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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

WING FONG LEE,

Respondent,

v.

BENJAMIN SCOTT PARKINSON,

Appellant.

A146877

(San Mateo County
Super. Ct. No. FAM0122072)

Benjamin Scott Parkinson, appearing in propria persona, appeals from a trial court order dated October 7, 2015, which addressed various child-support obligations. In his appellate briefing, however, he challenges other trial court rulings. We lack jurisdiction to consider those other rulings, and we conclude that Parkinson has forfeited or abandoned any challenge to the October 7 order. Accordingly, we affirm.

I.
FACTUAL AND PROCEDURAL
BACKGROUND

Parkinson and Wing Fong Lee were married in 2008, and their son, Aaron, was born in December 2009. In 2013, this action was commenced to dissolve the parties' marriage. Two years later, a judgment was entered that resolved most of their disputes. The trial court reserved jurisdiction, however, on a handful of unresolved issues involving property division and custody of Aaron, and a trial on those issues was held on three days during the summer of 2015. At the end of the last day of trial, August 27, the court orally ruled on these previously unresolved issues.

Parkinson had earlier filed a motion to modify child support, and a hearing on that motion was held in September 2015. The trial court ruled on the child-support issues by entering written “Findings and Order After Hearing” on October 7. No other orders were entered that day.

On November 9, 2015, Parkinson filed a notice of appeal in which he expressly appealed from the order “entered on . . . October 7, 2015.” In the section of the notice for describing the nature of the order being appealed, he checked a box next to the statement “Judgment after court trial.” On December 9, the trial court entered a judgment incorporating both the August 27 oral rulings and the rulings reflected in the October 7 order.

II. DISCUSSION

A. *Our Jurisdiction Is Limited to the Scope of the Notice of Appeal.*

Appellate jurisdiction is limited to the notice of appeal and order or judgment appealed from. (*Ellis v. Ellis* (2015) 235 Cal.App.4th 837, 846.) The notice of appeal must “identif[y] the particular judgment or order being appealed.” (Cal. Rules of Court,¹ rule 8.100(a)(2).) In his notice, Parkinson expressly appealed from the order “entered on . . . October 7, 2015.” We therefore have jurisdiction to review that order.²

Rather than addressing the merits of the October 7 order, however, Parkinson’s briefing addressed the merits of the trial court’s August 27 rulings, which were subsequently incorporated into the December 9 judgment. In her brief, Lee complained that the notice of appeal’s “content bears no relation to the issues [Parkinson] raises in his Opening Brief.” And she pointed out that the notice of appeal was filed “before the paper judgment on Reserved Issues was filed on December 9, 2015 and, as such, did not designate the Judgment as the order appealed from in his Notice of Appeal.” Concerned

¹ All further rules references are to the California Rules of Court.

² Child-support orders, even temporary ones, are appealable. (See *In re Marriage of Skelley* (1976) 18 Cal.3d 365, 367; *In re Marriage of De Guigne* (2002) 97 Cal.App.4th 1353, 1359; Fam. Code, § 3554; Code Civ. Proc., § 904.1, subd. (a)(10).)

about our ability to review any order other than the one entered on October 7, we sent a letter to the parties asking them to be prepared to address at oral argument the scope of our jurisdiction in light of the notice of appeal. At oral argument, Parkinson had little to say about our jurisdiction, but Lee took the somewhat surprising position that we have jurisdiction to review the trial court’s August 27 rulings under authority requiring us to liberally construe notices of appeal.

We therefore turn to that authority. Rule 8.100(a)(2) provides that a “notice of appeal must be liberally construed.” Under the rule of liberal construction, a notice is sufficient “ ‘to protect the right of appeal if it is reasonably clear what [the] appellant was trying to appeal from, and where the respondent could not possibly have been misled or prejudiced.’ ” (*In re Joshua S.* (2007) 41 Cal.4th 261, 272, quoting *Luz v. Lopes* (1960) 55 Cal.2d 54, 59.) The rule of liberal construction is inapplicable, however, “if the notice is so specific it cannot be read as reaching a judgment or order not mentioned at all.” (*Filbin v. Fitzgerald* (2012) 211 Cal.App.4th 154, 173.)

