IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID THOMAS SCEIRINE,
Appellant,
vs.
MELISSA ANN COOK-SCEIRINE, N/K/A MELISSA ANN COOK-SANFORD,
Respondent.

No. 78919-COA

FILED

APR 13 2020

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

ORDER DISMISSING APPEAL

David Thomas Sceirine appeals from a post-divorce decree order regarding child custody. Third Judicial District Court, Lyon County; Charles M. McGee, Senior Judge.

In the proceedings below, the parties were divorced by way of a decree of divorce entered pursuant to a marital settlement agreement and parenting plan in December 2015. Pursuant to the terms of the decree, as relevant here, the parties shared joint legal and joint physical custody of their two minor children. Based on their agreed-upon time share, the decree provided David would have the children approximately 35 percent of the time, but that their custodial arrangement would be considered joint physical custody pursuant to *Bluestein v. Bluestein*, 131 Nev. 106, 345 P.3d 1044 (2015).

In 2019, respondent Melissa Cook-Sceirine (n/k/a Cook-Sanford) moved to modify custody, asserting that the parties were not exercising the time share contemplated by the decree and that David only exercised custodial time approximately 25 percent of the year on average. Accordingly, Melissa sought a primary physical custody designation and for child support to be set pursuant to statute. David opposed and counter-

moved for primary physical custody. Without a hearing, the district court issued an order indicating that it was granting Melissa's motion and that a joint physical custody designation pursuant to *Bluestein* in this case was not appropriate, but ordered the parties to return to the 65/35 percent time share contemplated by the divorce decree. The order also directed the parties to make up a time share schedule that would allow David to have the children 35 percent of the time and encouraged them to attend a settlement conference in lieu of a contested hearing. This appeal followed.

On appeal, David challenges the district court's order to the extent it grants Melissa primary physical custody. But our review of the documents before us and the arguments on appeal reveals a jurisdictional defect. 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, 209, 678 P.2d 1152, 1153 (1984). And no statute or court rule provides for an appeal from an order regarding child custody that is not final. *See* NRAP 3A(b)(1) (allowing appeals from final judgments); NRAP 3A(b)(7) (allowing appeals from child custody orders that finally establish or modify custody); *Rennels v. Rennels*, 127 Nev. 564, 569, 257 P.3d 396, 399 (2011) ("An order is final if it disposes of the issues presented in the case . . . and leaves nothing for the future consideration of the court." (internal quotation marks omitted)).

Here, although the district court indicated it was granting Melissa's motion, the custody matter is not fully resolved. Specifically, the order fails to set forth a specific custody schedule and instead directs the parties to make up a time share schedule, such that a subsequent order memorializing the parties agreed upon schedule, or adopting a schedule if the parties are unable to agree to one, will be necessary to finally resolve

the custody issue.[1] And the order also directs the parties to participate in a settlement conference based on the "guidelines" provided in the order, but only if the parties elect a settlement conference in lieu of a contested hearing.[2] Under these circumstances, we must conclude that the order appealed from is not a final custody determination and that we lack jurisdiction to consider this appeal. *See Rennels*, 127 Nev. at 569, 257 P.3d at 399; *Taylor Constr. Co.*, 100 Nev. at 209, 678 P.2d at 1153. Accordingly, we

ORDER this appeal DISMISSED.

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

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[1]While we make no comment on the merits of this appeal, we note that in modifying the child custody designation here, the district court makes no mention of the statutory best interest factors. *See Bluestein*, 131 Nev. at 113, 345 P.3d at 1049 (concluding that the district court's failure to make specific findings that modifying a custodial agreement is in the child's best interest is an abuse of discretion).

[2]It is not clear, from the order, whether this settlement conference or hearing would only be with regard to the child support issue, which was not resolved by the challenged order, or also involve custody issues in the event the parties are unable to agree to a custody schedule in line with the district court's directive.

cc: Chief Judge, Third Judicial District Court
Hon. Charles M. McGee, Senior Judge
Wayne A. Pederson, P.C.
Surratt Law Practice, PC/Reno
Third District Court Clerk