



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

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FILED: 09/08/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

In re the Matter of:) No. 1 CA-CV 10-0567
)
CRAIG WATSON,) DEPARTMENT C
)
Petitioner/Appellant,) Maricopa County
) Superior Court
v.) No. FC2008-052188
)
JENNIFER COZAD,)
) **DECISION ORDER**
Respondent/Appellee.)
)
_____)

The court, Presiding Judge Michael J. Brown, Judge Patricia K. Norris and Judge Philip Hall, has concluded that we lack jurisdiction to consider this appeal; however, in our discretion we accept special action jurisdiction and deny relief.

We have an independent obligation to ensure we have jurisdiction in every appeal. *Sorenson v. Farmers Ins. Co. of Ariz.*, 191 Ariz. 464, 465, 957 P.2d 1007, 1008 (App. 1997). Craig Watson ("Father") challenges a May 2010 order reappointing a parenting coordinator, asserting that we have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") section 12-2101(C) (2003),¹ which permits an appeal "[f]rom any special order made after final judgment." We disagree. An order

¹ Subsequently renumbered as A.R.S. § 12-2101(A)(2) (2011).

appointing a parenting coordinator is substantially equivalent to an order appointing a special master, which is not appealable. See *ChartOne, Inc. v. Bernini*, 207 Ariz. 162, 165, ¶ 7, 83 P.3d 1103, 1106 (App. 2004); *Bolon v. Pennington*, 3 Ariz. App. 433, 435, 415 P.2d 148, 150 (App. 1966). Thus, the order Father seeks to challenge is not appealable.

Although we lack appellate jurisdiction, we may nevertheless accept special action jurisdiction. See *Grand v. Nacchio*, 214 Ariz. 9, 17, ¶ 20, 147 P.3d 763, 771 (App. 2006). As Father has “no equally plain, speedy, or adequate remedy by appeal,” in the exercise of our discretion, we accept special action jurisdiction. See *ChartOne*, 207 Ariz at 165-66, ¶¶ 7-9, 83 P.3d at 1106-07.

We review a family “court’s decision regarding child custody for an abuse of discretion.” *Owen v. Blackhawk*, 206 Ariz. 418, 420, ¶ 7, 79 P.3d 667, 669 (App. 2004) (citation omitted). A trial court abuses its discretion when “the record [is] devoid of competent evidence to support the decision.” *Platt v. Platt*, 17 Ariz. 458, 459, 498 P.2d 532, 533 (App. 1972).

Father contends that reappointment of a parenting coordinator was an abuse of discretion because none of the five enumerated grounds for appointment in Rule 74(A) were met. Specifically, he asserts that the record fails to support a

finding that "the parents are *persistently* in conflict with one another" under Rule 74(A)(1). However, the trial court's order is not actually based on 74(A)(1), but instead references the child's best interests. Rule 74(A)(5) permits the appointment of a parenting coordinator if the court finds that "it would otherwise be in the children's best interests to do so." Ariz. R. Fam. L. P. 74(A)(5). Based on the record, the trial court acted within its discretion in concluding that reappointing a parenting coordinator was in the child's best interests.

Father also argues that reappointment of a parenting coordinator unconstitutionally denies him access to the court because he is unable to pay the parenting coordinator's hourly fee. However, we find nothing in the court's order, which allocates half of the parenting coordinator's hourly fee to Father, as precluding Father from exercising his constitutional rights.

Accordingly,

IT IS ORDERED affirming the trial court's order reappointing a parenting coordinator.

IT IS FURTHER ORDERED vacating the conference and oral argument currently scheduled for September 21, 2011.

/s/

MICHAEL J. BROWN, Presiding Judge