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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re the Marriage of WOJCIECH
WISNIEWSKA and MARZENA
WISNIEWSKA.

WOJCIECH WISNIEWSKA,

Respondent,

v.

MARZENA WISNIEWSKA,

Appellant.

A139628

(San Mateo County
Super. Ct. No. FAM-01-12613)

Marzena Wisniewska (Marzena) appeals from the trial court's order denying her motion to recall and quash a writ of execution for unpaid child support and attorney fees that issued at the request of her ex-husband Wojciech Wisniewska (Wojciech). She contends: (1) Wojciech lacked standing to seek enforcement of the underlying child support order; and (2) the trial court should have granted her motion based on general principles of equity and fairness. We affirm the order.

FACTUAL AND PROCEDURAL BACKGROUND

In or about 2009, Marzena and Wojciech divorced after almost 30 years of marriage. At the time of the divorce, the parties lived in Poland and had two adult children who were living in the United States. The parties also had a minor daughter, Weronika Wisniewska (Weronika), born in October 1993. Various court proceedings relating to the divorce took place in Poland.

On March 4, 2011, Wojciech filed a notice of registration of an out-of-state support order in the San Mateo County Superior Court—where Marzena resided—seeking to “Enforce Judgment filed 10/21/10 in the Republic of Poland.” He asserted that Marzena was the non-custodial parent of then-17-year-old Weronika and that Marzena had not paid child support since October 1, 2009. He attached to the notice a certified translation of an October 21, 2010 document entitled “DECISION IN THE NAME OF THE REPUBLIC OF POLAND” (the Polish Decision). The Polish Decision was signed by a judge of the Regional Court for Warszawa-Wola in Warsaw, Sixth Family and Minor Division, and provided in part: “after recognizing the action for alimony brought by [Weronika] represented by [Wojciech] against Marzena . . . [¶] . . . As of the date of October 1st 2009, awards maintenance from [Marzena] for [Weronika] . . . in the amount of 1,200 zloyts . . . monthly, paid in advance directly to [Wojciech] . . . until the 10th . . . day of every month with statutory interests in the case of default in any payment.” The Polish Decision also ordered Marzena to pay certain court fees and attorney fees, and provided that Marzena’s obligation to make monthly payments of 1,200 zloyts to Wojciech beginning October 1, 2009 was “immediately enforceable.” Wojciech also attached to his notice a document entitled “CERTIFICATE,” which was signed by the same judge and provided that Marzena had been notified of the proceedings and had submitted responsive statements and evidence. Wojciech asserted in his notice of registration that 1,200 zloyts was the equivalent of \$414.71 and that Marzena owed 18 months of child support—from October 1, 2009 to March 1, 2011—for a total of \$7,464.78.

Marzena filed an opposition to Wojciech’s notice of registration and requested a hearing. She asserted she had submitted an application to the court in Poland “for permission to seek a retroactive modification of the child support” and that the court had not yet ruled on the matter. She asserted Wojciech owed her \$12,000 to \$13,000 in unpaid child and spousal support and that any arrears under the Polish Decision would therefore have to be offset against what he owed her. Marzena also challenged Wojciech’s currency conversion rate.

After a hearing, the trial court granted Wojciech's request and registered the Polish Decision. A case was opened with San Mateo County's Department of Child Support Services (DCSS), and DCSS determined Marzena owed \$8,294.20 in principal child support. An earnings assignment issued, over Marzena's objection.

On February 9, 2012, Wojciech filed a request for the issuance of a "Writ of Execution for the Registered Out of State Support Order," asserting Marzena had made no voluntary payments towards the child support arrearage. A writ of execution in the amount of \$10,951.77 issued on May 11, 2012 (First Writ of Execution).

