


1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico  
Filed 1/9/2023 1:04 PM

2 **ERIC JONES,**

3 Petitioner-Appellant,



Mark Reynolds

4 v.

**No. A-1-CA-40587**

5 **BECKY JONES,**

6 Respondent-Appellee.

7 **APPEAL FROM THE DISTRICT COURT OF COLFAX COUNTY**

8 **Melissa A. Kennelly, District Court Judge**

9 Eric Jones  
10 Raton, NM

11 Pro Se Appellant

12 Becky Jones  
13 Albuquerque, NM

14 Pro Se Appellee

15 **MEMORANDUM OPINION**

16 **IVES, Judge.**

17 {1} Appellant appeals from an order resolving his objections to a domestic  
18 relations hearing officer's (DRHO) recommendations that a prior child support order  
19 be enforced. We issued a notice of proposed summary disposition, and Appellant  
20 has responded with a timely memorandum in opposition. We remain unpersuaded  
21 that our initial proposed disposition was incorrect, and we therefore affirm.

1 {2} In his memorandum in opposition, Appellant continues to argue that  
2 procedural irregularities occurred below resulting in the violation of his substantive  
3 rights. [MIO 1-2] The central issue in this appeal arose when the district court  
4 entered an order on June 7, 2021, adopting the DRHO's July 24, 2018  
5 recommendations regarding child support, following remand from this Court. [RP  
6 973; DS 2] On June 9, 2021, the DRHO mistakenly issued a notice of hearing on  
7 child support set for July 9, 2021. [RP 975; DS 2] On June 22, 2021, the DRHO  
8 issue a notice stating that the hearing scheduled for July 9, 2021 was vacated, as the  
9 district court had ruled upon the child support issue in its order adopting the DRHO's  
10 July 24, 2018 recommendations following remand from this Court, and therefore,  
11 no hearing before the DRHO was necessary. [RP 978] Appellant did not file a notice  
12 of appeal from the district court's order adopting the DRHO's recommendations on  
13 child support.

14 {3} Appellant argues that the district court's mistaken entry of a child support  
15 hearing resulted in confusion regarding the time for appealing the district court's  
16 order adopting the DRHO's recommendations and this resulted in plain error as it  
17 affected his right to appeal. [MIO 1-2] We disagree. As explained in the notice of  
18 proposed summary disposition, Appellant was notified on June 22, 2021, that the  
19 hearing scheduled for July 9, 2021 was vacated, as the district court had ruled upon  
20 the child support issue in its order adopting the DRHO's July 24, 2018

1 recommendations following remand from this Court, and that therefore, no hearing  
2 before the DRHO was necessary.

3 {4} Even if we agreed that an error by the district court resulted in confusion  
4 regarding the time to file a notice of appeal, court error does not explain Appellant’s  
5 failure to file a motion for an extension of time under Rule 12-201(E)(1) NMRA and  
6 a notice of appeal under Rule 12-201(E)(3) and (5) after he became aware that the  
7 DRHO’s notice of hearing was mistakenly entered and that the district court’s June  
8 7, 2021 order remained in effect. *See* Rule 12-201(E)(3) (stating that a motion for  
9 extension of time “filed within thirty (30) days after the expiration of the time  
10 otherwise prescribed by this rule for filing the notice of appeal . . . may be granted  
11 on a showing of excusable neglect or circumstances beyond the control of the  
12 appellant”); Rule 12-201(E)(5) (“A party that has filed a motion for extension of  
13 time must file a notice of appeal within thirty (30) days after the expiration of the  
14 time otherwise prescribed by this rule for filing the notice even if the motion for  
15 extension of time remains pending. The district court may grant the motion  
16 retroactively.”). Nor does court error explain Appellant’s failure to ever file a notice  
17 of appeal, as Appellant was notified that the notice of hearing was mistakenly  
18 entered and vacated fifteen days before the expiration of the thirty-day time limit for  
19 filing notice of appeal. [RP 978] *See* Rule 12-201(A)(1)(b).

1 {5} Under these circumstances, we see no basis to conclude that plain error  
2 affecting Appellant's right to appeal occurred below. Therefore, for these reasons,  
3 and those stated in our notice of proposed disposition, we affirm.

4 {6} **IT IS SO ORDERED.**

5  
6   
\_\_\_\_\_  
**ZACHARY A. IVES, Judge**

7 **WE CONCUR:**

8   
9 \_\_\_\_\_  
**JENNIFER L. ATTREP, Judge**

10   
11 \_\_\_\_\_  
**JANE B. YOHALEM, Judge**