

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 12/07/2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

In re the Marriage of:) No. 1 CA-CV 10-0081
)
) DEPARTMENT B
ANTHONY H. HICKMAN,)
) Maricopa County
Petitioner/Appellee,) Superior Court
) No. FC2009-090638
v.)
) **DECISION ORDER**
APRIL J. HICKMAN,)
)
Respondent/Appellant.)
)
)
_____)

The Court, Presiding Judge Diane M. Johnsen and Judges Michael J. Brown and John C. Gemmill participating, having reviewed the briefs and the record in this matter and having heard oral argument on November 9, 2010, has taken judicial notice of the minute entry order entered by the superior court on October 8, 2010, following proceedings in open court on October 6, 2010.

The settlement of the parties made and entered on the record before the superior court on October 6, 2010 is binding upon the parties. See Arizona Rule of Family Law Procedure 69. The October 6 settlement resolves each of the issues concerning jurisdiction of the Arizona court and custody of the children presented by the appeal in this case. To the extent the appeal

challenged the superior court's prior orders with respect to those matters, the October 6 settlement moots those issues, and the appeal as to those issues is dismissed.

The October 6 settlement did not address the superior court's order that Mother "either return half of the gun collection to [Father] or pay him \$10,000.00 within 30 days of the date the decree[.]" Because the order permits Mother to pay Father for his share of the collection, the order did not violate the order of protection. Mother also argues that because Father has been convicted of a felony, he may not possess guns. See A.R.S. §§ 13-904(A)(5) (2010), 13-3101(A)(7)(b) (2010). The order from which Mother appealed, however, does not preclude Father from transferring possession of the guns to another party.

Finally, during oral argument, Mother's counsel asserted that the October 6 settlement did not resolve Mother's appeal from the superior court's award of attorney's fees against her. We note that Mother's motion for new trial or to set aside did not address the issue of attorney's fees; nor did she raise any argument regarding attorney's fees in either of her briefs on appeal. For these reasons, we decline to address the superior court's award of attorney's fees.

We deny both parties' requests for attorney's fees on appeal. Mother's request is based on A.R.S. § 25-324 (Supp.

2009). We disagree that Father's positions on appeal have been unreasonable. Moreover, we lack current financial information from Mother. Without citing any legal authority, Father argues that he is entitled to fees on appeal because Mother's appeal is frivolous and meritless. We deny Father's request.

/s/
DIANE M. JOHNSEN, Presiding Judge