd.