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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

MARTHA RUTH MARTINEZ-
HUFF,

Plaintiff and Respondent,

v.

JEFFREY EUGENE HUFF,

Defendant;

JULIE A. RINGQUIST,

Objector and Appellant.

B284241

Los Angeles County
Super. Ct. No. VD082896

APPEAL from an order of the Superior Court of
Los Angeles County, Charles Q. Clay, III, Judge. Reversed.

Julie A. Ringquist, in pro. per., for Objector and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Attorney Julie A. Ringquist, counsel for husband in the underlying marriage dissolution case, appeals from the trial court's order requiring her to pay \$1,000 in sanctions to wife under Family Code section 271. Because section 271 does not authorize sanctions against a party's attorney, we reverse the court's order as it applies to Ringquist.

FACTS AND PROCEDURAL BACKGROUND

Wife initiated the underlying divorce proceedings by filing a petition for dissolution on November 26, 2013. The trial was continued several times. Ringquist substituted in as husband's counsel on February 27, 2015, and first appeared on his behalf at an April 2, 2015 hearing. At that hearing, the court set the date of separation as January 3, 2012.

On October 6, 2015, husband filed an amended response to the petition for dissolution to state a later date of separation. On October 16, 2015, husband filed a motion for reconsideration of the court's April 2015 order setting the separation date, to be heard on November 13, 2015. Husband argued the California Supreme Court's July 20, 2015 decision in *In re Marriage of Davis*¹ required the separation date to be revised to the date when the couple began living in separate residences in October 2015, instead of January 3, 2012, when the couple still lived together in the family home.

The day before the hearing on husband's motion, wife filed a notice of intent to seek sanctions against husband and his attorney—Ringquist—under Family Code section 271 (section

¹ *In re Marriage of Davis* (2015) 61 Cal.4th 846. In her brief, Ringquist states she became aware of the *Davis* decision in September 2015. The Legislature subsequently abrogated *Davis* by enacting Family Code section 70, effective January 1, 2017. (Fam. Code, § 70, subd. (c).)

271), Code of Civil Procedure section 128.7, and California Rules of Court, rule 5.14.² On November 13, 2015, the court heard testimony and then continued the motion for reconsideration and the request for sanctions to March 24, 2016. At the continued hearing, the court heard additional testimony and argument. The court denied husband's motion for reconsideration and granted wife's request for sanctions under section 271. The court ordered husband to pay wife \$9,000 and ordered his attorney to pay wife \$1,000. The court ordered wife's counsel to prepare and submit the order.

The court signed and filed the findings and order after hearing more than a year later, on May 26, 2017. In addition to ordering husband to pay attorney fees as sanctions, the order states, "[Husband's] counsel, Julie Ringquist, Esq.,] shall pay to [wife] as and for attorney fees as sanctions pursuant to Family Code § 271 the sum of \$1,000.00 on or before May 15, 2016." The order also sets forth the findings on which the sanctions against husband and Ringquist were based.

On July 25, 2017, Ringquist timely filed an appeal from the May 26, 2017 order issuing sanctions against her. Husband is not a party to this appeal, and wife did not file a respondent's brief.

² Code of Civil Procedure section 128.7 permits sanctions against an attorney who files a paper with the court, such as a motion, for an improper purpose or that is frivolous. Rule 5.14 of the California Rules of Court permits the court to award sanctions against an attorney or party for violating the rules of court in family law cases. We discuss section 271 in detail below.

DISCUSSION

Ringquist contends the trial court erred in issuing sanctions against her under section 271 because that statute permits sanctions against parties only. She also contends wife's notice of intent to seek sanctions failed to state Ringquist's specific acts that caused an unreasonable delay. We conclude the court lacked authority to award sanctions against Ringquist, a nonparty, under section 271. We thus need not reach Ringquist's second contention.

