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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

Court of Appeals of New Mexico
Filed 10/29/2026 8:16 AM
Mark Reynolds

Opinion Number: _____

Filing Date: October 29, 2026

No. A-1-CA-43059

ANGELA KIM NATION,

Petitioner-Appellee,

v.

ISIAH DEREK ROYBAL,

Respondent-Appellant,

and

STATE OF NEW MEXICO ex rel.
HUMAN SERVICES DEPARTMENT,

Intervenor-Appellee.

APPEAL FROM THE DISTRICT COURT OF SAN MIGUEL COUNTY
Abigail Aragon, District Court Judge

Angela Kim Nation
Las Vegas, NM

Pro Se Appellee

Isiah Derek Roybal
Las Vegas, NM

Pro Se Appellant

New Mexico Health Care Authority
Child Support Services Division
Kristin Sovey
Rio Rancho, NM
Larry Heyeck
Las Cruces, NM
Alicia Hohl
Farmington, NM

for Intervenor-Appellee

OPINION

HOUGHTON, Judge.

{1} Isiah Roybal and Angela Nation divorced in 2019. Roybal pays Nation child support for their two children. In 2025, the district court adopted a child support hearing officer's recommendation to reduce Roybal's child-support obligation because the older child turned eighteen and graduated high school, and therefore was emancipated. But Roybal appeals, arguing that the district court made several errors by adopting the hearing officer's recommendation. He also argues that the district court erred by not ruling on an emergency motion, and that a court employee prevented his motion from reaching the district court judge.

{2} Exercising our jurisdiction under NMSA 1978, Section 39-3-2 (1966), we reverse in part. We reverse the district court's calculation of Roybal's child-support contribution and its assignment of uninsured healthcare expenses. We decline to review Roybal's due-process argument and his argument that the district court picked the wrong start date for the revised child-support plan because Roybal failed to preserve those issues. Finally, we do not consider Roybal's emergency motion because the district court never ruled on it and we therefore lack jurisdiction.

BACKGROUND

{3} Appellant Isiah Roybal and Appellee Angela Nation divorced in 2019. Nation has custody of their two children and Roybal pays child support. In 2025, their older

child turned eighteen and graduated high school, thus emancipating. As a result, the Child Support Services Division (CSSD) moved to modify the child-support order.

{4} Because calculating child support requires considering the parents' finances, CSSD subpoenaed both Roybal and Nation seeking information about their income. *See* NMSA 1978, § 40-4-11.1 (2023). Nation provided her two most recent paystubs, each showing $2,736.83 in gross pay for different two-week periods in 2025. She also provided her 2024 W-2, which showed $72,831.95 in wages.

{5} By consulting a New Mexico Department of Labor database, CSSD independently determined that Nation's gross income for 2025's first quarter was $16,420.98. CSSD divided that quarterly figure by three to conclude that Nation's monthly income was $5,473.66.

{6} After a hearing, the child support hearing officer issued a report. The hearing officer relied on the $5,473.66 monthly income calculated by CSSD and income data for Roybal to calculate each parent's modified child-support obligation. Because Roybal's income accounted for 46 percent of the parents' combined gross monthly income, the hearing officer calculated that Roybal owed $555.59 in child support each month. The hearing officer also recommended that Roybal should be responsible for 54 percent of the child's "reasonable medical, dental[,] and vision expenses not paid by insurance." The hearing officer noted that Nation, Roybal, and CSSD each had fourteen days to object.

{7} Roybal objected to the hearing officer's method for calculating Nation's income.[1] He claimed that Nation's paystubs were for two-week periods, meaning that she was paid biweekly and therefore received twenty-six paychecks per year, not two per month. He argued that Nation actually made $5,929.80 per month, and that, if CSSD had used that number, his child-support payments would be smaller.

{8} Roybal also objected to the hearing officer's recommended split of uninsured healthcare expenses. According to Roybal, he should be responsible for 46 percent of the child's uninsured healthcare expenses—equivalent to his share of the income—rather than the 54 percent that the hearing officer recommended.

