

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ROBERT SCOTLUND VAILE,
Appellant,
vs.
CISILIE A. VAILE N/K/A CISILIE A.
PORSBOLL,
Respondent.

No. 61415

FILED

APR 14 2016

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

No. 62797

ROBERT SCOTLUND VAILE,
Appellant,
vs.
CISILIE A. VAILE N/K/A CISILIE A.
PORSBOLL,
Respondent.

***ORDER GRANTING REHEARING IN PART, DENYING REHEARING
IN PART, AND AFFIRMING***

This is a petition for rehearing of this court's December 29, 2015, order affirming in part, dismissing in part, reversing in part, and remanding entered in appellant's consolidated appeals from district court orders in a child support arrearages matter. In seeking rehearing, appellant Robert Scotlund Vaile asserts that this court overlooked two of his appellate arguments regarding the application of Norway's analogue to NRS 130.6115 and the application of NRS 130.607. As these two issues were inadvertently not addressed in our December 29 order, we grant rehearing and reinstate this appeal for the limited purpose of addressing only these issues, which we resolve without further briefing or oral argument. See NRAP 40(e). But, as set forth below, we find Vaile's arguments on these points to be without merit, and we therefore affirm the district court's rejection of these arguments in determining that the

Nevada divorce decree constituted the controlling child support order. With regard to Vaile's remaining arguments on rehearing, we conclude that these assertions do not provide a basis for rehearing our December 29 order, and thus, we deny rehearing as to those arguments. See NRAP 40(c).

Our December 29 order affirmed the district court's finding that Norway lacked jurisdiction to modify the child support provisions set forth in the Nevada divorce decree and that, as a result, the controlling child support order remained the Nevada decree, not the order issued by the Norway court. But according to Vaile, under the Uniform Interstate Family Support Act (UIFSA), Norway had jurisdiction to modify the support provisions in the Nevada decree under Norway's analogues to NRS 130.6115(1) and (2) (2007),¹ which would allow Norway to obtain modification jurisdiction and modify the Nevada decree based on Nevada's lack of modification jurisdiction.² Having considered this argument, we

¹This statute was amended after the underlying case was commenced, see 2009 Nev. Stat., ch. 47, § 87, at 140, but the amendments only apply to cases commenced on or after October 1, 2009, and thus, are not relevant to this case. *Id.* § 90, at 140.

²While Vaile does not provide a citation to the specific Norway provision he is referencing, Norway's status as a foreign reciprocating country, see NRS 130.10179(2)(b) (2007) (providing that "state" includes foreign reciprocating countries), amended by 2009 Nev. Stat., ch. 47, § 44, at 125-26; Notice of Declaration of Foreign Countries as Reciprocating Countries for the Enforcement of Family Support (Maintenance) Obligations, 79 Fed. Reg. 49,368, 49,369 (Aug. 20, 2014), (recognizing Norway's status as a foreign reciprocating country), necessarily means that it has a law similar to NRS 130.6115 in place. See *Country of Lux. ex rel. Ribeiro v. Canderas*, 768 A.2d 283, 285-86 (N.J. Super. Ct. Ch. Div. 2000) (stating that the status as a foreign reciprocating country means that the country's child support procedures are in substantial conformity with the United States' statutes).

conclude that it does not provide a basis for reversing the district court's determination that Norway lacked jurisdiction to modify the Nevada decree and that the Nevada decree therefore remained the controlling order.

Based on our review of the Norway order, there is nothing set forth in that order indicating that Norway purported to have obtained modification jurisdiction or explaining the basis for Norway's invocation of jurisdiction. Indeed, the Norway order, which was specifically grounded in Norwegian law rather than UIFSA, did not even reference, much less purport to modify, the Nevada decree. Under these circumstances, the Norway order cannot, in any way, be considered to have satisfied the requirements for invoking modification jurisdiction under UIFSA. See *Straight v. Straight*, 195 S.W.3d 461, 465 (Mo. Ct. App. 2006) (concluding that the modifying court in that case failed to meet UIFSA's statutory requirements to obtain modification jurisdiction because "a ruling of jurisdiction by a court that is merely conclusory or that assumes jurisdiction, but is tacit as to the factual basis for that adjudication, does not meet the objectives of uniform acts designed to avoid jurisdictional disputes," and because, under UIFSA, another tribunal does not "assume[] jurisdiction by simply stating that it ha[s] jurisdiction"). Given that Vaile does not point to any other order or ruling from the Norway court that could be considered an invocation of modification jurisdiction under the requirements set forth in UIFSA and our review of the record does not reveal any such order or ruling from the Norway court, this argument does not provide a basis for reversing the district court's decision regarding Norway's lack of jurisdiction to modify the Nevada decree and its declaration that the Nevada decree was the controlling order.

In challenging the district court's determination that the Nevada decree was the controlling support order, Vaile next argues that NRS 130.607 (2007)³ limits the defenses a party may make to the registration or enforcement of a foreign support order and that, because respondent did not rely on these defenses to challenge the Norway order, the district court was obligated to enforce the Norway order pursuant to NRS 130.607(3). But Vaile does not argue, and the record does not show, that he ever sought to register the Norway order in the Nevada district court pursuant to NRS 130.602(1) (2007).⁴ As a result, NRS 130.607 never became relevant to the district court's resolution of whether the Norway order was controlling and there was no reason for respondent to rely on or otherwise argue the defenses set forth in NRS 130.607 (2007). See NRS 130.607(1) (providing that a party must assert an enumerated defense if it is contesting "the validity or enforcement of a registered support order" (emphasis added)). Thus, this argument likewise does not provide a basis for reversing the district court's determination that the Nevada decree was the controlling order.

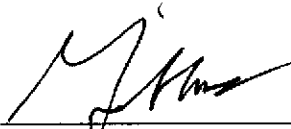
For the reasons set forth above, we conclude that the two arguments for which rehearing was granted do not provide a basis for reversing the district court's rejection of these arguments and its determination that the Nevada divorce decree was the controlling child

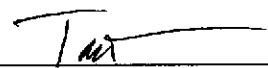
³This statute was amended after the underlying case was commenced, see 2009 Nev. Stat., ch. 47, § 82, at 138-39, but the amendments only apply to cases commenced on or after October 1, 2009. *Id.* § 90, at 140.

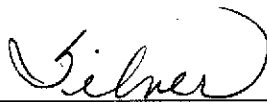
⁴This statute was amended after the underlying case was commenced, see 2009 Nev. Stat., ch. 47, § 77, at 136-37, but the amendments only apply to cases commenced on or after October 1, 2009. *Id.* § 90, at 140.

support order. Accordingly, we affirm the district court's rejection of these arguments and its determination that Norway lacked jurisdiction to modify the Nevada decree and that the Nevada decree was the controlling child support order.

It is so ORDERED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

cc: Hon. Cheryl B. Moss, District Judge, Family Court Division
Robert Scotlund Vaile
Willick Law Group
Eighth District Court Clerk