“The imposition of sanctions under section 271 is committed to the sound discretion of the trial court.” (*Sagnowsky v. Kekoa* (2016) 6 Cal.App.5th 1142, 1152 (*Sagnowsky*)). Whether section 271 permits sanctions to be awarded against a party's attorney, however, is a question of law that we review de novo. (*Ibid.*) “When language of a statute is clear, we need not delve into legislative history.” (*Webb v. Webb* (2017) 12 Cal.App.5th 876, 884.)

The court here awarded sanctions expressly under section 271. That statute provides that “the court may base an award of attorney's fees and costs on the extent to which the conduct of each party or attorney furthers or frustrates the policy of the law to promote settlement of litigation and, where possible, to reduce the cost of litigation by encouraging cooperation between the parties and attorneys. An award of attorney's fees and costs pursuant to this section is in the nature of a sanction.” (§ 271, subd. (a).) Thus, the statute grants the court authority to base a sanctions award under section 271 on either a party's or the party's attorney's conduct, or both.

However, any sanctions under section 271—even if based on an attorney's conduct—may be awarded against a party only. The statute explicitly states this limitation: “An award of attorney's fees and costs as a sanction pursuant to this section

is payable *only from the property or income of the party against whom the sanction is imposed*, except that the award may be against the sanctioned party’s share of the community property.” (§ 271, subd. (c), italics added.)

Courts of appeal and a leading treatise on family law agree that section 271 sanctions may not be imposed against a party’s attorney. (See, e.g., *Burkle v. Burkle* (2006) 144 Cal.App.4th 387, 403, fn. 7 [acknowledging sanctions under section 271 may be imposed only on a party, not a party’s attorney]; *Orange County Dept. of Child Support Services v. Superior Court* (2005) 129 Cal.App.4th 798, 804 [section 271 “sanction can be imposed only against a party”]; Hogoboom and King, Cal. Practice Guide: Family Law (The Rutter Group 2019) ¶ 14:236 [section 271 “contemplates that fee-shifting sanctions occur *exclusively as between the parties* to the action”] (hereafter Hogoboom & King).)

Although section 271 also imposes duties on a party’s counsel to cooperate in resolving litigation, “those duties are enforced under the statute by means of a fees and costs award *against the party, not counsel*—even when the sanctionable conduct lies solely with a party’s counsel.” (Hogoboom & King, *supra*, ¶ 14:237; *In re Marriage of Davenport* (2011) 194 Cal.App.4th 1507, 1535, fn. 17 [citing text to acknowledge attorney’s misconduct imputed to client under section 271].) Construing the predecessor statute to section 271, the court in *In re Marriage of Daniels* (1993) 19 Cal.App.4th 1102, 1110 explained the statute “does not allow or contemplate an award against an attorney” because “attorneys are generally subject to sanctions under Code of Civil Procedure section 128.5.”

Wife did not move to sanction Ringquist under Code of Civil Procedure section 128.5, however.³ Her request was based on section 271, Code of Civil Procedure section 128.7, and California Rules of Court, rule 5.14. The transcript of the hearing on wife’s request for sanctions is not part of the record on appeal. Neither the court’s minute order nor its findings and order after hearing—prepared by wife’s counsel—mention any statute other than section 271 as a basis for its order awarding sanctions against Ringquist. We thus do not infer that the court awarded sanctions on any other grounds. (*Sagnowsky, supra*, 6 Cal.App.5th at p. 1153, fn. 9 [court’s power to award monetary sanctions payable to a party must be authorized by statute].)

Accordingly, the court abused its discretion in awarding sanctions against Ringquist under section 271.

³ “A trial court may order a party, the party’s attorney, or both, to pay the reasonable expenses, including attorney’s fees, incurred by another party as a result of actions or tactics, made in bad faith, that are frivolous or solely intended to cause unnecessary delay.” (Code Civ. Proc. § 128.5, subd. (a).)

DISPOSITION

The portion of the court's order awarding \$1,000 in attorney fees to wife as a sanction under Family Code section 271 against Julie A. Ringquist is reversed. As Ringquist requested, the parties are to bear their own costs on appeal.

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EGERTON, J.

We concur:

EDMON, P.J.

DHANIDINA, J.