


IN THE COURT OF APPEALS OF THE STATE OF NEVADA

SHANDELL STANISIC,  
Appellant,  
vs.  
THOMAS SHEA; STATE OF NEVADA,  
DIVISION OF WELFARE AND  
SUPPORTIVE SERVICES,  
Respondent.

No. 84590-COA

FILED

APR 11 2024

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY:   
DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

Shandell Stanisic appeals from a district court order adopting a hearing master's report and recommendations in a child support matter.<sup>1</sup> Second Judicial District Court, Family Division, Washoe County; Aimee Banales, Judge.

Shandell and respondent Thomas Shea have one child together, who was born in 2005. In 2006, Shandell—who was receiving public assistance from the Division of Welfare and Supportive Services (DWSS)—initiated paternity and support proceedings with the assistance of the Washoe County District Attorney's office and the district court entered a judgment and order finding Thomas to be the father of the child and setting his child support obligation at \$100 a month. Thomas, who was incarcerated at the time, did not seek to modify his child support obligation at any point during these proceedings. In 2008, the Washoe County District

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<sup>1</sup>We direct the clerk of the court to modify the caption for this matter to conform to the caption on this order.

Attorney transferred the case over to DWSS and the Attorney General's office became responsible for this matter.

Shandell moved to Arizona in 2009 and purportedly lost contact with DWSS, although she maintains that she notified DWSS of her new address. Shandell remained at this Arizona address for eleven years and claims that she did not receive any child support payments or any other form of contact from DWSS during that time.

In 2021, following Thomas' release from incarceration, Shandell contacted DWSS to enforce the 2006 child support judgment, adjudicate arrears, and modify Thomas' child support obligation as his income had changed. DWSS thereafter filed a "Notice of Telephonic Hearing and Motion to Modify." This notice listed DWSS and Shandell as the obligees in the support case, and informed both Thomas and Shandell that the issue of child support arrears and modification of the 2006 order would be heard before a hearing master. Although the notice claimed to set a hearing on a "motion to modify/review and adjustment and/or modification of child support order," the record does not indicate that DWSS or any other party filed such a motion. Despite this procedural irregularity, the hearing master scheduled a hearing on the issues of child support modification and arrears and seemingly heard the request for modification of child support based on the notice, without any underlying motion. DWSS attached three exhibits to this notice, a child support audit reflecting DWSS' records from 2006-2021, a genetic testing fees audit, and Thomas' current financial statement.<sup>2</sup>

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<sup>2</sup>Shandell maintains that she did not receive these exhibits until the morning of the hearing, and later learned that a physical copy of the same

The child support audit showed—consistent with the 2006 order—that Thomas had a \$100 monthly child support obligation beginning in August 2006. It further reflected all payments Thomas had made to the state of Nevada since that time. However, the entries for May 2009 (around the time Shandell moved to Arizona) through August 2021 (when Shandell contacted DWSS) did not indicate that Thomas owed any obligation for child support during that period—listing his monthly amount owed as \$0 instead of the \$100 set by the 2006 support order.

At the hearing, the hearing master heard argument from DWSS regarding the amount of arrears owed by Thomas and its request for child support modification, and ultimately adopted DWSS' positions and entered a report and recommendation finding that Thomas owed a total of \$5,809.97 in child support arrears from 2006 to 2021 and setting his current support obligation at \$516 a month. During the hearing, Shandell questioned where Thomas' previous child support payments had gone, but the hearing master informed her that she would need to discuss that information with her case worker.

Following the entry of the master's report and recommendation, Shandell objected, arguing that the hearing master's decision was not based on substantial evidence, primarily because DWSS' records were inaccurate as they did not show and/or calculate Thomas' arrears from May 2009 to August 2021, which would amount to approximately \$14,700 in arrearages without interest or penalties. In its three-page response to this objection DWSS argued—without any citation to authority or supporting exhibits—that the report and recommendation was accurate as to arrears as the child

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had been mailed to her former address in Arizona, which she notes that DWSS had claimed it did not have.

support case became recovery only once DWSS lost contact with Shandell, and further represented that:

it is the Division's understanding that during at least some portion of the time period Ms. Stanisic requests arrears for, possibly one or both of the parties were incarcerated. During those time periods, arrears would either not accrue or be owed to a custodian other than Ms. Stanisic. However, facts and circumstances are unknown because Ms. Stanisic failed to maintain contact with the Division. Any claim for past due child support has been waived by the lack of contact on Ms. Stanisic's part under the doctrine of Laches.

