

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAIME D. SERPA,
Appellant,
vs.
THE STATE OF NEVADA WELFARE
DIVISION AND WANDA SERPA,
Respondents.

No. 42281

FILED

DEC 20 2005

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order adopting a master's findings and recommendation concerning child support and retroactive support. Eighth Judicial District Court, Family Court Division, Clark County; Robert E. Gaston, Judge.

Our review of the record and briefs reveals a jurisdictional defect. Specifically, the district court's October 6, 2003 order adopting the master's findings and recommendation regarding child support and retroactive support is not substantively appealable.¹ An order that does not affect any rights of the parties, growing out of the final judgment, is not appealable as a special order made after final judgment.² This court has made an exception for appeals from orders denying motions to amend divorce decrees "where the motion is based upon changed factual or legal circumstances and the moving party is not attacking the original

¹See NRAP 3A(b)(2); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

²See Gumm v. Mainor, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002).

judgment."³ Such an order is appealable as a "special order made after final judgment."⁴

Here, the record shows that, in November 2002, an order establishing appellant's paternity and child support obligation for his four minor children was entered while appellant was incarcerated. Under the order, appellant was required to pay the statutory minimum support of \$100 per month per child,⁵ and it was determined that appellant was responsible for retroactive support in the amount of approximately \$13,600, to be paid at \$25 per month.⁶ Notice of entry of the November order was served by mail on December 4, 2002, and appellant did not appeal from the order.

In September 2003, proceeding in proper person, appellant moved the district court for an "exemption of child support" due to his incarceration and indigency status. The matter was heard before a domestic master, after which the master recommended denying the motion. Appellant did not file an objection to the master's recommendation, and on October 6, 2003, the district court adopted the master's findings and recommendation. This timely proper person appeal followed.

³Burton v. Burton, 99 Nev. 698, 700, 669 P.2d 703, 705 (1983).

⁴Id.; see NRAP 3A(b)(2).

⁵NRS 125B.080(4).

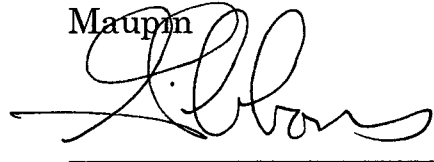
⁶See NRS 125B.030 (providing that when no child support order has been entered and the parents are separated, the parent with physical custody of the child may recover from the other parent a reasonable portion of the cost of care and support for a period not longer than four years before the action for support was commenced).

Appellant chose not to appeal from the November 2002 district court order establishing his child support obligation. We conclude that the September 2003 order denying appellant's motion to modify his child support obligation does not qualify as a special order after final judgment, because it does not alter or affect the substantive rights and obligations of the parties growing out of the November 2002 order. In Burton, this court created an exception to the "special order" doctrine in order to review district court rulings based on alleged changed circumstances. Appellant's September 2003 motion was not based on any changed factual or legal circumstances. Thus, this is not an appealable order under Burton. Accordingly, as we lack jurisdiction, we

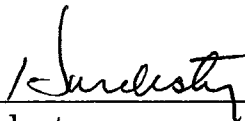
ORDER this appeal DISMISSED.


_____ J.

Maupin


_____ J.

Gibbons


_____ J.
Hardesty

cc: Eighth Judicial District Court Dept. F, District Judge,
Family Court Division
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger/
Family Support Division
Jaime D. Serpa
Clark County Clerk