*Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-485

AUGUST TERM, 2006

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| Beth Ranzona | } | APPEALED FROM: |
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| v. | } | Bennington Family Court |
| | } | |
| Michael Ranzona | } | |
| | } | DOCKET NO. 137-5-02 Bndm |

Trial Judge: Nancy Corsones

In the above-entitled cause, the Clerk will enter:

Father appeals from a family court order holding him in contempt for failure to pay child support. Father contends the contempt order is invalid because: (1) the court lacked jurisdiction to enter the underlying temporary child support order; (2) the temporary child support terminated upon issuance of the final divorce decree; and (3) the temporary child support order was entered in contravention of the law. We affirm.

This case commenced in May 2002, when mother filed a petition for divorce in the Bennington Family

Court. There were two minor children from the marriage. Following a hearing in August 2002, the family court magistrate issued a temporary child support order, based upon the parties= stipulation, providing for father to pay Azero@ child support in consideration of the fact that he was paying mother $3500 per month in general undesignated support and other expenses.

Mother filed several subsequent motions to enforce the order and hold father in contempt for nonpaymentof the spousal support and agreed upon child support obligations, such as tuition for the child. In June 2003, the parties entered into a second stipulation addressed to a range of subjects, including mother=s contempt motions and father=s arrearages. The stipulation provided for father to pay arrearages totaling over $25,000, and imposed a $1000-per-month child support obligation. Although the magistrate apparently declined to execute the agreement because the parties had omitted certain income worksheets, the court later signed a Form 802 temporary child support order in August 2003, based upon the stipulation, that provided for child support payments of $1000 per month. The court also signed a separate temporary order incorporating the balance of the stipulation.

A four-day contested divorce hearing was held from May through July 2004. While a decision was pending, mother filed an additional motion for contempt in early August 2004, asserting non-payment of child support, among other claims. The court in response, issued an entry order calling for father to file a response and reminding him of his Aongoing duty and obligation to pay the amounts per the stipulation.@ Father=s response in late August challenged the amount he was in arrears but did not contest the validity of the child support obligation.

In October 2004, the court issued a final decree and judgment of divorce. The lengthy judgment contained numerous findings, but addressed child support only briefly, in the context of a discussion of father=s reduced income, in which the court noted that father Ashould be able to meet his own expenses, though, and pay child support as required.@ Thereafter, father filed two motions for reconsideration, but neither addressed the existence or validity of the on-going child support obligation under the temporary order .

In December 2004, father moved to modify the $1000-per-month child support obligation. Shortly thereafter, mother filed another motion to enforce. In addition, in January 2005, father filed a Rule 60 motion to set aside the August 2003 temporary child support order, but later withdrew the motion. Following a hearing, the court issued a written decision in March 2005, stating that father had withdrawn his motion to modify, that the August 2003 child support order remained in full force and effect, and that, as set forth in that order, father remained obligated to pay $1000 per month in child support. The court ultimately found father in contempt for nonpayment, and issued a mittimus for his arrest in late March 2005.

Mother filed yet another motion to enforce and hold father in contempt in August 2005. In opposition, father asserted that the August 2003 temporary child support order was invalid, or, alternatively, that the temporary child support order had terminated with issuance of the final divorce judgment in October 2004. In November 2005, the court issued a written decision, rejecting father=s claims and again holding him in contempt for non-payment of child support. This appeal followed.

Father contends the contempt order is invalid because the family court lacked jurisdiction to issue the underlying temporary child support order in August 2003. He relies on 4 V.S.A. ' 463, which provides that a family court may hear and determine the issue of child support on an expedited basis Aprovided there is a prior existing support order in effect or an interim or temporary order and the court finds one of the following.@ The statute then sets forth four circumstances under which the court may issue such an order, including a situation where a Ahearing before a magistrate would unduly delay the proceedings,@ to one where Aconsolidation with an already scheduled matter would in fact expedite resolution of the support issue,@ to Agood and substantial cause as the family court may find.@ Id. ' 463(1)-(4). Father contends the statutory predicate was not satisfied here because the magistrate had declined to issue an order pursuant to the parties= June 2003 stipulation, citing a lack of adequate income worksheets. Father overlooks that fact that the magistrate had issued a prior temporary order in August 2002, which remained in effect until the new August 2003 order was entered. Accordingly, we discern no defect in the August 2003 temporary support order, jurisdictional or otherwise.

Father also contends that the court failed to make the requisite finding that at least one of the statutory circumstances was satisfied. The alleged deficiency does not vitiate the court=s jurisdiction to issue the order, however, or provide a basis to collaterally attack its validity. See State v. Mott, 166 Vt. 188, 194 (1997) (failure of family court to support abuse-prevention order by findings, as required by statute, is not a jurisdictional defect that can be collaterally attacked as a defense to prosecution for violation of order). Furthermore, we note that father voluntarily stipulated to payment of the $1000 per month child support provision set forth in the August 2003 temporary order, and consistently acknowledged his payment obligation under the order even while contesting the amount of arrearages under the order and attempting to modify the payment obligation. See Sprague v. Nally, 2005 VT 85, & 3, 178 Vt. 222 (party may not predicate error on action that party has induced). Accordingly, we discern no grounds to disturb the judgment on this basis.

Father further asserts that the August 2003 temporary child support order terminated upon issuance of the final judgment and decree of divorce in October 2004. Although the general intent of the statute authorizing the issuance of temporary orders, 15 V.S.A. ' 594a, is that the temporary order will be replaced by a final order, Chaker v. Chaker, 155 Vt. 20, 29 (1990), nothing in the statute or our case law requires such a merger. Here, as noted, although the final order did not address child support, it plainly contemplated that father=s existing obligation under the temporary order would continue, and the temporary order itself provided that it would Aremain in effect@ until Achanged or discontinued by further order of the court or operation of law.@ We thus find no basis to conclude that the temporary order terminated with issuance of the final divorce order.

Finally, father contends that the court erred in holding him in contempt because the court had not earlier determined whether the $1000-per-month support obligation complied with the support guidelines. Again, father agreed toCand voluntarily complied withCthe support obligation, and cannot in any event collaterally attack its validity as a defense to its enforcement. Mott, 166 Vt. at 194.

Affirmed.

BY THE COURT:

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice