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ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2021-2022

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Jessa Roginski, on behalf of Jaya Jackson, a minor

v.

Estate of Tarvaris Jackson

**Appeal from Montgomery Circuit Court
(CV-20-900791)**

EDWARDS, Judge.

In February 2017, the District Court of Hennepin County, Minnesota ("the Minnesota court"), entered a stipulated judgment ("the Minnesota

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judgment") determining that Tarvaris Jackson ("the father") was the father of Jaya Jackson ("the child") and setting his basic child-support obligation at \$866 per month. In addition, the Minnesota judgment required the father to pay to Jessa Roginski ("the mother") \$52 per month "as his contribution to health care insurance coverage [and dental insurance coverage] for the child's benefit" and \$1,082 per month "as his contribution to [the mother's] work-related child care costs." The Minnesota judgment also contained the following provision, consistent with Minnesota law, which provides that a child-support obligation is not terminated upon the death of the obligor parent, see Minn. Stat. § 518A.39, subd. 4:

"Claims Against the Estate. Should there be any delinquent child support or any such payments due in the future, at the death of [the father], which obligations are not satisfied by life insurance, life insurance trust, will, or any other security devise [sic], [the mother] shall have a claim against the estate of [the father] for any monies due her under the Judgment and Decree."

The father, who resided in Montgomery County, Alabama, died in April 2020. On June 17, 2020, the mother filed in the Montgomery Circuit Court ("the trial court") a "Notice of Filing Foreign Judgment," which was

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accompanied by an affidavit from her attorney and a copy of the Minnesota judgment. In the notice, the mother stated that the Minnesota judgment awarded child-support payments "in the amount of \$367,488"; her attorney's affidavit indicated that the Minnesota judgment had established the father's child-support obligation in the monthly amount of \$2,112.¹ On June 19, 2020, the Montgomery County Circuit Clerk issued a "Certificate of Judgment," which certified that the mother had "recovered of [the father] a judgment ... for the sum of \$367,488."

On July 14, 2020, the father's estate ("the estate") filed in the trial court a "Motion to Dismiss or, in the Alternative, Motion to Strike Filings and Stay Enforcement" ("the motion to dismiss"). In that motion, which

¹The attorney apparently relied on that portion of the Minnesota judgment setting out the father's child-support obligation before the agreed application of a downward deviation of the total child-support obligation to \$2,000 ($\$866 + \$52 + \$1,082 = \$2,000$). We note that the \$367,488 figure appears to have been calculated based on the \$2,112 monthly obligation (before the deviation) multiplied by 174 months, which represents the number of months between the father's last payment in February 2020 and the child's 18th birthday in August 2034. However, the Minnesota judgment specifically terminates the award of child-care expenses when the child reaches 12 years of age, not 18, making the attorney's calculation of the total amount of child support due under the Minnesota judgment incorrect for that reason as well.

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expressly relied, in part, on Rule 12(b)(1), Ala. R. Civ. P., the estate argued that the trial court lacked subject-matter jurisdiction because the mother had not provided proof that either she or the child had secured a judgment against the father or the estate for \$367,488. See Sloop v. Sloop, 615 So. 2d 635 (Ala. Civ. App. 1992) (holding that an attempt to register a foreign settlement agreement that had not been reduced to a judgment did not invoke the circuit court's subject-matter jurisdiction under Ala. Code 1975, § 30-3D-602). The estate also argued that, in attempting to register the Minnesota judgment, the mother had failed to comply with either Ala. Code 1975, § 6-9-232, or Ala. Code 1975, § 30-3D-602, because the mother had not filed an "authenticated" copy of the Minnesota judgment, because the copy of the Minnesota judgment filed by the mother had been certified three years before its filing, and because the notice and the affidavit accompanying the notice contained incorrect statements regarding the amount of the child-support payments. The estate further argued that, even if the Minnesota judgment had been properly registered, the trial court should apply Alabama law in determining how to enforce that judgment, see Uniform Comment, Ala.

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Code 1975, 30-3D-602(c), and that, under Alabama law, the father's child-support obligation would have terminated upon the death of the father. Finally, the estate argued that, even if the father's child-support obligation survived his death, that obligation would be satisfied from money from other sources; in support of that argument, the estate alleged that the child was entitled to receive approximately \$900 per month in Social Security death benefits, the approximate sum of \$2,583.33 as her share of Alabama's statutory family allowance, and 1/10 of the value of the estate as her inheritance, the amount of which was not known.

