

COURT OF APPEALS  
DIVISION I  
OF THE STATE OF WASHINGTON  
NO. 71994-7-I

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NADIA SHAFAPAY,

Appellant,

vs.

MEHRDAD SHAFAPAY,

Respondent.

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REPLY BRIEF OF RESPONDENT

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**FILED**  
COURT OF APPEALS  
DIVISION ONE

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**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. ASSIGNMENT OF ERROR..... 2

III. CASE STATEMENT..... 2

IV. ARGUMENT..... 3

V. CONCLUSION..... 5

**TABLE OF AUTHORITIES**

**CASES**

*In Re Estate of Lint*,  
135 Wn.2d 581, 532, 957 P.2d 744 (1998)..... 3

**RULES**

CR 60 ..... 4  
RAP 10.3..... 3

## I. INTRODUCTION

Appellant Nadia Shafapay (Nadia) and Respondent Mehrdad Shafapay (Mehrdad) were, for some years, husband and wife. On May 17, 2011, dissolution proceedings were filed in King County. After a trial, the Superior Court later issued a dissolution decree dated June 25, 2012. During the dissolution trial, both parties claimed that the other party had hidden or otherwise disposed of a number of assets which each party claimed were still in their possession. After considering all of the property then existing and identified, as well as all the alleged missing property, the trial court by decree resolved all party disputes.

Following the entry of a decree, Nadia hired a private investigator to try to uncover further proof that some of the property claimed to have been hidden or otherwise disposed of by Mr. Shafapay, in fact existed. Although no additional evidence was found, beyond that presented at the original trial and/or beyond that which could have been presented at the original trial, on June 18, 2012, Nadia filed a motion to reopen the divorce decree asking that the Court in essence “reconsider” and rehear all the same arguments about missing assets, which the trial judge had otherwise resolved by way of the issued decree.

After considering all of the motion pleadings and materials filed by Nadia, Judge Palmer Robinson correctly concluded that there was no “new evidence” being presented, which the prior trial court had not already considered and, therefore, since no grounds for reopening the decree had been shown, the motion was denied.

It is apparently, the denial of that request to reopen the decree that Nadia now seeks to appeal.

## II. ASSIGNMENT OF ERROR

Nadia’s brief sets forth no assignments of error. The Respondent is aware of no error committed by the trial court. Accordingly, no further response with regard to this issue can be made.

## III. CASE STATEMENT

At the time Nadia’s motion to reopen the dissolution case was filed, Mr. Shafapay had contracted terminal cancer. Although not deceased at the time Nadia’s initial appeal brief was filed, he did die prior to the refiling of that brief. It is unknown by their writer whether Mr. Shafapay had a will or left any estate.

#### IV. ARGUMENT

Nadia's brief does not comply with RAP 10.3, in that no citations to legal authority nor references to the record are set forth.

Although informed the filed brief did not comply with Appellate Court rules, and despite being given the opportunity by the Appellate Court to file a conforming brief, the same rejected brief was instead re-filed.

In the case *In Re Estate of Lint*, 135 Wn.2d 531, 532, 957 P.2d 744 (1998), the Court of Appeals held as follows:

As a general principal, an appellant's brief is insufficient if it merely contains a recitation of the facts in the light most favorable to the appellant, even if it contains a sprinkling of citations to the record throughout the factual recitation. It is incumbent on counsel to present the court with argument as to why specific findings of the trial court are not supported by the evidence and to cite to the record to support that argument. *See*, RAP 10.3.

. . .

Strict adherence to the aforementioned rule is not merely a technical nicety. Rather, the rule recognizes that in most cases, like the instant, there is more than one version of facts. If we were to ignore the rule requiring counsel to direct argument to specific findings of fact which will be assailed and to cite to relevant parts of the records as support for that argument, we would be assuming an obligation to comb the record with a view toward constructing arguments for counsel as to what findings are

to be assailed and why the evidence does not support these findings. This we will not and should not do. *In Re Estate of Lint* at 532. [Emphasis added.]

Here, the Appellant has identified no specific legal error, nor have citations to the record to support the existence of a legal error been supplied. The Petitioner's appeal should accordingly be denied.

Furthermore, the rules required to be met to reopen a judgment order or decree, are set forth in CR 60(b).

None of the eleven articulated reasons which might support the reopening of the judgment exist in this case.

Although at motion hearing, the Appellant sought to show "new evidence" had been discovered which would support a reopening of the decree, on thorough examination, the court specifically asked Appellant's counsel to identify precisely what facts presented by the motion had not been previously presented for the consideration and determination of the trial judge who had issued the decree. None were identified.

Since the time for motion for reconsideration had long passed and in the absence of any additional evidence which had been discovered, or which could not have been discovered before trial or within the time required to move for a new trial, the court correctly dismissed the motion to reopen.

Since the court committed no error, Appellant's appeal should be denied.

## V. CONCLUSION

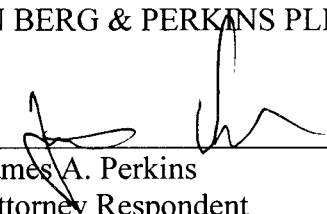
The Appellant has filed a "pro se" appeal because no lawyer who reviewed the underlying record and applied underlying records facts to the law, would conclude that any grounds for appeal existed.

Apparently unwilling to accept this reality, this appeal was nevertheless filed. Because the Appellant has (quite understandably) not provided this Court with either facts or law which would in fact support an appeal, the appeal should be summarily dismissed.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of February, 2015.

LARSON BERG & PERKINS PLLC

By:

  
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James A. Perkins  
Attorney Respondent  
WSBA #13330

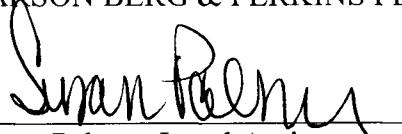


CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of February, 2015, I caused to be served by forwarding via both USPS First Class Mail, and Certified Mail/Return Receipt Requested, a true and correct copy of the Brief of Respondent to:

Nadia Shafapay  
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