

245 Ariz. 535

Court of Appeals of Arizona, Division 2.

Robert O. OCHOA, Petitioner/Appellant,

v.

Raeanna BOJORQUEZ, Respondent/Appellee.

No. 2 CA-CV 2018-0060-FC

|

Filed October 25, 2018

**Synopsis**

**Background:** Father of subject child filed a motion to modify his **child support** obligation. Child's mother filed a petition to modify parenting time. The Superior Court, Pima County, No. SP20050672, [Ken Sanders](#), Judge Pro Tempore, entered an order modifying father's **child support** obligation, but by increasing it rather than reducing it as father had requested. Mother's petition as to parenting time was not addressed. Father appealed.

**[Holding:]** The Court of Appeals, [Eckerstrom](#), C.J., held that order modifying father's **child support** obligation was not final and appealable.

Appeal dismissed.

**Procedural Posture(s):** On Appeal; Motion to Modify Order or Judgment.

West Headnotes (6)

**[1] Appeal and Error** Determination of questions of jurisdiction in general

Appellate court has an independent duty to examine whether it has jurisdiction over matters on appeal.

[1 Cases that cite this headnote](#)

**[2] Appeal and Error** Necessity of final determination

Only final judgments are appealable.

[1 Cases that cite this headnote](#)

**[3] Courts** Review of proceedings

A family court ruling is not final and appealable until all of the claims pending before the court have been resolved or a certification of finality under family law rules is included. [Ariz. R. Fam. Law P. Rule 78\(B\)](#).

[1 Cases that cite this headnote](#)

**[4] Child Support** Decisions reviewable

**Child Support** Transfer of cause and proceedings in general

Trial court order increasing father's **child support** obligation was not a final appealable order, where petition by child's mother to modify parenting time remained outstanding at time judgment was entered, and judgment did not contain required language pursuant to family law rule. [Ariz. R. Fam. Law P. Rule 78\(B\)](#).

[1 Cases that cite this headnote](#)

**[5] Child Support** Transfer of cause and proceedings in general

For a **child support** order to be appealable, family law rule language must be included in the order if there is a pending and unresolved custody claim, even where that claim is being adjudicated by another judicial officer. [Ariz. R. Fam. Law P. Rule 78\(B\)](#).

**[6] Child Custody** Transfer of cause and proceedings in general

For a child custody order to be appealable, family law rule language must be included within the order if there is a pending and unresolved **child support** claim, even where that claim is being adjudicated by another judicial officer. [Ariz. R. Fam. Law P. Rule 78\(B\)](#).

Appeal from the Superior Court in Pima County, No. SP20050672, The Honorable [Ken Sanders](#), Judge Pro Tempore. **APPEAL DISMISSED**

#### Attorneys and Law Firms

Robert O. Ochoa, In Propria Persona

Chief Judge [Eckerstrom](#) authored the opinion of the Court, in which Judge [Brearcliffe](#) and Judge [Vásquez](#) concurred.

### OPINION

[ECKERSTROM](#), Chief Judge:

\*535 ¶ 1 Robert Ochoa seeks to appeal from the trial court’s order modifying his **child support** obligation. Because we lack jurisdiction, we dismiss the appeal.

[1] ¶ 2 Although neither party has raised the issue of jurisdiction, “[t]his court has an \*536 \*\*606 independent duty to examine whether we have jurisdiction over matters on appeal.” [Camasura v. Camasura](#), 238 Ariz. 179, ¶ 5, 358 P.3d 600 (App. 2015). In July 2017, Ochoa filed a motion to modify **child support**. The family court scheduled a hearing on the motion to be held in November, and that hearing was continued multiple times and finally held on February 28, 2018. On February 22, Raeanna Bojorquez, the mother of the child, filed a petition to modify parenting time. On February 28, the court entered an order modifying Ochoa’s **child support** obligation, but increasing it rather than reducing it as Ochoa had requested. That order did not address Bojorquez’s petition on parenting time. And, it did not contain language pursuant to [Rule 78\(B\)](#), [Ariz. R. Fam. Law P.](#), “direct[ing] the entry of final judgment as to one or more but fewer than all of the claims.”

[2] [3] ¶ 3 “As a general rule, only final judgments are appealable,” [Ghadimi v. Soraya](#), 230 Ariz. 621, ¶ 7, 285 P.3d 969 (App. 2012), and “a family court ruling is not final and appealable until all of the claims pending before the court have been resolved or a Family [Rule 78\(B\)](#) certification of finality is included.” [Natale v. Natale](#), 234 Ariz. 507, ¶ 5, 323 P.3d 1158 (App. 2014).

[4] [5] [6] ¶ 4 We recognize that this case was carried out under a bifurcated procedure in which **child support** enforcement was before one judicial officer pursuant to Title IV(D) of the Social Security Act, 42 U.S.C. §§ 651-669b (dealing with the enforcement of **child support** obligations under federal law), and matters of custody (parenting time and legal decision-making) were before a different judicial officer. Although the issues are bifurcated, they are not treated as separate “actions,” but rather all claims are under the same case number. Consequently, for a **child support** order to be appealable, the [Rule 78\(B\)](#) language must be included in the order if there is a pending and unresolved custody claim, even where that claim is being adjudicated by another judicial officer. Similarly, for a custody order to be appealable, the [Rule 78\(B\)](#) language must be included within the order if there is a pending and unresolved **child support** claim, even where that claim is being adjudicated by another judicial officer.

¶ 5 Because Bojorquez’s petition to modify parenting time remained outstanding at the time the judgment was entered, and the judgment did not contain language pursuant to [Rule 78\(B\)](#), the judgment was not final and could not be appealed. See *id.* ¶ 11. Accordingly, we dismiss Ochoa’s appeal.

#### All Citations

245 Ariz. 535, 431 P.3d 605, 802 Ariz. Adv. Rep. 21