The mother responded to the motion to dismiss by pointing out that, under Minnesota law, the father's child-support obligation was not extinguished by his death and that Ala. Code 1975, § 30-3D-604(a)(1), provides that determinations regarding "the nature, extent, amount, and duration of current payments under a registered support order" are governed by the law of the state that issued the judgment being registered. Regarding any payments the child might receive from the estate or in Social Security death benefits, the mother contended that, although such amounts could possibly be credited against the amount of

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child support to which the child was entitled, those amounts would not terminate the father's child-support obligation. The mother also provided a more recently certified copy of the Minnesota judgment.

The trial court held a hearing on October 27, 2020, at which the parties presented arguments. In November 2020, the estate filed a "Motion to Stay Enforcement," in which it requested that the trial court consider the motion to dismiss to be a Rule 60(b), Ala. R. Civ. P., motion. On November 30, 2020, the trial court entered a judgment striking the mother's filings and dismissing, without prejudice, what it described as the mother's "enforcement action." The November 2020 judgment also indicated that the child's receipt of \$924 per month in Social Security death benefits and her expected receipt of an inheritance from the estate "offset" the father's child-support obligation established in the Minnesota judgment. In its final paragraph, the November 2020 judgment states: "Further enforcement of the terms of the [Minnesota judgment] is not ripe until the value of the child's additional interest [in the estate], if any, is ascertainable. At the appropriate time, the child may refile a request to domesticate the [Minnesota judgment]."

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After her postjudgment motion directed to the November 2020 judgment was denied, the mother filed, on February 10, 2021, a notice of appeal to the Alabama Supreme Court. In November 2021, that court issued an opinion transferring the appeal to this court because, it concluded, it lacked appellate jurisdiction. See Roginski v. Estate of Jackson, [Ms. 1200305, Nov. 12, 2021] ___ So. 3d ___ (Ala. 2021).

On appeal, the mother argues that the trial court erred by dismissing her notice and by setting aside the registration of the Minnesota judgment. She first contends that the trial court did not have authority to entertain the estate's motions because, she says, (1) the motion to dismiss was untimely, (2) the motion to dismiss and motion to stay enforcement were, in essence, Rule 59(e), Ala. R. Civ. P., motions that were denied by operation of law, and that (3) neither the motion to dismiss nor the motion to stay enforcement could be construed as a Rule 60(b) motion because the estate had not pleaded or established a ground for relief under Rule 60(b). She next contends that she properly registered the Minnesota judgment by, at least, substantially complying with § 30-3D-602(a). Finally, the mother contends that the trial court erred by

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failing to apply Minnesota law to determine the duration and amount of the father's child-support obligation and by determining that the child was not entitled to the lump-sum amount of \$367,488 based on her alleged receipt of Social Security death benefits and her expected entitlement to an inheritance from the estate.

The estate initially asserts that the appeal should be dismissed because the trial court's November 2020 judgment expressly states that it is a dismissal of the mother's attempted registration of the Minnesota judgment, without prejudice. Typically, a dismissal without prejudice is considered to be a nonfinal order incapable of supporting an appeal. Palughi v. Dow, 659 So. 2d 112, 113 (Ala. 1995). However, when a trial court has entertained arguments relating to its subject-matter jurisdiction that ultimately result in a dismissal on the basis of a lack of subject-matter jurisdiction, the judgment making that determination is considered sufficiently final to support an appeal because it has " 'conclusively determine[d] the issues before the court,' " i.e., the issue of the court's subject-matter jurisdiction. Hutchinson v. Miller, 962 So. 2d 884, 887 (Ala. Civ. App. 2007) (quoting Palughi, 659 So. 2d at 113). The

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trial court's judgment in the present case initially indicates that it accepted the estate's argument that the trial court lacked subject-matter jurisdiction over the mother's attempt to register the Minnesota judgment based on the fact that the mother had not produced a judgment entered by the Minnesota court awarding the mother or the child \$367,488 from either the father or the estate, specifically relying on Sloop, 615 So. 2d at 635, which held that a circuit court does not acquire subject-matter jurisdiction to modify a foreign judgment unless the document registered is in fact a judgment. Thus, to the extent that the trial court determined that it lacked subject-matter jurisdiction over the mother's attempt to register the Minnesota judgment, the November 2020 judgment is capable of supporting the appeal, and the mother's appeal is properly before us.

