IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

VIVIAN ANN HEDRINGTON;
THE STATE OF ARIZONA, EX REL.
THE DEPARTMENT OF ECONOMIC SECURITY,
Petitioners/Appellees,

v.

KEVIN DALE BROWN,
Respondent/Appellant.

No. 2 CA-CV 2015-0168
Filed March 18, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. SP13397
The Honorable Patricia Green, Judge Pro Tempore

APPEAL DISMISSED

Kevin Dale Brown, Tucson
In Propria Persona

MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Miller concurred.

V Á S Q U E Z, Presiding Judge:

¶1 In this child-support action, Kevin Brown appeals from the trial court's minute entry denying his request for a paternity test and ordering him to pay child support arrearages. For the reasons that follow, we dismiss the appeal for lack of jurisdiction.

Factual and Procedural Background

¶2 Vivian Hedrington gave birth to R.B. in March 1997. In August 1998, Hedrington filed a request for an order of paternity, which included a notarized acknowledgment of paternity signed by Brown. That same month, the trial court granted the request and entered an order of paternity. In June 2000, the state filed a Title IV-D petition to establish Brown's obligation to pay child support, which the court granted later that year.

¶3 In November 2014, the state filed a petition to enforce the child support order, alleging Brown had not paid support for nearly fourteen years and owed $13,519.13. In March 2015, Brown failed to appear at a hearing on the matter, and the trial court entered a judgment against him for the amount alleged. However, the court also set a review hearing for June 8, 2015, to "[a]llow [Brown] to appear in court to provide proof of payments," to review his "employment status," and for the court to consider sanctions.

¶4 At the review hearing, Brown requested paternity testing, which the trial court denied. The court also set another review hearing for August 2015 and directed Brown to bring proof of his job training, Hedrington to bring proof of previous genetic testing, and the state "to request a supplemental arrears calculation" to the date of termination of child support in May 2015. Brown filed a notice of appeal from the June 2015 minute entry on July 1, 2015.

Jurisdiction

¶5 Brown did not address whether this court has jurisdiction to review the trial court's minute entry. [1] We nevertheless have an independent duty "to review [this court's] jurisdiction and, if jurisdiction is lacking, to dismiss the appeal." *Davis v. Cessna Aircraft Corp.*, 168 Ariz. 301, 304, 812 P.2d 1119, 1122 (App. 1991).

¶6 Generally, a party may only appeal from a final judgment. *Id.*; *see* A.R.S. § 12–2101(A)(1). Parties also may appeal from a special order made after a final judgment, *see In re Marriage of Dorman*, 198 Ariz. 298, ¶¶ 3-4, 9 P.3d 329, 331-32 (App. 2000), but such an order must also be final, *see Bollermann v. Nowlis*, 234 Ariz. 340, ¶ 8, 322 P.3d 157, 159 (2014). "[A] family court ruling that resolves some but not all of the issues pending before the court . . . is not final and appealable." *Natale v. Natale*, 234 Ariz. 507, ¶ 9, 323 P.3d 1158, 1160 (App. 2014). Rule 78(B), Ariz. R. Fam. Law P., however, provides an exception to this rule and permits a court to designate a partial judgment as final and thus appealable. But the exception applies "only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment." Ariz. R. Fam. Law P. 78(B); *see In re Marriage of Kassa*, 231 Ariz. 592, ¶¶ 4-6, 299 P.3d 1290, 1291-92 (App. 2013).

¶7 The trial court's June 2015 minute entry is not a final order after judgment because it did not "'dispose[] of or settle[]'" all of the issues pending before the court. *Williams v. Williams*, 228 Ariz. 160, ¶ 11, 264 P.3d 870, 874 (App. 2011), *quoting State v. Birmingham*, 96 Ariz. 109, 111, 392 P.2d 775, 776 (1964) (alterations in *Williams*); *see Natale*, 234 Ariz. 507, ¶ 9, 323 P.3d at 1160. Although the court ordered Brown to "make a minimum monthly payment toward arrears," it did not determine the total amount due and, instead, directed the state to provide a supplemental calculation of past-due child support. Similarly, the court "denied" Brown's request for paternity testing, but it also ordered Hedrington "to bring with her

[1]The state filed a notice of nonparticipation in this appeal, and Hedrington did not file an answering brief.

to the next hearing proof of . . . previous genetic testing." Lastly, the court ordered Brown to bring "proof that he has been participating in [job] training" and "if he has secured employment, the name and contact information of his employer." Thus, it appears the court did not intend to enter a final order. *See Devenir Assocs. v. City of Phoenix*, 169 Ariz. 500, 504, 821 P.2d 161, 165 (1991) (ruling not final where trial court "contemplated the parties having further motions or arguments concerning the findings and conclusions that he had made before making them final by an appealable judgment"). Nor does the minute entry include a determination of finality pursuant to Rule 78(B). *See Kassa*, 231 Ariz. 592, ¶ 6, 299 P.3d at 1292. Accordingly, the minute entry is not a final appealable order for purposes of appeal. *See Bollermann*, 234 Ariz. 340, ¶ 6, 322 P.3d at 158.

¶8 Moreover, even if the trial court's minute entry included the necessary determination under Rule 78(b), we would nevertheless lack jurisdiction to consider the issue Brown raises in his opening brief. Our review is limited to issues addressed in the judgment or order from which an appeal arises. *See In re Marriage of Thorn*, 235 Ariz. 216, ¶ 5, 330 P.3d 973, 975 (App. 2014). Thus, to challenge a judgment on appeal, a party must timely file a notice of appeal from that judgment. *See* Ariz. R. Civ. App. P. 9(a) (notice of appeal must be filed "no later than 30 days after entry of the judgment from which the appeal is taken"); *Lee v. Lee*, 133 Ariz. 118, 124, 649 P.2d 997, 1003 (App. 1982). Under certain circumstances, the time to appeal from a judgment may be extended. *See* Ariz. R. Civ. App. P. 9(e)(1) (listing time-extending motions). But generally, if the time to appeal has passed, the issues addressed in a judgment cannot be raised again in an appeal from a separate, special order entered after the underlying judgment. *See Arvizu v. Fernandez*, 183 Ariz. 224, 226-27, 902 P.2d 830, 832-33 (App. 1995) ("[T]he issues raised by the appeal from the order must be different from those that would arise from an appeal from the underlying judgment.").

¶9 Brown argues in his opening brief that he "never agreed to assume the role of father to [R.M.]," essentially disputing the validity of his acknowledgment of paternity. That acknowledgment, however, was filed in 1998, along with Hedrington's request for a

paternity order in the original proceedings. The trial court issued the paternity order in August 1998, and the time to challenge that decision on appeal commenced at that time. *See Lee*, 133 Ariz. at 124, 649 P.2d at 1003. Because Brown filed his notice of appeal from the trial court's June 2015 minute entry, we lack jurisdiction to consider the underlying issue of paternity he raises in his opening brief. *See Thorn*, 235 Ariz. 216, ¶ 5, 330 P.3d at 975; *Williams*, 228 Ariz. 160, ¶ 20, 264 P.3d at 875.

Disposition

¶10 For the foregoing reasons, we dismiss for lack of jurisdiction.