After reviewing Shandell's reply, and without holding a hearing on the matter, the district court entered an order affirming the hearing master's report and recommendation, finding that the recommendation was consistent with the DWSS audit records entered into evidence at the hearing, and concluding that the hearing master's findings were supported by substantial evidence. Shandell now appeals.<sup>3</sup>

This court reviews district court child support orders for an abuse of discretion. *Edgington v. Edgington*, 119 Nev. 577, 588, 80 P.3d 1282, 1290 (2003). A district court abuses its discretion when its findings are not supported by substantial evidence, *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018), which is evidence that a reasonable person may accept as adequate to sustain a judgment, *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007). Although we deferentially review the

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<sup>3</sup>On appeal, Shandell challenges only the district court's determination of child support arrearages. Because she does not challenge the modification of child support and Thomas has not appealed that determination, the child support modification is not before us in this matter, and thus we do not address it.

district court's discretionary determinations, "deference is not owed to legal error, or to findings so conclusory they may mask legal error." *Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (internal citations omitted).

On appeal, Shandell argues, among other things, that she was not apprised of the amount of arrearages DWSS was seeking and why it sought only limited arrearages prior to the initial hearing before the hearing master. She further asserts that these events, coupled with the handling of her objection to the master's report and recommendation without a hearing, meant she was unable to voice her concerns or address the problems with the child support audit.

As an enforcement agency, DWSS has a responsibility to take appropriate action to carry out the child support Program established by Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq., and any regulations adopted pursuant thereto. *See* NRS 425.370(1) ("Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child."); NRS 425.365(2) (directing the administrator of DWSS to adopt "such regulations and take such actions as are necessary to carry out the provisions of this chapter"); *see also* Nev. Dep't of Health and Human Servs., Div. of Welfare and Supportive Serv., Child Support Enforcement Manual (DWSS Child Support Manual), ch. V § 502(B) (February 3, 2020) ("All IV-D services are available to any individual who files an application with the enforcing authority.").

While carrying out its duties under the Program, DWSS may take any steps necessary to enforce a district court's child support order and to recover public assistance paid on behalf of a child. *See* NRS 425.370(1)

“Whenever the Division provides public assistance on behalf of a child, the Division and the prosecuting attorney shall take appropriate action to carry out the Program with regard to that child.”); NRS 425.3828(4) (stating that the Chief of DWSS’ child support program “may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation”).

Under Nevada law, by accepting public assistance from DWSS, Shandell was deemed to have made an assignment of all rights to support to DWSS, including but not limited to “accrued but unpaid payments for support and payments for support to accrue during the period for which assistance is provided.” NRS 425.350(3). However, the amount of the assignment to DWSS and any recovery of funds “must not exceed the amount of public assistance provided or to be provided.” NRS 425.350(3); *see also* NRS 425.360(2) (“If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent.”). Here, a 2005 notice and finding of financial responsibility indicated DWSS was (at that time) providing public assistance for the parties’ child, such that DWSS may have a claim for unreimbursed assistance under NRS 425.360(2)—presuming that it has not already recovered the funds owed to it under NRS Chapter 425.

In the underlying matter, DWSS filed and served a notice of hearing indicating that it sought modification of the child support order and adjudication of arrears. While DWSS filed exhibits with this notice, which included its child support audit reflecting arrears in the amount of

\$5,809.97 and Thomas' current financial statement, the record demonstrates that no motion seeking the requested relief was filed in the underlying case, and nothing in the notice of supporting exhibits provided any explanation as to the basis for DWSS' arrears calculation or why DWSS had seemingly concluded that arrears did not accrue during certain periods. Despite these issues, this matter moved forward to a hearing before the hearing master, who resolved the arrearages issue, recommending that the \$5,809.97 in arrearages reflected on DWSS' support audit be reduced to judgment. But the report and recommendation, like DWSS's filings, does not specify the basis for the arrears figure, stating only that Thomas is responsible for arrears for the period of January 1, 2006, to December 31, 2021, and that a "judgment is entered against [Thomas] for child support arrears as follows . . . [adding up to] a total judgment of \$5,809.97." The report and recommendation provides no explanation as to whether these arrearages are funds being recovered by DWSS for public assistance paid in support of the child or whether they are support payments due and owing to Shandell. Indeed, the report does not even indicate in whose favor the \$5,809.97 judgment was entered. And while Shandell objected to the report and recommendation, the district court adopted that decision in an order that summarily affirmed the report and recommendation and does not mention or consider which portion of these arrears, if any, should be apportioned to DWSS, and which portion should be provided to Shandell.