{9} Nation responded to Roybal's objections, and claimed that she makes $5,473.66 monthly but gets paid $2,736.83 biweekly. She also admitted that she made $71,832.00 in 2024, and was paid in twenty-six biweekly payments. The district court overruled Roybal's objections. Roybal timely appealed.

DISCUSSION

{10} Roybal raises five issues on appeal. We resolve only the first two. As for the other three, we either lack jurisdiction to consider them or decline to do so because Roybal did not preserve them below.

[1]Roybal objected again fifteen days later. But he filed his second set of objections outside the fourteen-day deadline to object and, in any event, the second set is not materially different than the first.

I. Standard of Review

{11} We review child-support determinations for abuse of discretion. *Diamond v. Diamond*, 2012-NMSC-022, ¶ 24, 283 P.3d 260; *Styka v. Styka*, 1999-NMCA-002, ¶ 8, 126 N.M. 515, 972 P.2d 16. "We also review the trial court's findings of fact to determine if there is substantial evidence to support the determinations." *Styka*, 1999-NMCA-002, ¶ 8. But a trial court must exercise its discretion "in accordance with the child support guidelines." *Id.* "A district court abuses its discretion if it applies an incorrect standard, incorrect substantive law, or its discretionary decision is premised on a misapprehension of the law." *Jury v. Jury*, 2017-NMCA-036, ¶ 26, 392 P.3d 242 (internal quotation marks and citation omitted). In determining whether the district court's child-support calculation resulted from a misapprehension of law, we apply de novo review. *See id.*

II. Calculating Nation's Income

{12} Roybal argues on appeal that the district court erred by miscalculating Nation's income. He says that Nation's paystubs reflect biweekly pay, not twice-monthly pay, so she actually received twenty-six paychecks in 2024. That means her monthly income was $5,929.80, not $5,473.66. On appeal, Nation admits that she is paid biweekly, and that she received a third paycheck in May 2024 and in October 2024. Nevertheless, she argues that the district court correctly calculated her monthly income. CSSD, as an intervenor, argues that the district court used an

appropriate method to calculate Nation's income, and that using Roybal's method would reduce his child-support contribution by just $5.08 per month. We agree with Roybal.

{13} The question here is how the district court should calculate gross monthly income when paychecks arrive every two weeks. By its terms, the statute answers the question. When interpreting a statute, "our task is to identify the intent of our Legislature." *State v. Billey*, 2026-NMCA-027, ¶ 11, 585 P.3d 547. "If those words are clear and unambiguous, we honor their plain meaning." *Id.* (internal quotation marks and citation omitted). In this case, we begin and end with the statute's plain meaning.

{14} Section 40-4-11.1(G) states that the parents' child-support "obligation[s] shall be calculated based on the combined income of both parents and shall be paid by them proportionately." The statute defines "income" as "actual gross income," which includes "income from any source," like a salary from an employer. Section 40-4-11.1(C)(1), (2). For situations involving a custodial parent and noncustodial parent, "the basic child support obligation shall be calculated using the basic child support schedule promulgated by the department, Worksheet A and instructions contained in Subsection M of this section." Section 40-4-11.1(H)(1). Worksheet A requires a calculation of each parent's "Gross Monthly Income." Section 40-4-11.1(M). To calculate "[g]ross monthly income," the instructions for

Worksheet A state to use "current income if steady." *Id.* But if "income varies a lot from month to month," the instructions direct using "an average of the last twelve months, if available, or last year's income tax return." *Id.*

{15} A parent paid biweekly will get twenty-six or twenty-seven paychecks each year. Most months, a biweekly employee will receive only two paychecks. But some months they will receive a third, which would boost their monthly income by 50 percent—what we would call "a lot." *See* § 40-4-11.1(M). After all, "a lot" means "to a considerable degree or extent." *See a lot*, *Merriam-Webster Dictionary*, https://www.merriam-webster.com/dictionary/a%20lot (last visited October 19, 2026). For parents whose monthly income varies by 50 percent, as Nation's does, the statute directs that gross monthly income should be calculated by using "an average of the last twelve months, if available, or last year's income tax return." Section 40-4-11.1(M).

{16} We acknowledge that an employee paid biweekly has income that is "steady," which suggests using "current income." *Id.* But Worksheet A's instructions are about how to calculate "monthly" income. *Id.* And the *monthly* income of an employee paid biweekly is not steady. It varies depending upon how many pay periods end that month. Some months, an employee will receive two checks. Other months, the employee will receive three.

{17} Thus, we hold that calculating gross monthly income under Section 40-4-11.1(H)(1) for a parent who is paid biweekly requires using "an average of the last twelve months, if available, or last year's income tax return." Section 40-4-11.1(M). Doubling biweekly income or dividing a biweekly employee's quarterly income by three is contrary to Section 40-4-11.1(M) and results in an under- or over-calculation of gross monthly income, as it did in this case.

{18} Because the district court adopted the hearing officer's calculation of Nation's monthly income, which divided Nation's last reported quarterly income by three rather than using "an average of the last twelve months" or "last year's tax return," the court misapplied Section 40-4-11.1(H)(1). "A discretionary decision premised on a misapprehension of the law is an abuse of discretion." *Oakey v. Tyson*, 2017-NMCA-078, ¶ 19, 404 P.3d 810. We therefore reverse the district court's calculation of Roybal's monthly child-support obligation and remand for the district court to correct its calculation.

III. Uninsured Healthcare Expenses

{19} Roybal argues that the district court erred by assigning him 54 percent of the child's healthcare expenses that insurance does not cover. Instead, he claims that he should be responsible for 46 percent, in accordance with his share of the combined income. Nation does not respond to this argument, but CSSD agrees with Roybal.

We agree as well. In assigning him 54 percent of the child's healthcare expenses that insurance does not cover, the district court abused its discretion.

{20} Section 40-4-11.1 does not specify how to assign portions of healthcare expenses that insurance does not cover. It does, however, specify that the "cost of providing medical and dental insurance for the children" should be assigned "in proportion to that parent's income." Section 40-4-11.1(J).

{21} We need not decide whether Section 40-4-11.1(K)(1) mirrors Section 40-4-11.1(J) and *requires* "uninsured expenses" to be assigned in the exact proportions as income. That's because there is no doubt that assigning Roybal 54 percent of the uninsured expenses was a typographical error. At the hearing, CSSD recommended that Roybal cover 46 percent of these uninsured expenses. On appeal, CSSD calls assigning Roybal 54 percent of uninsured healthcare expenses a "scrivener's error." Along these same lines, no evidence supports the district court's decision to assign 54 percent of uninsured expenses to Roybal. Thus, because assigning Roybal 54 percent of uninsured expenses was a "manifest error" and "contrary to all reason," we hold that the district court abused its discretion. *See Spingola v. Spingola*, 1978-NMSC-045, ¶ 19, 91 N.M. 737, 580 P.2d 958.

{22} But because we hold that the district court miscalculated Nation's income under Section 40-4-11.1(H)(1), Roybal's share of uninsured healthcare expenses

will change. On remand, the district court should account for this change when reassessing the proportions of uninsured healthcare expenses owed by each parent.

IV. Start Date for Revised Child-Support Scheme

{23} Roybal argues that the district court erred by ordering the revised child-support plan to begin July 1, 2025. Roybal contends that the plan should have started on June 1, 2025, instead, because the oldest child emancipated no later than May 31, 2025. We will not address this issue because Roybal did not preserve it.

{24} "To preserve an issue for review, it must appear that a ruling or decision by the trial court was fairly invoked." Rule 12-321(A) NMRA. That means to preserve an issue for appeal, "a party must clearly raise the issue in the lower court by invoking a ruling from the court on the question." *Juneau v. Intel Corp.*, 2006-NMSC-002, ¶ 12, 139 N.M. 12, 127 P.3d 548 (internal quotation marks and citation omitted).