On or about June 21, 2012, Marzena filed a motion to quash the First Writ of Execution on the ground that she did not owe Wojciech any child support (First Motion to Quash). She attached several Polish court documents to her motion. One document indicated that Wojciech owed past due child support of 13,482.69 PLN and 245.35 PLN in interest as of September 30, 2009. An "Order to garnish wages and disability claims or claims for contract commission and summon for collection" stated that Wojciech owed "current child support [of] 1,000.00 PLN + fee 82.00 PLN." (Some underlining omitted.) Another document entitled "JUD[G]MENT THE REPUBLIC OF POLAND" showed that Wojciech had been ordered to pay "1,000 (one thousand) PLN a month in child support, payable [to Marzena]," and that the order was later amended to increase the monthly child support amount to 1,500 PLN and to award Marzena an additional 1,000 PLN per month in spousal support.

Wojciech opposed the First Motion to Quash and requested attorney fee sanctions under Family Code section 271 on the ground that the First Motion to Quash was frivolous and "based on fraudulent evidence." He submitted documents in support of his

position that the orders on which Marzena relied were invalid because they had previously been “annul[led]” and “discontinued.”¹

In an order after hearing filed December 21, 2012, the trial court denied Marzena’s First Motion to Quash and ordered her to pay \$3,634.50 in attorney fees as sanctions. A writ of execution in the amount of \$15,982.82, which included the attorney fees award, issued on March 13, 2013 (Second Writ of Execution).

On April 9, 2013, Marzena filed a motion to recall and quash the Second Writ of Execution on the ground that under Polish law, Wojciech lost standing to enforce the registered Polish Decision when Weronika turned 18 on October 4, 2011 (Second Motion to Quash). She quoted the following language from a February 1, 2013 Polish court document: “When the petitioner [who is] entitled to child support becomes an adult, the parents who up until now acted on minor’s behalf, lose their right to collect benefits on child’s behalf or take any further legal action on behalf of the child or any execution of any orders” She argued that because Weronika was 18 years old, Wojciech no longer had the right to seek enforcement of and collect child support that had been issued in favor of *Weronika*, not Wojciech.

In his opposition papers, Wojciech pointed out that Marzena had failed to quote the entire paragraph from the February 1, 2013 Polish court document. He noted that the paragraph read in full: “When the petitioner [who is] entitled to child support becomes an adult, the parents who up until now acted on minor’s behalf, lose their right to collect benefits on child’s behalf . . . and the benefits shall be payable directly [to] the beneficiary only (*with the exception when the parents are appointed to be the legal representatives to act on beneficiary’s behalf*).” Wojciech argued that because in his case, he *was* the legal representative of Weronika and had the authority to act on her behalf, he continued to have standing to seek enforcement of the Polish Decision. In

¹For example, a June 28, 2012 Court Executive Officer certification from Poland stated that a January 20, 2011 certificate that “issued to [Marzena] concerning due amounts as of September 30, 2009” had been “annul[led],” and that enforcement proceedings relating to “outstanding and current child maintenance payments” had been “discontinued.”

support, he submitted powers of attorney Weronika had executed in 2011 and 2013, granting him the authority to act on her behalf regarding all matters related to child support. Marzena asserted that Wojciech, who had a criminal conviction for forgery in Poland, had likely fabricated and/or forged the power of attorney documents.

At a hearing on July 1, 2013, counsel for Wojciech argued: “Basically it’s our opinion that this entire motion is really an improper attack on a final judgment. These arguments that are being raised now could have been raised at the time of judgment and any time for appeal has [passed]. The judgment is final and it has already been ruled on by Your Honor just a few months ago. We were also awarded 271 sanctions as part of that ruling. And basically all of the papers that we filed were just an attempt to . . . back up our legal position . . . but in general we do believe that the entire motion is improper and is trying to rehash a judgment that has already been final.”

Counsel for Marzena responded that the issue of standing is one that can be raised at any time. She stated that while Wojciech may have had “standing when he initially brought the case for registration . . . because he was the legal guardian of his daughter who was a minor at that time,” he “lost his standing the moment that [Weronika] turned 18.” She added, “My client has not had proper representation before.” The trial court denied the Second Motion to Quash, stating, “based on all of the pleadings that have been filed as well as the arguments of counsel, the Respondent’s motion is denied.”