We cannot conclude that it was reasonably clear from the notice of appeal that Parkinson intended to appeal from the August 27 rulings, as reduced to judgment on December 9. The notice of appeal expressly stated that the appeal was from the October 7 order, which was separately appealable and the only order entered that day. Thus, the reference in the notice to October 7 cannot be considered ambiguous, because the notice does not refer to a day when no appealable order was entered or to a day when multiple orders were entered. (See *Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 212, 240 [notice of appeal specifying judgment did not perfect appeal from separate appealable order]; compare *Kellett v. Marvel* (1936) 6 Cal.2d 464, 472-473 [notice of appeal sufficient despite identifying date on which no order entered]; *Dang v. Smith* (2010) 190 Cal.App.4th 646, 656-657 [same where date misstated and there was “no other judicial act at or near the time referred to”].) Moreover, “ ‘ “[w]here several judgments and/or orders occurring close in time are separately appealable . . . , each appealable judgment and order must be expressly specified—in either a single notice of appeal or multiple notices of appeal—in order to be reviewable on appeal.’ ” ” (*Pfeifer*

v. John Crane, Inc. (2013) 220 Cal.App.4th 1270, 1316.) Thus, to the extent we could otherwise construe Parkinson's notice as a premature appeal of the December 9 judgment, which incorporated the August 27 rulings (see rule 8.104(d)), Parkinson's failure to specify those rulings in the notice is fatal. (See *Shiver, McGrane & Martin v. Littell* (1990) 217 Cal.App.3d 1041, 1045 ["Despite the rule favoring liberal interpretation of notices of appeal, a notice of appeal will not be considered adequate if it completely omits any reference to the judgment being appealed".].)

At oral argument, Lee's counsel argued that we should treat Parkinson's notice of appeal as a premature appeal of the December 9 judgment because on the notice Parkinson checked a box next to the statement "Judgment after court trial." Counsel argued that this description more aptly describes the August 27 rulings, which followed a three-day trial, than the October 7 order, which followed a hearing. We are unwilling to conclude that the checked description trumps the specification of the date of the order or judgment appealed, particularly where, as here, there was a different appealable order entered on that date. Indeed, the reverse is true: when a notice of appeal "clearly indicate[s] the subject of the appeal" by specifying a particular date of the underlying judgment or order, that specification trumps a checked box that incorrectly describes the judgment or order. (*Ellis Law Group, LLP v. Nevada City Sugar Loaf Properties, LLC* (2014) 230 Cal.App.4th 244, 251.)

Lee's counsel also pointed to the fact that Parkinson designated the trial transcripts in his record designation. It is true that "a reviewing court may consider the contents of the designation of record" in deciding "whether a respondent has been misled by errors on the face of the notice of appeal." (*D'Avola v. Anderson* (1996) 47 Cal.App.4th 358, 362.) But the question of prejudice to a respondent comes into play only if we determine that the notice of appeal can otherwise be liberally construed to reach an order or judgment that is not clearly specified. (See *Filbin v. Fitzgerald, supra*, 211 Cal.App.4th at p. 173.) Here, in contrast, Parkinson's notice unambiguously refers to the October 7 order, and we therefore have no occasion to consider whether Lee was misled.

In sum, our jurisdiction extends to, but no further than, reviewing the October 7 order.

B. Parkinson Has Forfeited Any Challenge to the October 7 Order Because His Briefing Challenges Other Trial Court Rulings.

In his appellate briefing, Parkinson does not challenge any ruling contained in the October 7 order regarding child support. He has therefore forfeited or abandoned any such challenge. (See *Christoff v. Union Pacific Railroad Co.* (2005) 134 Cal.App.4th 118, 125 [“an appellant’s failure to discuss an issue in its opening brief forfeits the issue on appeal”]; *Reyes v. Kosha* (1998) 65 Cal.App.4th 451, 466 [issues not properly raised in appellant’s brief are deemed forfeited or abandoned].)

III.
DISPOSITION

The trial court’s order dated October 7, 2015, as reflected in the judgment of December 9, 2015, is affirmed.

Lee’s motion for sanctions is denied.

The parties shall bear their own costs on appeal. (See rule 8.278(a)(5).)

Humes, P.J.

We concur:

Margulies, J.

Banke, J.