{25} Roybal did not raise this issue in either his first or his second (untimely) set of objections to the hearing officer's recommendation. Roybal claims that he preserved it by including it in his docketing statement. It is well established that a party cannot preserve an issue with a docketing statement. *See State v. Barrera*, 2001-NMSC-014, ¶ 20, 130 N.M. 227, 22 P.3d 1177. A party must still raise the issue below. *See State v. Montoya*, 2015-NMSC-010, ¶ 45, 345 P.3d 1056. And Roybal does not point us to where he did so. Unlike a roadrunner that searches the

brush for lizards, this Court will not scour the record for evidence of preservation. *See Muse v. Muse*, 2009-NMCA-003, ¶ 42, 145 N.M. 451, 200 P.3d 104.

{26} Because Roybal did not preserve the issue, we review only for fundamental error. *See* Rule 12-321(B)(2)(c); *Est. of Gutierrez ex rel. Jaramillo v. Meteor Monument, LLC*, 2012-NMSC-004, ¶ 32, 274 P.3d 97. The fundamental-error doctrine provides relief in civil cases only "under the most extraordinary and limited circumstances." *Meteor Monument, LLC*, 2012-NMSC-004, ¶ 33. Roybal does not argue that the timing of the revised child-support order's start is such a circumstance.[2] Accordingly, Roybal has not demonstrated there was fundamental error in the assignment of the revised child-support order's start date as July 1, 2025, and not June 1, 2025. *See State v. Cunningham*, 2000-NMSC-009, ¶ 21, 128 N.M. 711, 998 P.2d 176 ("Parties alleging fundamental error must demonstrate the existence of circumstances that shock the conscience or implicate a fundamental unfairness within the system that would undermine judicial integrity if left unchecked." (internal quotation marks and citation omitted)).

[2]Even so, CSSD points out that modifying the child-support start date to June 1, 2025, would increase the amount that Roybal owes by $383.59. Roybal does not address this point in his reply brief, so, even if Roybal had preserved this issue, he waived it. *See Delta Automatic Sys., Inc. v. Bingham*, 1999-NMCA-029, ¶ 31, 126 N.M. 717, 974 P.2d 1174.

V. Roybal's Emergency Motion

{27} Roybal argues that the district court abused its discretion by not ruling on his emergency cease-and-desist motion. On May 20, 2025, he filed a motion asking the district court to issue an emergency cease-and-desist order. The motion appears to request some form of injunction related to his allegation that Nation improperly accessed his financial records. But the district court never issued an order resolving the motion. Roybal asks us on appeal to order the district court to hold a hearing on the motion.

{28} We lack jurisdiction to review Roybal's request *because* the district court did not resolve it. In other words, there's a finality problem. "The general rule . . . for determining the finality of a judgment is that an order or judgment is not considered final unless all issues of law and fact have been determined and the case disposed of by the district court to the fullest extent possible." *State ex rel. Child., Youth & Fams. Dep't v. Brian F.*, 2023-NMCA-087, ¶ 13, 538 P.3d 478 (alteration, internal quotation marks, and citation omitted); *see* § 39-3-2. And though we give the term "finality" a practical rather than technical legal construction, there is no final order or judgment here because the district court never ruled on the motion. *See Brian F.*, 2023-NMCA-087, ¶ 13. *See generally Kelly Inn No. 102, Inc. v. Kapnison*, 1992-NMSC-005, ¶ 39, 113 N.M. 231, 824 P.2d 1033 ("[I]n collateral matters not involved in the appeal, . . . the trial court retains jurisdiction.").

{29} Nor did the district court implicitly deny Roybal's motion. A district court can implicitly deny a motion when it enters final judgment or enters "an order inconsistent with the granting of the relief sought." *Stinson v. Berry*, 1997-NMCA-076, ¶ 8, 123 N.M. 482, 943 P.2d 129. The district court did neither here. In fact, after the district court entered its child-support order, Roybal acknowledged that his motion was unrelated by stating that the "motion was not a family court matter." So there was no implicit denial.

