IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

DANIEL J. KRAUSE, *Petitioner/Appellee*,

v.

GENEVIEVE G. FLORES, *Respondent/Appellant*.

No. 1 CA-CV 16-0332 FC
FILED 6-8-2017

Appeal from the Superior Court in Maricopa County
No. FC2013-000326
The Honorable Steven K. Holding, Judge *Pro Tempore*

VACATED AND REMANDED

COUNSEL

Daniel J. Krause, Phoenix
Petitioner/Appellee

Franks & McVey, P.C., Phoenix
By Michael R. McVey
Counsel for Respondent/Appellant

MEMORANDUM DECISION

Judge Kenton D. Jones delivered the decision of the Court, in which Presiding Judge Margaret H. Downie and Judge Donn Kessler joined.

J O N E S, Judge:

¶1 Genevieve Flores (Mother) appeals from the family court's orders denying her post-judgment petition to enforce and motion for new trial. For the following reasons, we vacate and remand for proceedings consistent with this decision.

FACTS AND PROCEDURAL HISTORY

¶2 This appeal arises from a paternity judgment entered on December 4, 2013, establishing that Daniel Krause (Father) is the natural father of Mother's child, born on February 10, 2013. As relevant here, the family court ordered that: (1) Mother submit evidence of her unreimbursed medical expenses, including obstetric care, within 30 days; and (2) Father pay 60% of such expenses within 45 days thereafter.

¶3 In April 2015, Mother filed a petition to enforce the judgment, requesting that Father reimburse approximately $3,600 as his share of her unreimbursed medical expenses. After an evidentiary hearing, the family court denied Mother's petition and subsequent motion for new trial, concluding Mother's petition to enforce was untimely under the court's December 2013 paternity judgment.[1] Mother timely appealed. We have jurisdiction pursuant to Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1),[2] -2101(A)(2), and (A)(5)(a). *See In re Marriage of Dorman*, 198 Ariz. 298, 300-01, ¶¶ 3-4 (App. 2000).

DISCUSSION

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[1] The family court ordered Father reimburse $58.10 to Mother, which represented a 60% share of three medical bills Mother timely submitted relative to the court's paternity judgment.

[2] Absent material changes from the relevant date, we cite a statute's current version.

¶4 We view the evidence in the light most favorable to sustaining the family court's ruling, and we defer to its factual findings when there is competent evidence to support them. *See Vincent v. Nelson*, 238 Ariz. 150, 155, ¶¶ 17-18 (App. 2015) (citing *Hurd v. Hurd*, 223 Ariz. 48, 52, ¶¶ 16, 19 (App. 2009), and *Goats v. A.J. Bayless Mkts., Inc.*, 14 Ariz. App. 166, 169 (App. 1971)). We review questions of law *de novo* however, including the interpretation of an existing decree or court order. *See Cohen v. Frey*, 215 Ariz. 62, 66, ¶ 10 (App. 2007) (citing *Danielson v. Evans*, 201 Ariz. 401, 406, ¶ 13 (App. 2001)).

¶5 Initially, Mother argues there is no evidence she failed to submit her unreimbursed medical expenses within thirty days of the paternity judgment.[3] We agree. Although the paternity judgment was issued on November 20, 2013, it was not filed until December 4, 2013. Mother testified she sent Father copies of the medical bills identified in "Attachment A" on January 1, 2014, within thirty days from entry of the paternity judgment.[4] Although Father contended that Mother failed to provide him with Attachment A prior to the hearing on the petition to enforce, he did not challenge Mother's testimony or suggest he did not receive the bills on January 1, 2014. Moreover, Father conceded that Mother had given him the relevant medical bills in November 2013, before the paternity trial.

¶6 To the extent the family court interpreted the paternity judgment to require Mother to file a petition to enforce within thirty days, the court erred. "The meaning of a decree is to be determined from the language used." *Cohen*, 215 Ariz. at 66, ¶ 11 (citing *Stine v. Stine*, 179 Ariz. 385, 388 (App. 1994)). The relevant provision states "that for all past medical, dental, and/or vision costs care, Mother shall submit written proof of any debt for such care within 30 days of this order." The language of the judgment does not require Mother to submit a petition to enforce within thirty days, but only that she submit "written proof." Furthermore, such a reading of the paternity judgment could not be reconciled with the court's inherent and continuing power to ensure its orders are followed. *See*

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[3] Father did not file an answering brief. Although we may regard this as a confession of error, we exercise our discretion to address the merits of the appeal. *See Thompson v. Thompson*, 217 Ariz. 524, 526 n.1, ¶ 6 (App. 2008) (citing ARCAP 15(c), and *Nydam v. Crawford*, 181 Ariz. 101, 101 (App. 1994)).

[4] Attachment A contained a summary table detailing Mother's predominantly obstetric expenses and copies of invoices for services rendered.

Elizabeth W. v. Georgini, 230 Ariz. 527, 529, ¶ 8 (App. 2012); *see also* Ariz. R. Fam. Law P. 91(A) (authorizing a party to file a petition to enforce a prior family court order without any time constraints).

¶7 Finally, to the extent the family court denied Mother's petition to enforce on the basis that she "sat on her rights too long," the court abused its discretion. *See McLaughlin v. Bennett*, 225 Ariz. 351, 353, ¶ 5 (2010) (stating that we review a ruling on laches for abuse of discretion) (citing *Korte v. Bayless*, 199 Ariz. 173, 174, ¶ 3 (2001)). Laches — the "equitable counterpart to the statute of limitations" — operates to bar a claim if one party's unreasonable delay in filing suit results in prejudice to the other party. *Sotomayor v. Burns*, 199 Ariz. 81, 83, ¶ 6 (2000) (citing *Harris v. Purcell*, 193 Ariz. 409, 410 n.2, 412, ¶¶ 2, 16 (1998)). Father did not assert any prejudice from Mother's delay in filing a petition to enforce; again, he conceded that Mother had disclosed her medical expenses identified in Attachment A as early as November 1, 2013, before the paternity trial. Absent evidence of substantial harm or a change in position resulting from the delay, the doctrine of laches cannot bar Mother's petition. *See Rash v. Town of Mammoth*, 233 Ariz. 577, 583, ¶¶ 18-20 (App. 2013) (citing *League of Ariz. Cities & Towns v. Martin*, 219 Ariz. 556, 558-59, ¶¶ 6, 9 (2009)).

CONCLUSION

¶8 For the foregoing reasons, we vacate the family court's order denying Mother's petition to enforce and remand for proceedings consistent with this decision. Mother requests attorneys' fees on appeal pursuant to A.R.S. § 25-324, "based upon the unreasonable positions taken by Father." In our discretion, we deny her request. We award Mother her costs upon compliance with ARCAP 21(b).

AMY M. WOOD • Clerk of the Court
FILED: AA