

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

ANDREA MARIE CURTO,
Petitioner/Appellee,

and

CHARLES CURTO,
Respondent/Appellant.

Nos. 2 CA-CV 2017-0003-FC and 2 CA-CV 2017-0057-FC
(Consolidated)
Filed September 19, 2017

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NOT FOR PUBLICATION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).

Appeal from the Superior Court in Pima County
No. D20153228
The Honorable Ken Sanders, Judge Pro Tempore

APPEALS DISMISSED

COUNSEL

Arthur B. Alexander, Scottsdale
Counsel for Petitioner/Appellee

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Law Office of Hector A. Montoya, P.L.L.C., Tucson
By Hector A. Montoya
Counsel for Respondent/Appellant

MEMORANDUM DECISION

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

E C K E R S T R O M, Chief Judge:

¶1 Charles Curto appeals the trial court’s orders granting spousal maintenance and attorney fees in favor of Andrea Curto. 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 that dispose 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). Rule 78(B), Ariz. R. Fam. Law P., permits a party to appeal a final judgment resolving less than all claims when the trial court “express[ly]” determines there is “no just reason for delay” and directs entry of the judgment. However, Rule 78(B) certification is ineffective if the underlying judgment is not, in fact, final. *Cf. Catalina Foothills Unified Sch. Dist. No. 16 v. La Paloma Prop. Owners Ass’n, Inc.*, 229 Ariz. 525, ¶ 9, 278 P.3d 303, 306-07 (App. 2012).¹

¹Because Rule 78(B), Ariz. R. Fam. Law P., is virtually identical to Rule 54(b), Ariz. R. Civ. P., we apply interpretations of the civil rule to the family rule. Ariz. R. Fam. Law P. 1 cmt. (“Wherever the language in these rules is substantially the same as the language in other statewide rules, the case law interpreting that language will apply to these rules.”); 78 cmt. (“This rule is based on Rule 54, Ariz[. R. Civ. P.]”).

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¶3 Here, although the orders awarding and affirming spousal maintenance and attorney fees recite the judgments were final and appealable pursuant to Rule 78(B), they did not ultimately dispose of the claims because they directed the parties to prepare and submit dissolution decrees incorporating those rulings. *Cf. Madrid v. Avalon Care Ctr.-Chandler, L.L.C.*, 236 Ariz. 221, ¶¶ 2-6, 338 P.3d 328, 330-31 (App. 2014) (judgment not final notwithstanding recital pursuant to Rule 54(c), Ariz. R. Civ. P., because not all claims resolved as to all parties). Because final judgment has not been entered, we dismiss the appeals.