{30} Additionally, "this [C]ourt does not have the authority to issue a writ of mandamus to district courts." *Lepiscopo v. Hopwood*, 1990-NMCA-044, ¶ 9, 110 N.M. 30, 791 P.2d 481; *see* N.M. Const. art. VI, § 29; NMSA 1978, § 34-5-8 (1983). The authority to issue writs of mandamus to the district court is given only to the New Mexico Supreme Court. *See* N.M. Const. art. VI, § 3; *State ex rel. Townsend v. Ct. of Appeals*, 1967-NMSC-128, ¶¶ 5-7, 78 N.M. 71, 428 P.2d 473.

{31} Thus, because there is no final order resolving Roybal's motion and we cannot consider this as a writ of mandamus, we lack jurisdiction to consider the issue. *See Khalsa v. Levinson*, 1998-NMCA-110, ¶ 12, 125 N.M. 680, 964 P.2d 844.

VI. Due-Process Issue

{32} Finally, Roybal argues that the district court violated his due-process rights by permitting a court employee to deny Roybal a hearing on his emergency motion. Roybal claims that he learned from one court employee that another employee—not

a judge—had "made a unilateral decision not to schedule hearings" on his emergency motion because the employee "believed CSSD should handle those issues."

{33} We decline to address Roybal's argument for two reasons. First, Roybal references facts not in the record. Contrary to Roybal's invitation, we do not consider new facts on appeal because we are "not a fact-finding court." *See State v. Knight*, 2019-NMCA-060, ¶ 22, 450 P.3d 462. It is well established that "reference to facts not before the district court and not in the record is inappropriate and a violation of our Rules of Appellate Procedure." *See Durham v. Guest*, 2009-NMSC-007, ¶ 10, 145 N.M. 694, 204 P.3d 19.

{34} Second, Roybal did not preserve this issue. He argues that he preserved it by filing the motion and raising it on appeal. But Roybal neither "requested [n]or received a ruling" from the district court on the due-process issue. *See Juneau*, 2006-NMSC-002, ¶ 12. We will not abandon our rules of preservation, which serve important purposes, including giving the district court an opportunity to correct its own error, and offering the opposing party an opportunity to respond. *See Sandoval v. Baker Hughes Oilfield Operations, Inc.*, 2009-NMCA-095, ¶ 56, 146 N.M. 853, 215 P.3d 791.

{35} We decline to exercise our discretion under Rule 12-321(B) to review this issue despite Roybal's lack of preservation. Roybal did not argue that any of Rule

12-321(B)'s exceptions to our preservation requirement applies. And we may "decline[] to apply the preservation exceptions" when an appellant does not argue them on appeal. *State v. Joanna V.*, 2003-NMCA-100, ¶ 10, 134 N.M. 232, 75 P.3d 832, *aff'd*, 2004-NMSC-024, ¶ 10, 136 N.M. 40, 94 P.3d 783. Even so, Roybal has not identified any authority requiring the district court to hold a hearing on his motion. And when a party does not cite authority to support an argument, "we may assume no such authority exists." *Curry v. Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482.

CONCLUSION

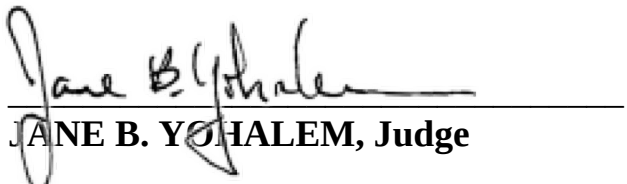
{36} For the reasons stated above, we reverse the district court's calculation of Roybal's child-support contribution, reverse the district court's assignment of uninsured healthcare expenses, and remand to the district court to recalculate Roybal's child-support contribution and reapportion each parent's uninsured healthcare expenses obligation.

{37} **IT IS SO ORDERED.**

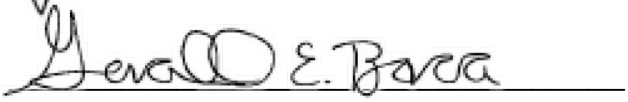


KRISTOPHER N. HOUGHTON, Judge

WE CONCUR:



JANE B. YOHALEM, Judge



GERALD E. BACA, Judge