

IN THE UTAH COURT OF APPEALS

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Kristine W. Swenson,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellee,)	
)	Case No. 20090347-CA
v.)	
)	F I L E D
Paul David Swenson,)	(October 1, 2009)
)	
Respondent and Appellant.)	2009 UT App 283

Third District, Salt Lake Department, 054902818
The Honorable Kate A. Toomey

Attorneys: Wesley W. Oates, Cottonwood Heights, for Appellant

Before Judges Bench, Orme, and McHugh.

PER CURIAM:

Paul David Swenson appeals the trial court's memorandum decision overruling his objection to the commissioner's recommendation to dismiss his petition to modify a divorce decree. This is before the court on its own motion for summary disposition based on lack of jurisdiction due to the absence of a final order.

Generally, this court has jurisdiction over only final orders or judgments. See Utah R. App. P. 3. A judgment is final when it disposes of the subject matter of the litigation on the merits. See Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. The district court has ongoing jurisdiction in divorce cases, so there may be several final and appealable orders in a single proceeding. See Copier v. Copier, 939 P.2d 202, 203 (Utah Ct. App. 1997) (per curiam). However, to be a final order in the divorce context, the order must resolve the instant controversy between the parties. See id.

Swenson asserts that the trial court's memorandum decision granted Kristine Swenson's motion to dismiss his petition to modify. The decision makes no mention, however, of the petition or its dismissal. Rather, it notes only that the objection to the commissioner's recommendation is overruled. The decision is narrow in scope and cannot fairly be read to dismiss the

petition. The denial of the objection is merely an interlocutory order, and the real controversy between the parties remains pending because there is no order specifically dismissing Swenson's petition.

Accordingly, this appeal is dismissed without prejudice to the filing of a timely notice of appeal after the entry of a final order.

Russell W. Bench, Judge

Gregory K. Orme, Judge

Carolyn B. McHugh, Judge