

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Jerome P. Johnson,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellee,)	
)	Case No. 20060868-CA
v.)	
)	
Jane E. Johnson,)	F I L E D
)	(April 5, 2007)
)	
Respondent and Appellant.)	<u>2007 UT App 113</u>

Third District, Salt Lake Department, 014907126
The Honorable Tyrone E. Medley

Attorneys: Mary C. Corporon and Jared T. Hales, Salt Lake City,
for Appellant

Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Jane E. Johnson (Wife) appeals from the final judgment issued by the district court. Wife argues that the district court erred when it denied her objection to the commissioner's recommendation. We affirm.

Wife argues that the district court violated her right to due process by refusing to grant her request for an evidentiary hearing. Wife fails to indicate where in the record she requested an evidentiary hearing, and our review reveals no such request was made to either the commissioner or the district court. Instead, it appears that both parties submitted evidence by proffer to the commissioner without objection, and Wife subsequently submitted her objection to the district court without a request for oral argument or an evidentiary hearing. "As a general rule, appellate courts will not consider an issue, including a constitutional argument, raised for the first time on appeal unless the trial court committed plain error or the case involves exceptional circumstances." State v. Brown, 856 P.2d 358, 359 (Utah Ct. App. 1993). Since Wife has failed to show

plain error or any exceptional circumstances, we do not address her claim.¹

Wife also argues that her right to due process was violated because the district court unreasonably relied upon the commissioner's recommendation. Wife asserts that the district court "violated [her] rights under the Utah Constitution, placing the court commissioner in the position of the final judicial authority." Clearly, the final adjudication in this case was entered by the district court when it denied Wife's objection to the commissioner's recommendation. See Utah R. Civ. P. 7(g). Furthermore, Wife's argument that the commissioner did not have the authority to review the issue on appeal is contradicted by rule 6-401 of the Utah Rules of Judicial Administration:

All domestic relations matters filed in the district court in counties where court commissioners are appointed and serving, including all divorce, annulment, paternity and spouse abuse matters, orders to show cause, scheduling and settlement conferences, petitions to modify divorce decrees, scheduling conferences, and all other applications for relief, shall be referred to the commissioner upon filing with the clerk of the court unless otherwise ordered by the Presiding Judge of the District.

Utah R. Jud. Admin. 6-401(1).

Court commissioners specifically have the authority to "[m]ake recommendations to the court regarding any issue, including a recommendation for entry of final judgment, in domestic relations or spouse abuse cases at any stage of the proceedings." Utah R. Jud. Admin. 6-401(2)(D). The district court found that the commissioner's recommendation fell "well within the discretion exercised." Wife has failed to show that this determination was in error.

Last, Wife argues that the district court erred on the merits when it denied her objection. This particular argument is inadequately briefed. Rule 24(a)(9) of the Utah Rules of Appellate Procedure mandates that an "argument shall contain the

1. Further, there is nothing in rule 7(g) of the Utah Rules of Civil Procedure that requires a district court to conduct an evidentiary hearing before ruling on an objection to a commissioner's recommendation. See Utah R. Civ. P. 7(g).

contentions and reasons of the appellant with respect to the issues presented . . . with citations to the authorities [and] statutes." Utah R. App. P. 24(a)(9). Wife has failed to meet this duty and has not provided an "adequate legal analysis and legal authority in support of [her] claims." Flower Homeowners Ass'n v. Snow Flower, Ltd., 2001 UT App 207, ¶14, 31 P.3d 576 (quotations and citation omitted). Wife's brief sets forth only two paragraphs supporting her argument and provides no legal analysis. Consequently, Wife's "assertions do not permit appellate review." Id. "While failure to cite to pertinent authority may not always render an issue inadequately briefed, it does so when the overall analysis of the issue is so lacking as to shift the burden of research to the reviewing court." State v. Thomas, 961 P.2d 299, 305 (Utah 1998). Therefore, we decline to address Wife's final argument on appeal.

Accordingly, we affirm.

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge