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2023 IL App (3d) 220467-U

Order filed December 5, 2023

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2023

THE ILLINOIS DEPARTMENT OF)	Appeal from the Circuit Court
HEALTHCARE AND FAMILY SERVICES)	of the Eighteenth Judicial Circuit,
<i>ex rel.</i> DARLENE ELIZABET SHREEVES,)	Du Page County, Illinois,
)	
Petitioner-Appellee,)	Appeal No. 3-22-0467
)	Circuit No. 19-F-451
v.)	
)	
BRANDON LARVELLE)	
GROVES-JACKSON,)	Honorable
)	Leah M. Bendik,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE BRENNAN delivered the judgment of the court.
Justices McDade and Peterson concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court’s finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016) was ineffective to confer jurisdiction over an appeal from a nonfinal discovery order. Appeal dismissed.
- ¶ 2 Respondent, Brandon Larvelle Groves-Jackson, appeals from the circuit court’s ruling on the Illinois Department of Healthcare and Family Services’s (Department) objections to respondent’s discovery requests in this child support enforcement action on behalf of Darlene

Elizabet Shreeves. The circuit court granted respondent’s request for a finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016). The Department moved to dismiss the appeal on the basis that the Rule 304(a) finding was ineffective to confer jurisdiction over an appeal from a nonfinal discovery order. For the reasons set forth below, we agree and grant the Department’s motion to dismiss this appeal for lack of jurisdiction.

¶ 3

I. BACKGROUND

¶ 4

To place our discussion of the underlying procedural history in context, we first discuss the relevant provisions of the applicable statute—the Uniform Interstate Family Support Act (Support Act) (750 ILCS 22/101 *et seq.* (West 2022)).

¶ 5

A. Support Act

¶ 6

Where, as here, the parents of a child entitled to support live in different states, the Support Act (which every state has adopted) provides the mechanism for establishing, enforcing, and modifying child support obligations. *Id.*; *In re Marriage of Jones*, 2016 IL App (3d) 150237, ¶ 6. The Support Act was designed to provide unity and structure in each state’s approach to the enforcement and modification of child support orders and contemplates interstate cooperation to expedite collection of child support across state borders. *In re Marriage of Gulla*, 234 Ill. 2d 414, 426 (2009); *Collins v. Department of Health & Family Services ex rel. Paczek*, 2014 IL App (2d) 130536, ¶ 17.

¶ 7

The statute utilizes a system of initiating and responding “tribunals” (defined as a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or determine parentage (see 750 ILCS 22/102(29) (West 2022)), through which a support petition may be initiated in one state and forwarded for disposition to another state that has jurisdiction over an alleged support obligor. *Id.* §§ 102(11), (24); 301; 303 to 305; 311. In

Illinois, the Support Act provides that the Department “is the support enforcement agency of this State” (see *id.* § 103(b)), authorized to, *inter alia*, request a parentage determination and seek establishment, enforcement, or modification of child support (see *id.* § 102(27)).

¶ 8 Except as otherwise provided in the statute, the responding tribunal is required to apply the procedural and substantive law “generally applicable to similar proceedings originating in this State” and “determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.” *Id.* § 303(1), (2). Accordingly, in Illinois, child support is calculated by determining the parties’ combined net incomes and then determining each parent’s percentage share of the obligation from a schedule of combined net income percentages ordinarily spent on a child. See 750 ILCS 46/802(a) (West 2022) (applicable provision in the Illinois Parentage Act of 2015, which references the guidelines and computation method set forth in section 505(a) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/505(a) (West 2022))).

¶ 9 A responding tribunal that issues a child support order retains continuing and exclusive jurisdiction to modify the order, absent certain factors not at issue here. 750 ILCS 22/205 (West 2022). The Support Act expressly provides that it “does *not* [] grant a tribunal of this State jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this Act.” (Emphasis added.) *Id.* § 104(b)(2). The statute provides for communications between tribunals (see *id.* § 317), and, in addition, section 318 specifies that “[a] tribunal of this State may: (1) request a tribunal outside this State to assist in obtaining discovery; and (2) upon request, compel a person over which it has jurisdiction to respond to a discovery order issued by a tribunal outside this State” (see *id.* § 318).

¶ 10 With this statutory framework in mind, we turn to the procedural history in this case.

¶ 11

B. Procedural History

¶ 12

Shreeves sought child support services from Georgia’s child support enforcement agency and, on June 26, 2019, submitted a uniform support petition naming respondent—a Du Page County, Illinois resident, and seeking a paternity judgment and child support payments for their minor child (born in 2011). The petition was transmitted to Illinois, where, on August 5, 2019, the Department (represented by the Du Page County State’s Attorney), filed the petition in the circuit court of Du Page County.

¶ 13

On September 11, 2019, the circuit court ordered Shreeves, the minor child, and respondent to submit to DNA paternity testing. Following the testing, on October 16, 2019, the circuit court entered an order declaring respondent to be the biological father of the minor child, directing respondent to submit a financial affidavit, and setting the matter for a November 22, 2019, hearing on child support. On November 22, 2019, the circuit court entered an order for support, directing respondent to pay monthly child support in the amount of \$458.73. The order stated that neither parent appeared but incorporated an attached child support calculation worksheet reflecting the income calculations for both parents.

¶ 14

On December 23, 2019, respondent filed, as a self-represented litigant, a motion to modify the child support award due to a reduction in income. Respondent subsequently retained counsel and, on February 6, 2020, filed an emergency motion to stay the circuit court’s November 22, 2019, child support order, vacate the order pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2018)), and establish a parenting plan. Respondent argued that he was not aware of the November 22, 2019, hearing date and that the child support order was based on “fictitious financial information” that was supplied by Shreeves and which overstated his net income.

¶ 15 In the emergency motion, respondent asserted that, in 2011, Shreeves vacillated on whether respondent was the father of the minor child. However, in June 2011, Shreeves affirmatively told respondent that he was not the father. According to respondent, he believed Shreeves had moved to California at that point. Respondent stated that he had hired a private investigator to locate Shreeves and the minor child, but their whereabouts remained unknown. Respondent further stated that Shreeves contacted him in 2019, indicated that respondent was the father of the minor child, induced respondent to send Shreeves money, but “continued to conceal the child’s whereabouts and continued to flip back and forth on the paternity of the child.”

¶ 16 In its February 19, 2020, response in opposition to respondent’s emergency motion, the Department stated that respondent was present in court when the November 22, 2019, child support hearing was scheduled and that the child support order was based on respondent’s wages—as reported to the Illinois Department of Revenue—and Shreeves’s wages—as attested to in the support petition. In addition, the Department argued that the issue of parenting time was beyond the scope of the circuit court’s authority in this case.

¶ 17 On March 3, 2020, respondent filed a “Memorandum Of Law,” stating that a reduction in his child support obligation was warranted because he was attending college to become a teacher and thus employed only two days a week as a substitute teacher. Ultimately, on March 6, 2020, the circuit court entered an order reducing the amount of respondent’s monthly child support obligation and incorporating an attached child support calculation worksheet reflecting the revised income calculation.

¶ 18 On November 22, 2021, respondent filed a petition to establish parenting time with the minor child, alleging that the minor child “presently reside[d] in the State of Georgia with [Shreeves]” and that Shreeves had denied him his parenting rights. Respondent argued that the

circuit court should have allocated respondent parenting time when the court entered the paternity finding and child support obligation. On January 28, 2022, the circuit court granted respondent leave to issue a summons to Shreeves, and over the next several months, the matter was heard and continued for status on the service of summons.

¶ 19 Meanwhile, on September 8, 2022, the Department filed a second uniform petition under the Support Act requesting an increase in respondent's monthly child support obligation.

Shreeves averred in the petition that the basis of the request was that respondent's income and the needs of the minor child had increased since entry of the March 6, 2020, child support order.

¶ 20 During the ensuing weeks, respondent filed in the circuit court interrogatory requests, a request for production of documents, and requests to admit pursuant to, respectively, Illinois Supreme Court Rule 213 (eff. Jan. 1, 2018), Illinois Supreme Court Rule 214 (eff. July 1, 2018), and Illinois Supreme Court Rule 216 (eff. July 1, 2014). The interrogatories directed Shreeves to answer 17 questions, some with subparts, about her household, real estate holdings, business interests, investment accounts, state or federal assistance, employment, income from other sources, cash or property held for her by others, insurance policies, pension plan interests, debts and obligations, automobiles, financial statements, and other financial matters. The interrogatories also requested identification of witnesses who will testify at trial as well as identification of all matters claimed to be work product or privileged.

¶ 21 The document request set forth 19 categories of documents for production, directing Shreeves to produce documents regarding her income, real estate, automobiles, retirement accounts, debts, and other financial matters. The document request also sought evidence of the minor child's existence. The requests to admit sought Shreeves's admission to 21 statements about the parenting relationship. For instance, respondent requested that Shreeves admit that she

had allowed respondent to speak to the minor child only once in the last 5 years, that Shreeves never gave him information about the minor child's health and schooling, and that Shreeves had restricted and continues to restrict respondent's access to the minor child.

¶ 22 The Department filed objections to respondent's discovery requests on the basis that the requests were broad, repetitive, and overly burdensome. The Department requested that the discovery requests be stricken or, alternatively, that Shreeves be required to submit just a financial disclosure statement with her most recent tax return and pay stub. In addition, the Department pointed out that it did not represent Shreeves personally and argued that, under the Support Act, the circuit court has jurisdiction over child support issues, not parenting issues. Respondent filed an answer to the Department's objections, arguing that, because the Department moved to modify the child support, the Department was obligated to ensure Shreeves's compliance with his discovery requests to enable respondent to "prepare a viable defense."

¶ 23 In addition to the parties' filings regarding respondent's discovery requests, on October 3, 2022, respondent filed a "Petition to Establish Dependency Tax Deduction," requesting either that the circuit court allocate to him the tax exemption for the minor child or alternate the exemption each year. Respondent also filed a "Memorandum of Law [*sic*] the Equitable Powers of the Court," arguing that the petition to increase child support was "statutorily intertwined" with his requests for parenting time and equitable distribution of the tax deduction and that the circuit court's equitable powers authorized it to "adjudicate any and all issues before it, irrespective of how the issues came before the Court."

¶ 24 At the November 21, 2022, hearing on the Department's objections to respondent's discovery requests (and status on the other pending matters), the assistant State's Attorney

explained that it represents the Department, not Shreeves; that the petition to modify child support was filed under the Support Act at Georgia’s request because Shreeves is receiving state assistance there; and that respondent was improperly attempting to litigate parenting issues in Illinois, rather than in Georgia. Counsel for respondent countered that the issues of child support and parentage were intertwined and should all be adjudicated in this case. Counsel also recounted respondent’s unsuccessful efforts to locate Shreeves and the minor child, including “sen[ding] the Sheriff out there to try and find Ms. Shreeves, and she doesn’t exist at that address according to the Sheriff, three times.”¹

¶ 25 Following argument, the circuit court noted that the sole issue in the case was child support and that Georgia was the proper forum for respondent to pursue his remaining issues. The circuit court concluded, “[R]eviewing the pleadings and hearing argument, your requests for discovery are denied.” At this point, respondent’s counsel requested “a 304,” arguing that “[t]here has to be some resolution” and that the court was denying respondent the right to discover information about the minor child he was being ordered to support. The Department responded to the “304” request, “[H]owever [Y]our Honor wants to rule,” and stated that the “bigger issue” was that respondent was improperly attempting to resolve parenting issues in this proceeding. Ultimately, the circuit court granted the request for “a 304” finding, stating, “If you want to take it up on appeal, sure, I will give you that.”

¶ 26 The circuit court’s November 21, 2022, written order set the matter for a January 20, 2023, status hearing and provided:

¹After the hearing, respondent filed a copy of the Clayton County, Georgia “Sheriff’s Entry of Service” form, dated August 24, 2022, reflecting that the process server was “unable to locate” Shreeves to serve her with a summons.

“(1) This case coming on before this court on the Petitioner’s Motion to quash Respondent’s 213.214 & 216 Discovery Requests as served on the State’s Attorney and the Court having heard argument and the Respondent having filed a Response to the Petitioner’s Motion & a Memorandum of Law, the Court grants the Petitioner’s Motion.

(2) The court grants Respondent’s request that the issue of discovery & the Order entered this day is a Final and Appealable Order Pursuant to 304(a).”²

¶ 27 The next day, on November 22, 2022, respondent filed a notice of appeal from the circuit court’s November 21, 2022, order, asserting that the circuit court erroneously granted the Department’s motion to quash his discovery requests; that this error denied respondent his constitutional right to due process and equal protection of the laws; that the circuit court’s refusal “to allow the Respondent’s discovery requests to go forward” violated respondent’s fundamental rights as a natural parent and denied respondent information as to the whereabouts of the minor child who has been concealed from him; and that this court should direct the circuit court to order the Department to comply with the discovery requests.

¶ 28 Approximately two weeks later, on December 8, 2022, responded filed an amended notice of appeal, adding that section 318 of the Support Act is unconstitutional because it allows Illinois tribunals the discretion to request assistance from out-of-state tribunals in obtaining discovery, thereby making respondent’s ability to defend himself and secure discovery discretionary with the tribunal. Respondent also added to the amended notice of appeal that this court should declare the Support Act unconstitutional in its entirety. Respondent asserted that the Support Act denied him due process and equal protection of the laws and denied him the ability

²No motion titled a motion to quash was ever filed. Rather, it appears that the Department’s objections to respondent’s discovery requests were construed as a motion to quash.

to raise the ancillary matters of parenting time, concealment of the minor child, and allocation of the dependency deduction.

¶ 29 On December 9, 2022, the Department filed a motion in this court to dismiss respondent's appeal for lack of jurisdiction. The Department argued that the circuit court's November 21, 2022, order was a nonfinal discovery order; accordingly, the circuit court's Rule 304(a) finding was ineffective to confer jurisdiction. On December 22, 2022, respondent filed an objection to the motion to dismiss, arguing that the ruling on respondent's discovery requests effectively denied respondent the ability to defend himself in the underlying proceeding, thereby implicating the constitutionality of the Support Act. Respondent argued that the order amounted to a final order and was appealable given the inclusion of the circuit court's Rule 304(a) finding. On December 29, 2022, this court entered an order taking the Department's motion with the case.

¶ 30 II. ANALYSIS

¶ 31 On appeal, respondent argues that the central issue is not the propriety of the circuit court's ruling on the discovery requests, but rather, that the ruling gave rise to his constitutional challenges to the Support Act. In addition to generalized due process challenges, respondent asserts that the Support Act violates his equal protection rights by precluding him from seeking discovery on and litigating parenting matters to the same extent allowed in a Parentage Act proceeding and that section 318 of the Support Act (allowing Illinois tribunals to request an out-of-state tribunal to assist in obtaining discovery) renders his due process rights subject to the circuit court's "whim."

¶ 32 The Department maintains that we lack jurisdiction over what was merely a ruling on discovery. According to the Department, respondent is not being denied the opportunity to

litigate parenting issues. Instead, he is simply attempting to litigate these issues in Illinois rather than in the minor child’s home state, as contemplated by the Uniform Child-Custody Jurisdiction and Enforcement Act (750 ILCS 36/101 *et seq.* (West 2022) (setting forth the statutory framework for addressing interstate child custody and visitation matters, as opposed to paternity and child support)). The Department also argues that respondent forfeited any constitutional challenges to the Support Act by not raising them in the circuit court and that, regardless, the constitutional challenges lack merit.

¶ 33 In addition, the Department argues that, even if this court had jurisdiction, we would have to resolve this appeal on the nonconstitutional ground of whether the trial court abused its discretion in denying respondent’s discovery requests. See *People ex rel. Madigan v. Stateline Recycling, LLC*, 2020 IL 124417, ¶ 41 (“In light of our long-standing rule that cases should be decided on nonconstitutional grounds whenever possible, the appellate court should have proceeded to review the discovery order for an abuse of discretion.”). The Department argues that the underlying issue of child support involves a straightforward statutory calculation and that the circuit court therefore properly exercised its discretion in denying respondent’s requests for discovery that was unnecessary to this determination.

¶ 34 For the reasons set forth below, we agree with the Department that the November 21, 2022, order was a nonfinal discovery order and, thus, the circuit court’s Rule 304(a) finding was ineffective to confer appellate jurisdiction. We therefore dismiss the appeal.

¶ 35 Rule 304(a) permits appeals from final judgments that do not dispose of an entire proceeding, providing in relevant part:

“If multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from a *final judgment* as to one or more but fewer than all of the

parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both.” (Emphasis added.) Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016).

¶ 36 By its own terms, Rule 304(a) applies only to final judgments or orders. *Blumenthal v. Brewer*, 2016 IL 118781, ¶ 24. The inclusion of a Rule 304(a) finding does not transform a *nonfinal* order into an appealable order. *In re Estate of Rosinski*, 2012 IL App (3d) 110942, ¶ 22. Rather, a Rule 304(a) finding makes a *final* order appealable despite other pending claims or parties. Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016); *Blumenthal*, 2016 IL 118781, ¶ 24.

¶ 37 A judgment or order is considered final and appealable for purposes of Rule 304(a) if it terminates the litigation between the parties on the merits so that, if affirmed, the circuit court only has to proceed with execution of the judgment. *Blumenthal*, 2016 IL 118781, ¶ 25. “While the order need not dispose of all the issues presented by the pleadings, it must be final in the sense that it disposes of the rights of the parties, either upon the entire controversy or upon some definite and separate part thereof.” *Id.* The purpose of Rule 304(a) is to discourage piecemeal appeals in the absence of a compelling reason and to remove the uncertainty as to the appealability of a judgment that was entered on fewer than all matters in controversy. *Carle Foundation v. Cunningham Township*, 2017 IL 120427, ¶ 15.

¶ 38 That having been said, our courts have repeatedly held that orders on discovery matters are interlocutory in nature and thus not final and appealable orders pursuant to Rule 304(a). *Dolan v. O’Callaghan*, 2012 IL App (1st) 111505, ¶ 34 (citing cases); see also *Stateline Recycling*, 2020 IL 124417, ¶ 36 (“[D]iscovery orders are not final and, therefore, ordinarily are not appealable,” although the correctness of a discovery order may be tested through contempt proceedings pursuant to Rule 304(b)(5)). Accordingly, courts have dismissed appeals for lack of

jurisdiction, despite a circuit court's Rule 304(a) finding, where the order an appeal amounted to a mere discovery order. See, e.g., *In re Marriage of Reicher*, 2021 IL App (2d) 200454, ¶ 26 (an order granting a motion to quash a subpoena was a nonfinal order and thus not appealable under Rule 304(a)); *County of Cook v. Illinois Fraternal Order of Police Labor Council*, 358 Ill. App. 3d 667, 670-71 (2005) (an order requiring the production of certain compliance reports was akin to a discovery order and thus not appealable under Rule 304(a)); *Saladino v. Team Chevrolet, Inc.*, 242 Ill. App. 3d 735, 743 (1993) (an order denying a motion to compel a witness to answer deposition questions was a nonfinal, nonappealable discovery order).

¶ 39 The circuit court's November 21, 2022, order, whether characterized as a ruling on the Department's objections to respondent's discovery requests or a ruling on a motion to quash, was a nonfinal discovery order. Respondent sought a wide array of information and documents pursuant to his interrogatories, requests to produce, and requests to admit. The Department objected to these discovery requests on the basis that they were broad, repetitive, and overly burdensome. The circuit court agreed, noting that the only issue in the case was child support. The circuit court's order was a ruling on the scope of discovery requests, not on the merits of any claim in the case. Indeed, there was no resolution on any claim related to child support; the Department's petition to increase respondent's child support obligation remained pending.

¶ 40 In sum, the circuit court's November 21, 2022, order was a nonfinal discovery order. Thus, the inclusion of a Rule 304(a) finding in the order was ineffective to confer appellate jurisdiction.

¶ 41 III. CONCLUSION

¶ 42 For the reasons stated, we lack jurisdiction over this appeal and grant the Department's motion to dismiss the appeal.

¶ 43 Motion to dismiss appeal granted; appeal dismissed.