IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, ex. rel, DEPARTMENT OF ECONOMIC SECURITY, et al., *Petitioners/Appellees*

v.

CHRISTOPHER D. ALONZO, *Respondent/Appellant*.

No. 1 CA-CV 16-0597 FC
FILED 11-21-2017

Appeal from the Superior Court in Maricopa County
Nos. DR 1998-092766 and FC 2016-090665
The Honorable Richard J. Hinz, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Law Office of Cari M. Gerchick, PLC, Phoenix
By Cari M. Gerchick
Counsel for Petitioner/Appellee Jamie L. Romero

Thomas M. Shaw, Attorney at Law, Mesa
By Thomas M. Shaw
Counsel for Respondent/Appellant

MEMORANDUM DECISION

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge James P. Beene and Judge Randall M. Howe joined.

C A T T A N I, Judge:

¶1 Christopher D. Alonzo ("Father") appeals the superior court's order denying his motion to vacate a 2010 New Mexico child support order. For reasons that follow, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 Father and Jamie L. Romero ("Mother") are the parents of D.A., born in 1996, and C.A., born in 2002. In May 1998 (before C.A. was born), the Arizona Department of Economic Security ("DES"), filed a complaint against Father in an Arizona court to establish paternity and support as to D.A., alleging that Father was D.A.'s biological father and that the state, having provided public assistance for the child, was entitled to receive support. Father did not appear, and the superior court entered a default judgment against him (the "1998 Arizona Paternity Judgment"). This judgment, captioned "Default Judgment as to Paternity and Order for Support," found that Father was D.A.'s parent and had a duty to support her, but did not specify or otherwise state any child support obligation.

¶3 Mother thereafter moved to New Mexico, and in November 2010, a New Mexico court entered a child support order as to both D.A. and C.A. (the "2010 New Mexico Child Support Order"). The court found that Father was the parent of both children and that Mother and Father had resided together from April 1996 through August 2003, and imposed retroactive child support from September 2003 through September 2010 as well as an ongoing current support obligation.

¶4 In December 2010, an income withholding support order reflecting a $10 per month obligation was filed in the Arizona court under the 1998 cause number identifying Father as obligor and Mother as obligee; the record does not disclose who filed the income withholding order or if it had any relation to the New Mexico court order. In mid-2015, Father filed a petition to terminate the income withholding order due to D.A. reaching 18 years of age.

¶5 While that petition remained pending in the 1998 case, Father initiated new proceedings in Arizona in February 2016 seeking to register the 2010 New Mexico Child Support Order, and he further petitioned to modify his support obligation. Three days before the hearing on his modification request, Father moved to vacate the 2010 New Mexico Child Support Order as to D.A., arguing that the 1998 Arizona Paternity Order was controlling and that, because the Arizona order had not been registered in New Mexico, the New Mexico court lacked jurisdiction to enter a paternity or support order as to D.A.

¶6 While the motion to vacate remained pending, the court granted Father's request for modification and reduced his monthly support obligation due to a change in Father's income as well as D.A.'s emancipation. The court then consolidated the 2016 registration and modification case with the 1998 case, and set a hearing on Father's motion to terminate income withholding and his motion to vacate the New Mexico judgment.

¶7 The superior court concluded that its prior modification of Father's child support obligations had resolved the issue raised in his motion to terminate income withholding. The court denied Father's motion to vacate the 2010 New Mexico Child Support Order, reasoning that (1) the 1998 Arizona Paternity Order was not a child support order and thus did not need to be registered in New Mexico; (2) the 2010 New Mexico Child Support Order was a valid order; and (3) Father was estopped from seeking to vacate the New Mexico order after he registered that order in Arizona for modification purposes.

¶8 Father timely appealed, and we have jurisdiction under Arizona Revised Statutes ("A.R.S.") § 12-2101(A)(1).[1]

DISCUSSION

¶9 Father argues that the superior court erred by denying his motion to vacate the 2010 New Mexico Child Support Order based on his view that the New Mexico court lacked jurisdiction to adjudicate paternity or support as to D.A. in the wake of the 1998 Arizona Paternity Order. Father's argument fails, however, because the 1998 Arizona Paternity Order only established paternity and did not establish a child support obligation.

---

[1] Absent material revisions after the relevant date, we cite a statute's current version.

¶10 Under the Uniform Interstate Family Support Act—adopted in both Arizona and New Mexico, *see* A.R.S. §§ 25-1201 to -1362; N.M. Stat. §§ 40-6A-101 to -903—a tribunal that properly issues a support order assumes continuing, exclusive jurisdiction to modify the child support order. A.R.S. § 25-1225(A); N.M. Stat. § 40-6A-205(A). A tribunal in another state may, under certain circumstances, assume jurisdiction to modify the support order, but the original order must first be registered in the other state. *See* A.R.S. §§ 25-1309, -1311, -1313; N.M. Stat. § 40-6A-609, -611, -613; *see also Glover v. Glover*, 231 Ariz. 1, 7, ¶ 22 (App. 2012) (holding that registration of a child support order issued in another state is required to give the superior court jurisdiction to modify the order). All of these jurisdictional requirements, however, apply to a *support* order, not a paternity order alone. *See* A.R.S. § 25-1202(29); N.M. Stat. § 40-6A-102(BB).

¶11 Here, although the 1998 Arizona Paternity Order was a form order captioned "Default Judgment as to Paternity and Order for Support," the substance of the order did not reach the issue of child support. The superior court entered "N/A"—not applicable—in the section regarding child support and expressly stated "there is no order for current support." And nothing in the record suggests that the court even considered the child support guidelines under A.R.S. § 25-320 & app. Although the New Mexico court's recital that it "adjudicated" Father to be the children's father was arguably extraneous as to D.A. (given the 1998 Arizona Paternity Order establishing paternity as to D.A., to which the New Mexico court was obligated to give full faith and credit, *see* N.M. Stat. § 40-11A-638), the New Mexico court was not divested of jurisdiction to establish an initial child support order.

CONCLUSION

¶12 We affirm the superior court's order denying Father's motion to vacate the 2010 New Mexico Child Support Order.

¶13 Mother seeks an award of her attorney's fees on appeal under A.R.S. § 25-324. But § 25-324 does not apply to an action such as this arising out of registration of a foreign judgment. *See Henderson v. Henderson*, 241 Ariz. 580, 590–91, ¶ 36 (App. 2017). We nevertheless conclude that an award of attorney's fees for Mother is appropriate under A.R.S. § 25-1253(B), and as the prevailing party on appeal, Mother is entitled to an award of costs under A.R.S. § 12-342, both awards upon compliance with ARCAP 21.

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