Beyond these irregularities in the handling of this matter during the underlying proceeding, in responding to Shandell's objection to the report and recommendation—despite the statutory limitation on any assignments of rights to DWSS—DWSS nonetheless confusingly presented arguments addressing the totality of Shandell's claimed arrears, without

regard to any payment of public assistance. In particular, DWSS asserted—without citation to authority—that Shandell was barred from recovering support for the period encompassing May 2009 to August 2021 based upon the doctrine of laches and Shandell’s failure to maintain contact with DWSS. It further asserted—again without citation to authority—that, because one or both of the parties were incarcerated, child support arrears would not accrue for that time period.

But as Shandell points out, without an intervening court order or request to modify the 2006 child support obligation, Thomas’ \$100 child support obligation would have continued to accrue for the benefit of the child from May 2009 to August 2021. *See* NRS 125B.140(1)(a) (“If an order issued by a court provides for payment for the support of a child, that order is a judgment by operation of law on or after the date a payment is due. Such a judgment may not be retroactively modified or adjusted.”), NRS 125B.050(3) (“If a court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to [c]ollect arrearages . . . or [s]eek reimbursement of money paid as public assistance for that child.”); *see also* DWSS Child Support Manual, ch. II § 214(C) (April 4, 2023) (“Case closure does not affect the support order or arrearages. Although the IV-D agency . . . closes a case, the support order remains in effect and arrearages continue to accrue for the life of the order. When an IV-D agency closes a case, it means IV-D program services are not provided.”). And there is nothing in the record before us indicating that the 2006 support order was ever modified prior to the entry of the order at issue in this appeal. Thus, regardless of whether Shandell’s child support case with DWSS had closed from May 2009 to August 2021, arrears would have continued to accrue at the rate established in the 2006 order.



Nevertheless, DWSS' failure to file a proper motion or otherwise explain the nature and basis of its arrearages determinations in the course of the underlying proceedings, coupled with the limited discussion and analysis in the report and recommendation and the order adopting the same, inhibits our ability to adequately review this appeal.<sup>4</sup> *See Davis*, 131 Nev. at 450, 352 P.3d at 1142 (stating that deference is not owed to legal error or findings so cursory that they may mask error). Among other things, it is unclear whether the audit report DWSS provided encompassed only the payments DWSS planned to enforce on Shandell's behalf, whether the audit purported to reflect DWSS' calculation of the entirety of Thomas' accrued arrears, or whether its request (and the associated audit) was only for those arrearages necessary to recover the funds paid as public assistance. In light of the above, and given the limited record before us, we cannot properly assess the nature and basis of the requested arrearages or determine whether the request and award comported with Nevada law, much less determine whether the award of arrears was supported by substantial evidence. *Id.*

Accordingly, for the reasons set forth above, we reverse the district court's child support arrearages determination and remand this matter for further proceedings. On remand, the district court shall, among other things, address the nature and amount of DWSS' requested arrearages, as well as Shandell's entitlement to any arrears beyond those

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<sup>4</sup>Similarly, the lack of an underlying motion in this matter was prejudicial to Shandell, as she did not receive proper notice of the issues DWSS sought to adjudicate before the hearing master, making it impossible to know whether she needed to file an opposition or objection to DWSS' request for arrearages, much less formulate a proper response to DWSS' request, prior to that proceeding.

set forth in DWSS' audit report in light of the guidelines and requirements outlined above.<sup>5</sup>

It is so ORDERED.<sup>6</sup>

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

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

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Aimee Banales, District Judge, Family Division  
Shandell Stanisic  
Thomas Shea  
Attorney General/Carson City  
Washoe District Court Clerk

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<sup>5</sup>While we reverse this matter and remand for further proceedings in light of the issues discussed above, we take no position regarding the merits of the underlying arrearages dispute.

<sup>6</sup>Although this court generally will not grant a pro se appellant relief without first providing the respondent an opportunity to file an answering brief, *see* NRAP 46A(c), based on the record before us the filing of an answering brief would not aid this court's resolution of this case, and thus, no such brief has been ordered. Moreover, insofar as appellant raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.