

IN THE COURT OF APPEALS OF IOWA

No. 9-211 / 07-1868
Filed April 22, 2009

IN RE THE MARRIAGE OF MICHELLE BITTNER AND JEFFREY BITTNER

**Upon the Petition of
MICHELLE BITTNER,**
Petitioner-Appellant,

**And Concerning
JEFFREY BITTNER,**
Respondent-Appellee.

Appeal from the Iowa District Court for Clayton County, Margaret K, Lingreen, Judge.

A parent with physical care of the parties' children appeals from an Iowa Code chapter 252H (2007) judicial order for adjustment of the other parent's child support obligation. **APPEAL DISMISSED.**

Michelle Bittner, Marion, appellant pro se.

Jeffrey Bittner, Garnavillo, appellee pro se.

Cheri Damante Cummings, Waterloo, for Child Support Recovery Unit.

Considered by Miller, P.J., and Eisenhauer and Doyle, JJ.

PER CURIAM

The marriage of Michelle and Jeffrey Bittner was dissolved by a May 1, 2003 decree. The decree, among other things, ordered joint legal custody of the parties' three children, placed the children in Michelle's physical care, and ordered Jeffrey to pay child support. Following numerous intervening contempt and modification of support proceedings, the district court held a hearing on September 18, 2007, concerning Jeffrey's support obligation. In a resulting September 19, 2007 "252H Judicial Order for Adjustment of a Support Obligation" the district court set Jeffrey's obligation to support the three children at \$655 per month.

On November 6, 2007, Michelle served and filed what we construe as a notice of appeal. In it she states that "[t]he last date pertaining to this was on the 16 day of October, 2007."

With certain exceptions that have no application in this case, appeals to our supreme court

must be taken within . . . 30 days from the entry of the order, judgment, or decree, unless a motion for a new trial or judgment notwithstanding the verdict . . . or a motion as provided in Iowa R. Civ. P. 1.904(2) [motion for enlarged or amended findings and conclusions and modified or substituted judgment or decree], is filed, and then within 30 days after the entry of the ruling on such motion.

Iowa R. App. P. 6.5(1); *Fed. Am. Int'l, Inc. v. Om Namah Shiva, Inc.*, 657 N.W.2d 481, 483 (Iowa 2003).

Only two events in this case occurred between the district court's September 19, 2007 order and Michelle's November 5, 2007 notice of appeal.

On September 28 an Assistant Attorney General for Iowa's Child Support Recovery Unit filed an "Application for Order Nunc Pro Tunc," seeking correction of a typographical error in the effective date of the order (the typographical error provided that the order would be effective October 12, 2006, rather than October 12, 2007) and correction of the district court case number. On October 16 the court made the requested corrections.

The State's application for a nunc pro tunc order is not one of only three types of post-trial motions that will extend the time for filing a notice of appeal. *Fed. Am. Int'l, Inc.*, 657 N.W.2d at 483. We conclude Michelle's appeal is untimely, we are without jurisdiction of the appeal, and the appeal must be dismissed. *See id.* at 485.

APPEAL DISMISSED.