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IN THE
COURT OF APPEALS OF INDIANA

IN RE: THE MARRIAGE OF	)	
	)	
GEORGE SHEFFER,	)	
	)	
Appellant-Respondent,	)	
	)	
vs.	)	No. 45A04-0911-CV-654
	)	
GAYLE SHEFFER,	)	
n/k/a GAYLE J. CURTIS,	)	
	)	
Appellee-Petitioner.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Nanette K. Raduenz, Special Judge
Cause No. 45D03-0605-DR-496

April 14, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BROWN, Judge

George Sheffer ("Father") appeals the trial court's order in which the trial court determined that it had continuing jurisdiction, determined that Indiana law governed the modification of the foreign support order, ordered the parties to exchange discovery, and scheduled a hearing for Father's Verified Petition to Emancipate and Modify Child Support and Gayle Sheffer's ("Mother") Verified Petition for Payment of Post-Secondary Educational Expenses and for Modification of Child Support. Father raises two issues, which we revise and restate as:

I. Whether the trial court erred when it determined that Indiana law governed modification of the support order; and

II. Whether the trial court erred in ordering that Mother's petition for post-secondary educational expenses would be heard.

We dismiss Father's appeal for lack of jurisdiction.

The relevant facts follow. In 1994, the Oakland County Circuit Court in Michigan entered a judgment of divorce that dissolved the marriage of Mother and Father. The order stated that Father "shall pay [Mother] child support for the minor children until each child is 18 . . . ." Appellant's Appendix at 10. In April 2000, the Oakland County Circuit Court entered an order modifying support.

On October 4, 2005, Father filed a Petition to Register Foreign Judgment in the Lake County Circuit Court in Indiana ("the trial court") and requested that the judgment of divorce and order modifying support be registered in the trial court. In his petition, Father indicated that he resided in Illinois and Mother resided in Indiana. On October 19, 2005, Father filed a Verified Petition for Modification of Child Support in the trial court.

In February 2007, the parties filed an Agreed Order for Modification of Child Support, which was approved by the trial court. In April 2009, Father filed a Verified Petition to Emancipate and Modify Child Support in the trial court. Father argued that "the parties agreed that the child support would end on the child's 18th birthday pursuant to the Judgment of Divorce." Id. at 27. In July 2009, Mother filed a Verified Petition for Payment of Post-Secondary Educational Expenses and for Modification of Child Support.

After a hearing, the trial court ordered the parties to brief the following issues: (1) "[t]he effect, if any, of the parties' failure to include in the Agreed Order of February 22, 2007 specific language granting registration of their Michigan dissolution decree;" (2) "[w]hether the child support provisions of a registered foreign dissolution decree may be modified by an Indiana Court to provide for the payment of child support after a child attains 18 years of age, even when the parents' foreign decree specifies that child support shall terminate at age 18;" and (3) "[w]hether an Indiana Court may order a parent to pay post-secondary educational expenses for a child who is the subject of a foreign dissolution decree when such decree makes no provision for same." Id. at 32. In his brief, Father argued that "the Indiana tribunal must enforce the emancipation of the child and the termination of support of the child who has reached the age of 18 and graduated from high school, as Michigan law and the parties' agreement provides for this result." Id. at 41.

After briefing and a hearing, the trial court issued an order on October 29, 2009, in which it determined that it had continuing jurisdiction, that Indiana law governed the

modification of the foreign support order, that all pending petitions would be considered by the court; ordered the parties to exchange discovery within thirty days; and scheduled a hearing for Father's Verified Petition to Emancipate and Modify Child Support and Mother's Verified Petition for Payment of Post-Secondary Educational Expenses and for Modification of Child Support. Father appealed this order.

The dispositive issue is whether this court has jurisdiction to consider Father's appeal. We have the duty to determine whether we have jurisdiction over an appeal before proceeding to determine the rights of the parties on the merits. Allstate Ins. Co. v. Scroghan, 801 N.E.2d 191, 193 (Ind. Ct. App. 2004), trans. denied. Pursuant to Ind. Appellate Rule 5, this court has jurisdiction over appeals from final judgments of trial courts and only those interlocutory orders from trial courts that are brought in accordance with Ind. Appellate Rule 14.

Father asserts in his Notice of Appeal and his brief that he appeals from a final judgment. Ind. Appellate Rule 2(H) provides that a judgment is a final judgment if:

> (1) it disposes of all claims as to all parties;
>
> (2) the trial court in writing expressly determines under Trial Rule 54(B) or Trial Rule 56(C) that there is no just reason for delay and in writing expressly directs the entry of judgment (i) under Trial Rule 54(B) as to fewer than all the claims or parties, or (ii) under Trial Rule 56(C) as to fewer than all the issues, claims or parties;
>
> (3) it is deemed final under Trial Rule 60(C);
>
> (4) it is a ruling on either a mandatory or permissive Motion to Correct Error which was timely filed under Trial Rule 59 or Criminal Rule 16; or

(5) it is otherwise deemed final by law.

The trial court's order, which ordered the parties to exchange discovery and scheduled a hearing on the petitions filed by the parties, does not fit into any of the categories set forth in Ind. Appellate Rule 2(H). Thus, the trial court's order was not a "final judgment" for purposes of appellate jurisdiction.

Parties are permitted to appeal "as a matter of right" the following interlocutory orders:

(1) For the payment of money;

(2) To compel the execution of any document;

(3) To compel the delivery or assignment of any securities, evidence of debt, documents or things in action;

(4) For the sale or delivery of the possession of real property;

(5) Granting or refusing to grant, dissolving, or refusing to dissolve a preliminary injunction;

(6) Appointing or refusing to appoint a receiver, or revoking or refusing to revoke the appointment of a receiver;

(7) For a writ of habeas corpus not otherwise authorized to be taken directly to the Supreme Court;

(8) Transferring or refusing to transfer a case under Trial Rule 75; and

(9) Issued by an Administrative Agency that by statute is expressly required to be appealed as a mandatory interlocutory appeal.

Ind. Appellate Rule 14(A). The trial court's order in which the trial court determined that it had continuing jurisdiction and scheduled a hearing on the petitions filed by the parties

does not fit into any of these categories. Thus, Father was not entitled to appeal the court's order as a matter of right.

Other interlocutory orders may be appealed "if the trial court certifies its order and the Court of Appeals accepts jurisdiction over the appeal," Ind. Appellate Rule 14(B), or if an interlocutory appeal is provided by statute. Ind. Appellate Rule 14(D). There is no indication that Father sought certification from the trial court or permission from us to file this discretionary interlocutory appeal. Nor has Father demonstrated a statutory right to appeal. Accordingly, we do not have jurisdiction over this appeal, and we must dismiss. See Moser v. Moser, 838 N.E.2d 532, 535-536 (Ind. Ct. App. 2005) (holding that this court did not have jurisdiction and dismissing the appeal because the trial court's order was not a final judgment and was not an interlocutory appeal of right), trans. denied.

For the foregoing reasons, we dismiss Father's appeal of the trial court's order.

Dismissed.

NAJAM, J., and VAIDIK, J., concur.