

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

In re the Marriage of TATE and ANTONIA GUICE.

TATE GUICE III,

Appellant,

v.

ANTONIA GUICE,

Respondent.

C070714

(Super. Ct. No. 11FL06849)

On March 8, 2012, the Sacramento County Superior Court issued a status-only judgment dissolving the marriage of Tate Guice III and Antonia Guice. Tate appeals from that judgment. However, Tate raises no claim regarding the status-only judgment. His only claims on appeal relate to orders issued by the Stanislaus County Superior Court in November 2010. Specifically, Tate argues the court erred in: (1) allowing Antonia to relocate to Texas with the parties' son; (2) precluding Tate from cross-examining the mediator in this matter; (3) placing the parties' children in separate homes; and (4) refusing to transfer venue to Sacramento County. We affirm the judgment because Tate's claims are not properly before this court.

BACKGROUND

Tate filed the first petition for dissolution in the Sacramento County Superior Court. Antonia subsequently filed her own petition for dissolution in the Stanislaus County Superior Court. The parties pursued orders in each county on their separate petitions. Tate then filed a motion in Stanislaus County to transfer venue on Antonia's petition to Sacramento County and set aside a default judgment.¹ The Stanislaus County Superior Court treated Tate's motion as one to quash Antonia's petition and granted the motion, thus quashing Antonia's petition and setting aside a default judgment.

In November 2010, despite Antonia's petition being quashed, the Stanislaus County Superior Court presided over a trial on custody and visitation.² Following trial, the Stanislaus County Superior Court issued orders regarding custody and visitation, which on this record appear to be final.

In August 2011, Tate filed another motion in the Stanislaus County Superior Court to transfer venue on Antonia's petition to the Sacramento County Superior Court. That motion was granted and on March 8, 2012, the Sacramento County Superior Court issued a status-only judgment dissolving the parties' marriage. Notice of entry of judgment was served on March 8, 2012, and the judgment along with notice of entry of judgment were filed on March 9, 2012. Tate appeals from that judgment.

¹ The request to enter a default judgment is in the record; the judgment itself is not.

² We cannot discern from the record why the Stanislaus County Superior Court presided over a custody trial after quashing the petition for dissolution filed in that county. But Tate did not raise the issue on appeal and we presume the trial court correctly performed its duty, that something outside the record on this appeal caused the Stanislaus County Superior Court to resume jurisdiction over the dissolution. (Evid. Code, § 664 [it is presumed that official duty has been regularly performed].)

DISCUSSION

Tate raises several claims on appeal regarding the November 2010 custody order. Whether Tate's claims have merit, this court cannot consider them. First, Tate's claims are not timely. Pursuant to the California Rules of Court, Tate had, at the outside, 180 days after the custody order was entered to appeal from that order. (Cal. Rules of Court, rule 8.104 [time to appeal is 60 days after notice of entry of judgment, is filed or served, or 180 days after judgment, whichever is earlier].) The order Tate contends is erroneous was issued in November 2010, 17 months before he filed his notice of appeal in this matter. Accordingly, the time to appeal that order has passed.

Second, the order that Tate claims is erroneous was issued by the Stanislaus County Superior Court. Absent circumstances not found in this record, this court does not have appellate jurisdiction over the Stanislaus County Superior Court, the Court of Appeal, Fifth Appellate District, does. (Cal. Const., art. VI, § 3 [giving the state Legislature authority to divide the state into appellate districts]; Gov. Code, § 69100, subd. (e) [Stanislaus County sits in the Fifth Appellate District]; Cal. Rules of Court, rule 8.100(a)(2) [appeals from trial court go to the appellate district in which the trial court sits].) Accordingly, the issues raised by Tate are not properly raised in this court on this appeal.

DISPOSITION

The judgment is affirmed.

BLEASE, Acting P. J.

We concur:

HULL, J.

MAURO, J.