

Not for Publication.

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

EDWIN A. CALLWOOD, Appellant/Respondent,)	S. Ct. Civ. No. 2009-0119
)	Re: Super. Ct. SP. No. 25/2009
)	
)	
v.)	
)	
PEOPLE OF THE VIRGIN ISLANDS, EX REL: VERONICA L. J. CALLWOOD, Appellee/Petitioner.)	
)	
)	
)	

On Appeal from the Superior Court of the Virgin Islands
Considered: November 10, 2010
Filed: November 23, 2010

BEFORE: **RHYS S. HODGE**, Chief Justice; **IVE ARLINGTON SWAN**, Associate Justice; and **AUDREY L. THOMAS**, Designated Justice.¹

ATTORNEYS:

Edwin A. Callwood

St. Croix, U.S.V.I.

Pro Se

Carol S. Moore, Esq.

Assistant Attorney General

VI Department of Justice, St. Thomas, U.S.V.I.

Attorney for Appellee

ORDER OF THE COURT

PER CURIAM.

THIS MATTER comes before the Court as a result of Appellant's *pro se* appeal from a December 2, 2009 Order entered by the Superior Court transferring the matter to the Paternity

¹ Associate Justice Maria M. Cabret has been recused from this matter. The Honorable Audrey L. Thomas sits in her place by designation pursuant to title 4, section 24(a) of the Virgin Islands Code.

and Child Support Division (hereafter “PCSD”), and ordering Appellant to comply with the terms of his January 18, 2006 divorce decree and make a two hundred dollar (\$200.00) child support payment in December 2009.

The parties were divorced in the Superior Court of the Virgin Islands, Division of St. Croix on January 18, 2006. (J.A. at 10-11.) The divorce decree awarded Veronica Callwood (hereafter “Veronica”) child support in the amount of two hundred dollars (\$200.00) per month, which would increase to three hundred dollars (\$300.00) when Appellant, Edwin Callwood (hereafter “Edwin”), returned to full-time employment. (J.A. at 10-11.)² Subsequently, Veronica moved to the state of Ohio with the parties’ minor child and applied for food stamps and medical assistance for the child. (J.A. at 40-42.) On May 8, 2008, the Franklin County, Ohio, Child Support Enforcement Agency (hereafter “Ohio Enforcement Agency”) sent a transmittal to the PCSD requesting that it enforce the child support provision of the January 18, 2006 divorce decree. (Appellee Br. 3.)³ On March 27, 2008, the PCSD received an affidavit of arrears (J.A. at 27) and Edwin’s child support pay history (J.A. at 28) from the Ohio Enforcement Agency indicating accrued arrears of seven thousand, eight hundred dollars (\$7,800.00). The People of the Virgin Islands (hereafter “People”) filed a motion on March 25, 2009, asking the Superior Court for an order to show cause why Edwin should not be held in contempt for violating the

² To date, Edwin’s child support payments have remained at two hundred dollars (\$200.00) per month.

³ The Virgin Islands has adopted the Uniform Interstate Family Support Act (UIFSA) and codified it in sections 392 through 451 of Title 16 of the Virgin Islands Code. Under UIFSA, “[a] tribunal of this territory issuing a support order consistent with the law of this Territory has continuing, exclusive jurisdiction over a child-support order . . . as long as this territory remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued.” 16 V.I.C. § 400. Furthermore, “[a] tribunal of this Territory having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order.” 16 V.I.C. § 401. In the present case, the divorce decree awarding Veronica child support was issued in the Virgin Islands, and Edwin—the obligor—remains a resident of this Territory. Therefore, the tribunals of this jurisdiction have continuing exclusive jurisdiction over the January 18, 2006 child support order. See 16 V.I.C. § 394 (“The Superior Court and the Division’s Administrative Hearing Office are the tribunals of this State.”).

January 18, 2006 divorce decree. (J.A. at 7-8.) A hearing on the People’s motion to show cause was held on November 13, 2009, and on December 2, 2009, the Superior Court entered an order transferring the matter back to the PCSD and ordering Edwin to make a two hundred dollar (\$200.00) child support payment in December 2009. (J.A. at 53-55.) On November 23, 2009, prior to any administrative hearing before the PCSD, Edwin filed a notice of appeal. (J.A. at 1.)

Prior to considering the merits of an appeal, this Court must first determine if it has appellate jurisdiction over the matter. *V.I. Gov’t Hosp. and Health Facilities Corp. v. Gov’t*, 50 V.I. 276, 279 (V.I. 2008). “The Supreme Court shall have jurisdiction over all appeals arising from final judgments, final decrees or final orders of the Superior Court, or as otherwise provided by law.” 4 V.I.C. § 32(a) (Supp. 2008). “[A] final judgment, decision, or order is one that ‘ends the litigation on the merits and leaves nothing ... to do but execute the judgment.’” *V.I. Conservation Soc’y, Inc. v. Golden Resorts, LLP*, S.Ct. Civ. No. 2009-0026, 2010 WL 2633594, at *3 (V.I. June 23, 2010) (quoting *Gov’t of the Virgin Islands v. Rivera*, 333 F.3d 143, 150 (3d Cir. 2003)). This Court also has jurisdiction over “[i]nterlocutory orders . . . granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions.” 4 V.I.C. § 33(b)(1).

The Superior Court’s December 2, 2009 Order transferred the matter to the PCSD and ordered that Appellant comply with the January 18, 2006 divorce decree, which required him to pay two hundred dollars (\$200.00) a month for child support. However, the Superior Court intended that the PCSD, through an administrative hearing, would make the final determination as to whether, and to what extent, Appellant was in arrearages for child support.⁴ Evidencing

⁴ Under 16 V.I.C. § 409(b)(4), a responding tribunal of this territory has the authority to “determine the amount of any arrearages.” See 16 V.I.C. § 398 (“[A] tribunal of this territory may serve . . . as a responding tribunal for

this intent is the Superior Court's responses to Appellant's continued arguments that he has made the required support payments to his son and that he is not in arrearages for child support; the Superior Court repeatedly responded that the PCSD administrative review "would be the place to address that." (J.A. at 47, 48-49, 45-46.) As such, the Superior Court's December 2, 2009 Order did not end the litigation on the merits. *See United States v. Spears*, 859 F.2d 284, 286-87 (3d Cir. 1988) ("[A]n order remanding a matter to an administrative agency is no more than an interlocutory step in adjudicative proceedings and is generally not appealable." (citing *United Steelworkers of Am., Local 1913 v. Union R.R.*, 648 F.2d 905, 909 (3d Cir.1981))). Accordingly, it is hereby

ORDERED that the instant appeal is **DISMISSED FOR LACK OF JURISDICTION**; and it is further

ORDERED that copies of this Order be served on the parties.

SO ORDERED this 23rd day of November, 2010.

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court

proceedings initiated in another state."). Tribunals are defined to include courts, administrative agencies, and quasi-judicial entities "authorized to establish, enforce or modify support orders or to determine parentage." 16 V.I.C. § 393(v). Furthermore, 16 V.I.C. § 394 states that "[t]he Superior Court and the Division's Administrative Hearing Office are the tribunals of this State." *See* 16 V.I.C. § 341(c) ("Division' or 'Title IV-D Agency' means the Paternity and Child Support Division established within the Department of Justice.").