

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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IN RE THE MARRIAGE OF

LOUIS E. CESPEDES,  
*Petitioner/Appellant,*

*and*

MARCIA PINTO REIS, FKA MARCIA REIS PINTO  
*Respondent/Appellee.*

Nos. 2 CA-CV 2016-0105 and 2 CA-CV 2017-0017-FC (Consolidated)  
Filed October 10, 2017

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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NOT FOR PUBLICATION  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).*

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Appeal from the Superior Court in Pima County  
No. SP20140889  
The Honorable Jennifer Langford, Judge Pro Tempore

**APPEALS DISMISSED**

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Louis E. Cespedes  
*In Propria Persona*

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MEMORANDUM DECISION

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

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ECKERSTROM, Chief Judge:

¶1 Louis Cespedes appeals the trial court’s order concerning legal decision-making, parenting time, child support, and attorney fees.<sup>1</sup> Because we do not have jurisdiction, we dismiss his appeals.

¶2 We have “an independent duty to examine whether we have jurisdiction over matters on appeal.” *Camasura v. Camasura*, 238 Ariz. 179, ¶ 5, 358 P.3d 600, 602 (App. 2015). With limited exceptions, this court’s jurisdiction is restricted to appeals from final judgments disposing of all claims as to all parties. *See In re Marriage of Johnson and Gravino*, 231 Ariz. 228, ¶ 5, 293 P.3d 504, 506 (App. 2012); *see also* A.R.S. § 12-2101(A)(1). Family court judgments resolving less than all claims are only appealable “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); *Natale v. Natale*, 234 Ariz. 507, ¶ 9, 323 P.3d 1158, 1160 (App. 2014).

¶3 Here, the trial court’s December 2016 order from which Cespedes appeals did not resolve his own motion to enforce child support, but set an evidentiary hearing on that issue for a later date. Although we recognize the superior court may retain jurisdiction to enforce support orders pursuant to a subsequent petition while the underlying order is on appeal, *see Danielson v. Evans*, 201 Ariz. 401, ¶ 37, 36 P.3d 749, 759 (App. 2001), we do not characterize his motion as initiating a separate enforcement action. Rather than filing a

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<sup>1</sup>Cespedes separately appealed the court’s dependency and placement determinations concerning his minor child, which we do not address here. Although the cases were consolidated below for a period, the court unconsolidated them upon dismissal of the dependency in January 2013.

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separate petition with the clerk of the court, *see* Ariz. R. Fam. Law P. 24(A), 91(A), (C), Cespedes filed the motion with the trial court on the day of an evidentiary hearing. Notwithstanding Cespedes's failure to conform to the Rules of Family Procedure in form and content, the court apparently accepted the issue into the ongoing litigation by ordering an evidentiary hearing in another division rather than denying the motion and instructing him to file a separate petition with the clerk. *Cf. In re Marriage of Kassa*, 231 Ariz. 592, ¶¶ 4-5, 299 P.3d 1290, 1291-92 (App. 2013) (single action may contain several Rule 91 issues). Further, the order did not expressly determine no just reason for delay existed or direct that judgment be entered.<sup>2</sup> Thus, the December 2016 order was not final and appealable.<sup>3</sup> *See* Ariz. R. Fam. Law P. 78(B).

¶4 We acknowledge the unique challenges of managing a docket as to family law matters: an arena where new disputes between the parties often emerge during ongoing litigation and wherein judgments frequently leave some issues unresolved. We further recognize that determining what parts of that litigation constitute separate proceedings may sometimes be less than clear to the litigants. It is within the province of the trial court to consolidate or separate proceedings so as to most efficiently and justly resolve the litigation. However, the court may clarify any ambiguity as to the appealability of a judgment by entering it pursuant to Rule 78(B). And any party seeking to clarify the appropriate timing for an appeal as to less than all the issues can move the court to do so. Because we determine we do not have jurisdiction, we dismiss the appeals.

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<sup>2</sup>Had either Cespedes properly initiated a separate petition or the court entered its judgment pursuant to Rule 78(B), our determination would have been otherwise.

<sup>3</sup>Cespedes also filed a notice of appeal contesting the court's May 2016 minute entry confirming registration of foreign documents that had previously allocated parenting time and legal decision-making. But that minute entry was not an appealable, final judgment because it left legal decision-making unresolved and it did not contain the requisite certifications pursuant to Rule 78(B).