We reject the mother's argument that the trial court lacked the authority to consider the estate's motion to dismiss and its motion to stay enforcement because of their alleged untimeliness or the expiration of the 90-day period for ruling on a postjudgment motion filed pursuant to Rule 59(e), Ala. R. Civ. P. See Rule 59.1, Ala. R. Civ. P. (providing that a postjudgment motion is denied by operation of law 90 days after the date

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of its filing). The estate's motion to dismiss was, in fact, a timely filed motion seeking to contest the validity of the registered judgment, pursuant to Ala. Code 1975, § 30-3D-606(a). Pursuant to § 30-3D-606(c), a trial court should schedule a contest to the validity of a registered judgment for a hearing. No language in § 30-3D-606 indicates that a motion filed pursuant to that statute is to be treated as a postjudgment motion or that such a motion may be denied by operation of law. Thus, the trial court had jurisdiction to consider the estate's motion to dismiss and its subsequently filed motion to stay enforcement.

As the estate contends, the mother did not submit for registration a foreign judgment that had been entered against either the father or the estate awarding her or the child \$367,488. The Minnesota judgment contains provisions setting the father's child-support obligation at \$2,000 per month. Although that judgment contains a provision indicating that unpaid installments, past or future, constitute a claim against the estate, that provision specifies that the father's obligation may be "satisfied by

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life insurance, life insurance trust, will, or any other security devise [sic]."² Furthermore, although Minnesota law provides that the death of an obligor parent does not terminate that parent's child-support obligation, Minn. Stat. § 518A.39, subd. 4, that statute does not appear to automatically accelerate future child-support payments to a lump-sum award against the obligor parent's estate. Instead, the statute provides that, "[w]hen a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances." The mother also failed to present argument or legal authority indicating that the Minnesota judgment automatically accelerated the father's child-support payments upon his death. Because no foreign judgment for \$367,488 exists, the mother's attempt to register the Minnesota judgment as a

²Although the mother protests the trial court's consideration of the Social Security death benefits the child was alleged to be receiving, in part because the estate provided no actual proof that the child was receiving those benefits, we note that Minnesota law provides that Social Security death benefits "should be credited against any duty imposed on the obligor's estate." Berg v. D.D.M., 603 N.W.2d 361, 366 (Minn. Ct. App. 1999).

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judgment entitling her, on behalf of the child, to recover from the estate \$367,488 did not accomplish, and could not have accomplished, the registration of a nonexistent \$367,488 judgment against the father or the estate. The certificate of judgment entered by the trial-court clerk was therefore properly set aside.

However, the mother is correct in stating that she substantially complied with the requirements of § 30-3D-602(a) when she filed her notice of registration of a foreign judgment. She filed a notice of filing the foreign judgment, together with an affidavit setting out the information required by the statute, albeit somewhat incorrectly. Her filing included a certified copy of the Minnesota judgment, albeit one certified in 2017; she later filed a more recently certified copy of the judgment. Thus, the mother's attempt to register the Minnesota judgment was at least substantially in compliance with § 30-3D-602(a). Her attempt to register the Minnesota judgment could have effectively accomplished the registration of that judgment, and the trial court erred in concluding that the mother could not properly register the Minnesota judgment at the

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current time without first securing a determination of the child's inheritance from the estate.

We therefore conclude that, although the trial court correctly concluded that the mother could not register a judgment for \$367,488 and properly set aside the certificate of judgment for that amount entered by the trial-court clerk, the trial court erred in determining that it lacked subject-matter jurisdiction over the mother's attempt to register the Minnesota judgment in its current form. The November 2020 judgment denying the mother the right to register the Minnesota judgment is therefore reversed; on remand, the trial court should permit the mother to register the Minnesota judgment. However, the mother may register only the current Minnesota judgment, not a judgment for \$367,488, which does not exist.

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED WITH INSTRUCTIONS.

Thompson, P.J., and Moore, Hanson, and Fridy, JJ., concur.