DISCUSSION

Marzena contends the trial court should have granted her Second Motion to Quash because Wojciech lost standing to seek enforcement of the Polish Decision when Weronika turned 18. Wojciech responds that Marzena should not be allowed to raise the issue of standing at this time—long after the original judgment registering the Polish Decision was entered, and the order denying Marzena’s First Motion to Quash—which was based on the same Polish Decision and involved the same child support arrearage—issued. Marzena in turn asserts that standing is an issue that “may be raised at any time in the proceeding.” We conclude that Marzena is barred from raising the issue of standing.

Once a judgment becomes final, it is presumed correct and is immune from later challenge. The Supreme Court described the consequences of the failure to appeal a final judgment in *Crew v. Pratt* (1897) 119 Cal. 139, 151–152: “it was . . . the duty of the [trial] court to adjudicate the question . . . and . . . while its conclusion was erroneous and the judgment open to reversal on appeal, . . . [because] no appeal was taken therefrom and as the time therefor has long since expired, it is not now open to collateral attack.” (See similarly *In re Crow* (1971) 4 Cal.3d 613, 622; *People v. Pinedo* (2005) 128 Cal.App.4th 968, 972; *Alioto Fish Co. v. Alioto* (1994) 27 Cal.App.4th 1669, 1685–1686.)

Here, Weronika was already 18 years old when Wojciech first sought a writ of execution for the child support arrearage that existed pursuant to the registered Polish Decision. Thus, Marzena could have, at that time, challenged the issuance of a writ of execution on the ground that Wojciech lacked standing to enforce the Polish Decision as the parent of a child who was no longer a minor. She did not, however, raise the issue of standing in her First Motion to Quash. Marzena could have appealed from the order denying her First Motion to Quash and raised the issue of standing at that time. She did not do so. When the time for Marzena to appeal from the order denying her First Motion to Quash expired, the writ of execution on her child support arrearage became final and binding.

Marzena asserts that lack of standing “may be raised at any time,” but we emphasize that the issue must be raised “at any time *in the proceeding*.” (*Cummings v. Stanley* (2009) 177 Cal.App.4th 493, 501, italics added.) Here, “the proceeding” relating to whether a writ of execution may issue for the child support arrearage ended when the time for Marzena to appeal from the order denying her First Motion to Quash expired.

Although there was a Second Writ of Execution and a subsequent order denying Marzena’s Second Motion to Quash, the Second Writ of Execution merely added an attorney fees award as sanctions. A postjudgment award of fees or costs does not reopen a judgment that was appealable when entered. (See, e.g., *UAP Columbus JV 326132 v. Nesbitt* (1991) 234 Cal.App.3d 1028, 1034–1036, 1039; *Kamper v. Mark Hopkins, Inc.*

(1947) 78 Cal.App.2d 885, 887–888.) Similarly, the entry of an amended judgment reflecting such an award does not restart the time for filing an appeal, even if it is denominated a “judgment” and repeats the terms of the first judgment. (*Torres v. City of San Diego* (2007) 154 Cal.App.4th 214, 221–224.) We conclude that for the same reasons a party may not reopen a judgment by appealing from a postjudgment award of fees or costs or an amended judgment, Marzena is precluded from challenging the issuance of a writ of execution on her child support arrearage by appealing from what is essentially a postjudgment attorney fees award or an amended writ of execution. We therefore decline to address Marzena’s contention that Wojciech lacked standing, or her contention that general principles of fairness and equity require reversal.²

DISPOSITION

The judgment is affirmed. Respondent Wojciech Wisniewska shall recover his costs on appeal. Respondent’s request for sanctions is denied. (Cal. Rules of Court, rule 8.276.)

McGuinness, P.J.

We concur:

Pollak, J.

Jenkins, J.

²Although we lack jurisdiction to address the propriety of a writ of execution as to the child support arrearage, we do have jurisdiction to address whether the attorney fees award—which was part of the Second Writ of Execution from which Marzena timely appeals—was proper. However, Marzena does not appear to challenge the attorney fees award and we therefore need not—and will not—address whether it was properly ordered.