

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

IN RE THE MARRIAGE OF

ASHLEY JAMISON LASTER,
Petitioner/Appellee,

and

FREDA ALYESSA LASTER,
Respondent/Appellant.

No. 2 CA-CV 2022-0171-FC
Filed November 20, 2023

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NOT FOR PUBLICATION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 Maricopa County
No. FC2020006455
The Honorable Max H. Covil, Judge

APPEAL DISMISSED

COUNSEL

Terrea L. Arnwine P.L.L.C., Portland, Oregon
By Terrea L. Arnwine
Counsel for Respondent/Appellant

IN RE MARRIAGE OF LASTER
Decision of the Court

MEMORANDUM DECISION

Judge O’Neil authored the decision of the Court, in which Vice Chief Judge Staring and Judge Sklar concurred.

O’NEIL, Judge:

¶1 During a proceeding for dissolution of her marriage, Freda Laster entered into a settlement agreement, which included parenting-time provisions, with her husband, Ashley Laster. She appeals from the trial court’s orders adopting the agreement, finding her in contempt for violating court-ordered parenting-time provisions, and awarding Ashley attorney fees. Because we lack jurisdiction, we dismiss this appeal.

Factual and Procedural Background

¶2 Freda and Ashley were married in 2012 and have two children together. In 2020, Ashley filed a petition for dissolution of marriage with minor children. Pursuant to Rule 69, Ariz. R. Fam. Law P., in January 2022, the parties agreed to, and the trial court approved, temporary legal-decision-making and parenting-time orders. After agreeing to additional provisions relating to the dissolution of marriage, the parties entered into a settlement agreement, pursuant to Rule 69. In part, the parties agreed to utilize the terms of the court’s temporary legal-decision-making and parenting-time orders. In April 2022, Ashley requested that the court adopt the settlement agreement as a formal order. Freda filed a response asserting the parenting-time schedule was not in the children’s best interest and requesting a change in the provider supervising the visits. In June 2022, Ashley filed a motion for sanctions and contempt alleging that Freda had failed to comply with his court-ordered parenting time and requesting attorney fees and costs.

¶3 After oral argument, the trial court adopted the settlement agreement and found Freda “in contempt for willfully failing to comply with the agreed upon parenting time orders.” In January 2023, the court awarded Ashley attorney fees and costs related to the contempt hearing and certified its judgment “as a formal order of this Court pursuant to Rule 78(C),” Ariz. R. Fam. Law P. Freda appealed.

IN RE MARRIAGE OF LASTER
Decision of the Court

Discussion

¶4 We have an independent duty to examine our jurisdiction. *State v. Bayardi*, 230 Ariz. 195, ¶ 6 (App. 2012). Although exceptions exist, civil contempt findings are typically not appealable. *In re Marriage of Chapman*, 251 Ariz. 40, ¶¶ 8-13 (App. 2021). “As a general rule, only final judgments are appealable” *Ghadimi v. Soraya*, 230 Ariz. 621, ¶ 7 (App. 2012); *see also* A.R.S. § 12-2101(A)(1). For a judgment to be final and appealable in a family-law proceeding, the court must include a Rule 78(b) or (c) certification. *See Natale v. Natale*, 234 Ariz. 507, ¶ 5 (App. 2014); Ariz. R. Fam. Law P. 78(b), (c). As relevant here, under Rule 78(c), “[a] judgment as to all claims, issues, and parties is not appealable unless the judgment recites that no further matters remain pending and that the judgment is entered under Rule 78(c).”

¶5 The certification must also be correct. *See Madrid v. Avalon Care Ctr.-Chandler, L.L.C.*, 236 Ariz. 221, ¶¶ 6, 11 (App. 2014) (“A statement that a judgment is final pursuant to Rule 54(c) when, in fact, claims remain pending does not make a judgment final and appealable.”); *see also* Ariz. R. Fam. Law P. 1(c) (“If language in these rules is substantially the same as language in the civil rules, case law interpreting the language of the civil rules will apply to these rules.”); Ariz. R. Civ. P. 54(c) (substantially similar to Rule 78(c)). We review the accuracy of the trial court’s certification *de novo*. *See Madrid*, 236 Ariz. 221, ¶ 3.

¶6 The trial court’s Rule 78(c) certification in its January 2023 order was both insufficient and incorrect. The court signed the minute entry “as a formal order . . . pursuant to Rule 78(C)” but did not recite that “no further matters remain pending.” Ariz. R. Fam. Law P. 78(c). Even if it had included the required language, the certification was incorrect because the court had not yet issued a decree of dissolution with the findings required in A.R.S. § 25-312. *See* Ariz. R. Fam. Law P. 78(a) (defining “[j]udgment” as including decree of dissolution); *see also* Ariz. R. Fam. Law P. 70(b) (permitting court to take action to ensure entry of final judgment after notice of settlement); *McClendon v. McClendon*, 243 Ariz. 399, ¶ 15 (App. 2017) (“If the parties’ agreement is entered in accordance with Rule 69, the superior court may enter a final judgment.”).

¶7 Although Ashley filed a proposed consent decree of dissolution in November 2022, it was not signed by Freda and therefore did not satisfy the requirements of a consent decree. *See* Ariz. R. Fam. Law P. 45(b)(4). The trial court did not sign the decree before issuing the January 2023 judgment. Indeed, at a February 2023 status conference, the court

IN RE MARRIAGE OF LASTER
Decision of the Court

stated its intention to “sign the . . . lodged consent decree” and set an evidentiary hearing to address pending motions. Although Freda titled some of them as post-judgment motions, they contained requests to modify the settlement agreement’s parenting-time provisions, to vacate the adoption of the settlement agreement, and to stay the signing of the final decree. Without a decree of dissolution meeting the statutory requirements and resolving all claims, the court’s certification of the January 2023 order under Rule 78(c) was improper, and we lack appellate jurisdiction. *See Madrid*, 236 Ariz. 221, ¶ 6; *Yee v. Yee*, 251 Ariz. 71, n.3 (App. 2021).

Disposition

¶8 We dismiss this appeal for lack of jurisdiction.