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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re the Marriage of JEAN-MARC and
LAURA EURIN.

H040022
(Santa Clara County
Super. Ct. No. 1-11 FL159667)

JEAN-MARC EURIN,

Appellant,

v.

LAURA EURIN,

Respondent.

Jean-Marc Eurin (father) appeals from two orders regarding calculation of his income for purposes of apportioning additional child support under Family Code sections 4061 and 4062. We conclude those orders are not appealable and therefore dismiss the appeal.

Respondent (mother) and father divorced in 2011. In December 2011, the trial court entered an order awarding mother spousal support as well as child support for their minor son. That order stated “the parties shall equally share childcare costs related to employment or reasonably necessary education or training for employment skills,” expressly reserved the “issue of payment of child support add-ons” under Family Code section 4061, subdivision (b), and mandated that “any modification shall be retroactive to November 9, 2011.”

In April 2013, mother filed a request to modify the apportionment of additional child support, arguing that father should be responsible for a greater proportion their son's private school, therapy, and afterschool care costs. Father argued that the starting point for calculation of his net disposable income under Family Code section 4061 should be \$17,112 in gross monthly income (based on a stipulated order filed in 2012). Mother argued that father's gross monthly income was \$29,692.42, based on father's 2012 tax return.

In July 2013, the trial court ordered that “[a]llocation of add-ons shall be based on the prior year's total income for both parties.” The parties were ordered to “exchange evidence of total income earned the prior year (W-2, Form 1099, etc.)” The order continued: “Based on that information, the add-on allocation for the present year will be established.” The order required the parties to meet and confer to establish the allocation. A second order filed later the same month made the allocation retroactive to November 2011 and awarded other support not challenged on appeal.

“A reviewing court has jurisdiction over a direct appeal only when there is (1) an appealable order or (2) an appealable judgment.” (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 696.) “When a court renders an interlocutory order collateral to the main issue, dispositive of the rights of the parties in relation to the collateral matter, and directing payment of money or performance of an act, direct appeal may be taken.” (*In re Marriage of Skelley* (1976) 18 Cal.3d 365, 368 (*Skelley*)). But collateral orders are appealable “only if the matter is severable from the general subject of the litigation, and then only if a decision thereon determines finally the rights of the parties in relation to the collateral matter, leaving no further judicial acts to be done by the court in regard to that matter.” (*In re Marriage of Van Sickle* (1977) 68 Cal.App.3d 728, 735 (*Van Sickle*), italics omitted.)

Apportioning additional child support involves taking each parent's gross income, deducting certain expenses (including spousal support and basic child support), and splitting the additional child support expenses "in proportion to [the parents'] net disposable incomes" (Fam. Code, § 4061, subds. (a)(2), (c), (d).) Here, the July 2013 orders indicated that the parents' gross incomes for each year should be based on their taxable incomes but did not determine the parents' gross incomes for any year, much less make deductions to determine their net disposable incomes, as would be necessary to apportion the additional child support expenses. The July 2013 orders therefore did not direct payment of money, nor did they determine with any finality the rights of the parties in relation to the collateral matter of additional child support. (*Skelley, supra*, 18 Cal.3d 365 at p. 368; *Van Sickle, supra*, 68 Cal.App.3d at p. 735.) As such, they were not appealable orders.

The appeal is dismissed.

Grover, J.

WE CONCUR:

Elia, Acting P.J.

Mihara, J.

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