

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DARRELL EUGENE JACKSON,  
Appellant,  
vs.  
RUTH ANN JACKSON,  
Respondent.

No. 72263-COA

**FILED**

FEB 26 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Darrell Eugene Jackson appeals from a district court order altering a divorce decree. Eighth Judicial District Court, Family Division, Clark County; Bill Henderson, Judge.

Darrell and respondent Ruth Ann Jackson co-owned a business when they divorced in October 2015.<sup>1</sup> Their divorce decree specifically provided that “[t]here is no spousal support awarded.” Instead, it provided that each party would retain a 50% interest in the business; Darrell would run the business; Darrell would pay Ruth a lump sum from the business by the end of 2016; and Darrell would thereafter pay Ruth in amounts to be determined each year after reviewing the business records.

In June 2016, more than six months after the district court entered the decree and Ruth served notice of entry on Darrell, Ruth moved to enforce and clarify the decree’s ongoing payments provision. After a non-evidentiary hearing the court purported to clarify the decree by ordering Darrell to pay Ruth \$2,000 each month for seven years, rather than an annually determined amount. Despite the decree’s provision that “no spousal support is awarded” and several indications in the decree of the parties’

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<sup>1</sup>We do not recount the facts except as necessary to our disposition.

continuing co-ownership of the business, the court classified the seven-year monthly obligation as both alimony and a buyout of Ruth's ownership interest in the business.

On appeal, Darrell argues that the district court did not clarify but rather modified the decree, and that the court lacked the jurisdiction to do so under NRCP 60(b) because Ruth moved the court for relief more than six months after the court entered the decree. We agree.

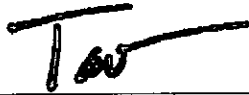
An order clarifies a decree when it "defin[es] the rights that have already been awarded to the parties." *Vaile v. Porsboll*, 128 Nev. 27, 33, 268 P.3d 1272, 1276 (2012). An order modifies a decree when it "alters the parties' substantive rights." *Id.* at 33, 268 P.3d at 1276. An order setting a payment obligation at a fixed amount when the decree provides that the parties will determine the amount of the obligation annually modifies the decree. *Id.* at 33-34, 268 P.3d at 1276.


"NRCP 60(b) governs motions to modify property rights" that divorce decrees establish. *Kramer v. Kramer*, 96 Nev. 759, 762, 616 P.2d 395, 397 (1980). "Absent specific authorization for continuing jurisdiction over property rights," NRCP 60(b) limits a motion for relief from judgment to six months after entry of a decree, after which a district court lacks jurisdiction to modify the decree. *Id.* A judgment is void "if the district court lacks subject matter jurisdiction." *Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011). Whether a court has "subject matter jurisdiction is a question of law" that we review de novo. *Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009).


Here, the decree expressly awarded no spousal support; instead, it provided that the parties would co-own the business and Darrell would pay Ruth—apparently from the business income, as Ruth claimed in her motion—in amounts to be determined each year. Because the district court's

order set a single, fixed amount and duration for that payment obligation, it modified the decree. Because Ruth moved for relief more than six months after serving notice of entry of the decree on Darrell, the court lacked jurisdiction to modify the decree under NRCP 60(b). The order is thus void for lack of jurisdiction. Accordingly, we

ORDER the district court's order REVERSED AND REMAND this matter for proceedings consistent with this order.<sup>2 3</sup>

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, A.C.J.  
Douglas

  
\_\_\_\_\_, J.  
Gibbons

<sup>2</sup>On remand, the district court may clarify the decree but may need to hold an evidentiary hearing to determine the parties' intent in certain ambiguous provisions of the mediation agreement. *See Mizrachi v. Mizrachi*, 132 Nev. 666, 678, 385 P.3d 982, 989-90 (Ct. App. 2016).

<sup>3</sup>Darrell argues, alternatively, that the district court failed to make specific findings of fact in valuating the business. His point is well taken—the district court made no findings as to value or annual earnings, which is an independently sufficient reason to reverse. *See Wilford v. Wilford*, 101 Nev. 212, 215, 699 P.2d 105, 107-08 (1985) (“The district court . . . is required to make sufficient findings of fact sufficient to indicate the basis for its ultimate conclusions.”).

Additionally, the district court lacked jurisdiction to award alimony when the decree did not—another independently sufficient reason to reverse. *See Sweeney v. Sweeney*, 42 Nev. 431, 438-39, 179 P. 638, 639 (1919).

Finally, we note that Ruth failed to cite the record in her answering brief, and we caution her counsel that further failure to comply with NRAP 28(e)(1) briefing requirements may result in sanctions. *See NRAP 28(j)* (providing that sanctions may be imposed for failure to comply with NRAP 28).

cc: Hon. Bill Henderson, District Judge, Family Division  
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Eighth District Court Clerk