

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

CYNTHIA T. BALLE,  
Appellant,  
vs.  
PETER-MARIO BALLE,  
Respondent.

No. 78857-COA

**FILED**

AUG 07 2020

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

*ORDER OF REVERSAL AND REMAND*

Cynthia T. Balle appeals from an order denying a motion to set aside a post-divorce decree order pursuant to NRCP 60(b).<sup>1</sup> Eighth Judicial District Court, Clark County; Nancy A. Becker, Senior Judge.<sup>2</sup>

In the proceedings below, the parties were divorced by way of a decree of divorce in 2010. As relevant here, in February 2018, Cynthia filed a motion for an order to show cause why respondent Peter-Mario Balle

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<sup>1</sup>The Nevada Rules of Civil Procedure were amended effective March 1, 2019. See *In re Creating a Comm. to Update & Revise the Nev. Rules of Civil Procedure*, ADKT 0522 (Order Amending the Rules of Civil Procedure, the Rules of Appellate Procedure, and the Nevada Electronic Filing and Conversion Rules, December 31, 2018). Accordingly, we cite the prior version of the rules herein.

<sup>2</sup>Our review of the record indicates that while the Honorable Nancy A. Becker, Senior Judge, signed the order on appeal, the Honorable Kathy Hardcastle, Senior Judge, presided over the hearing and issued the oral ruling resulting in that order.

should not be held in contempt for failure to pay spousal support and child support. The matter was continued a number of times, and the district court ultimately set the matter for an evidentiary hearing to take place in July 2019. In November 2018, Peter-Mario filed a motion to enforce the divorce decree and terminate his spousal support, asserting that he fulfilled his obligations pursuant to the decree, which Cynthia did not oppose. The district court entered a written order on December 17, 2018, granting Peter-Mario's motion as unopposed and vacating the evidentiary hearing set for July 2019 on Cynthia's motion for an order to show cause.

On January 16, 2019, Cynthia filed a motion to set aside the December 2018 order, asserting that she was never served with Peter-Mario's motion to enforce the decree and that is why she did not file an opposition. Additionally, Cynthia asserted that Peter-Mario's motion misrepresented the facts and, although the motion referenced exhibits allegedly supporting Peter-Mario's claims about payment, there were no exhibits filed. Peter-Mario opposed the motion, asserting that Cynthia had been served and that he could demonstrate he paid his spousal support obligation in full. Peter-Mario attached a certificate of service as an exhibit to his opposition along with copies of numerous financial records. After a hearing, the district court entered an order denying Cynthia's motion to set aside. This appeal followed.

The district court has broad discretion in deciding whether to grant or deny an NRCP 60(b) motion to set aside a judgment, and this court will not disturb that decision absent an abuse of discretion. *Cook v. Cook*, 112 Nev. 179, 181-82, 912 P.2d 264, 265 (1996). Here, Cynthia argues, amongst other things, that she was never served with Peter-Mario's underlying motion, which gave rise to the December 2018 order, and that there was no evidence to support Peter-Mario's motion. Although the parties submitted conflicting versions of the facts regarding these arguments, the district court did not take evidence at the hearing or make any findings regarding Cynthia's NRCP 60(b) arguments. Indeed, the district court's order denying Cynthia's motion to set aside the December 2018 order only states that the motion is denied and does not address Cynthia's NRCP 60(b) arguments at all.


The failure of the district court to make specific findings of fact and conclusions of law as to Cynthia's arguments prevents this court from conducting meaningful appellate review. *See Jitnan v. Oliver*, 127 Nev. 424, 433, 254 P.3d 623, 629 (2011) ("Without an explanation of the reasons or bases for a district court's decision, meaningful appellate review, even a deferential one, is hampered because we are left to mere speculation."); *see also Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) (concluding that "an appellate court is not an appropriate forum in which to resolve disputed questions of fact"). As a

result, we conclude that the district court abused its discretion by denying the motion to set aside the December 2018 order without making factual findings and without addressing the specific grounds raised in Cynthia's motion.

Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.<sup>3</sup>

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

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

  
\_\_\_\_\_, J.  
Bulla

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<sup>3</sup>Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Chief Judge, Eighth Judicial District Court  
Hon. Bryce Duckworth, Presiding Judge, Family Court Division  
Hon. Nancy A. Becker, Senior Judge  
Department G, Eighth Judicial District Court, Family Court Division  
Cynthia T. Balle  
The Firm, P.C.  
Eighth District Court Clerk