

IN THE UTAH COURT OF APPEALS

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Tami Bennett,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner and Appellee,	)	
	)	Case No. 20050776-CA
v.	)	
	)	F I L E D
Brendt Thomas Bennett,	)	(December 8, 2005)
	)	
Respondent and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2005 UT App 528</span>
_____	)	
State of Utah, Office of	)	
Recovery Services,	)	
	)	
Intervenor.	)	

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Third District, Salt Lake Department, 024901441  
The Honorable Tyrone E. Medley

Attorneys: Brendt Thomas Bennett, Draper, Appellant Pro Se  
Suzanne Marychild, Logan, for Appellee

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Before Judges Davis, Orme, and Thorne.

PER CURIAM:

Brendt Thomas Bennett appeals the trial court's order denying his motion for relief pursuant to rule 60(b) of the Utah Rules of Civil Procedure. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

Bennett asserts that the trial court erred in denying his motion for relief because the trial court failed to consider two motions for orders to show cause filed just before trial. However, at trial on the outstanding issues in the divorce proceeding, Bennett and his wife entered into a stipulation on the record, resolving the issues raised in his motions.

A stipulation has all the binding effect of findings of fact and conclusions of law made by the court upon the evidence. The rationale is that the stipulation constitutes an agreement of the parties that all the

facts necessary to support it . . . pre-existed and would be sustained by available evidence, had not the agreement of the parties dispensed with the taking of evidence.

Davis v. Davis, 2001 UT App 225, ¶10, 29 P.3d 676 (omission in original) (quotations and citation omitted).

By stipulating in court, Bennett implicitly agreed with the underlying facts, and his motions seeking other evidence were rendered moot. Generally, a trial court and the parties are bound by the parties' stipulation. See Yeargin, Inc. v. Tax Comm'n, 2001 UT 11, ¶19, 20 P.3d 287. Given the stipulation resolving the financial and parent time issues--the subject matter of the motions for orders to show cause--the trial court would not be able to receive other evidence contrary to the stipulation. See id. at ¶20. Because the stipulation mooted Bennett's motions, the trial court did not err in denying Bennett's motion for relief seeking consideration of those prior motions.

Accordingly, the trial court's order is affirmed.

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James Z. Davis, Judge

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge