

The last few months have been relatively active. Some new useful opinions have come out concerning annulments, contempt, district court jurisdiction over child custody while the matter is on appeal, and the entering of nunc pro tunc divorces. Hopefully, these summaries will make it easier for practitioners to keep up with the latest opinions. We will also try to incorporate these summaries into the Marren/Page Nevada Family Law case summaries at the end of the year.

Mason v. Cuisenaire, 122 Nev. Adv. Op. No. 6 (February 9, 2006)

The parties were married 11 years. The husband sought a divorce in North Carolina, which was granted September 1999. The decree stated that “there are no pending claims for post-separation support, alimony, or equitable distribution.” The husband was then stationed at Nellis Air Force base in Las Vegas and the mother returned to Belgium. In February 2002, the mother moved the district court for post-decree child support, alimony, division of assets, and attorney fees. The mother sought child support arrears from the date of the North Carolina judgment’s entry to the date her motion was filed. She also sought the equitable division of the parties’ marital estate as it existed at the time of the divorce. The district court determined that Nevada was the proper venue for child support determination. The district court further determined that the North Carolina court never addressed child support and that, under NRS 125B.030, the district court could award up to four years of past support.

The court also found that some omitted assets were not adjudicated in North Carolina, including the father’s military retirement benefits, the proceeds from the sale of a marital home in Louisiana, marital personal property, and a survivors benefit plan from the military. The district court concluded that the mother was entitled to a portion of the father’s military retirement benefits and set the father’s future child support payments at \$500 per month. The district court awarded the mother \$300 per month in child support arrears from October 1999, the month after the North Carolina decree was entered, to February 2002 and \$500 per month from March 2002 to July 2002, plus statutory penalties and interest. The award of child support arrears totaled \$10,678.69, and a wage withholding was approved in order to collect the arrears. The district court set an evidentiary hearing with respect to the allocation of debts or assets of the marital estate and denied the mother’s request for alimony. The father appealed before the evidentiary hearing was held.

The Supreme Court affirmed in part and reversed in part. The Court concluded that the district court abused its discretion in applying NRS 125B.030 because the statute was inapplicable to the parties. The Court further concluded that “separated,” as used in NRS 125B.030, did not include parties who had previously been adjudicated as divorced but attempt to recover child support for a period after their divorce became final. The Court did conclude though that an award of retroactive child support was proper because the North Carolina decree was entitled to full faith and credit. The Court also concluded that a divorce judgment that did not include an amount for child support did not constitute a support order. The Court further concluded that the district court did not err in affording the North Carolina divorce judgment full faith and credit and that a retroactive award of child support was proper from the date of the North Carolina decree. The Court held that an award of child support arrearages under NRS 125B.030 was not proper, and reversed the district court’s order pertaining to child support arrears. The Court remanded to determine the appropriate