

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

**COURT OF APPEALS FOR THE STATE OF WASHINGTON
DIVISION I**

In re:

Janice Shirley Gray,

**Petitioner/Re
spondent,**

**NO. 72194-1-1
(WC Cause #02-3-00216-1)**

and

Marlow Todd Eggum,

**Respondent/
Appellant**

BRIEF OF RESPONDENT

ORIGINAL

8
11
11:58

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

TABLE OF CONTENTS

1. TITLE PAGE 1

2. TABLE OF CONTENTS 2

3. TABLES 3

4. INTRODUCTION 4

5. STATEMENT OF CASE 4

6. ARGUMENT 7

7. CONCLUSION 8

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

TABLES

I. TABLE OF CASES

N/A

2. TABLE OF STATUTES

CR 60 60(b)(5). 7

1
2
3
4
5
6
7
8
9
10
11
12
13
14

INTRODUCTION

Mr. Eggum filed his “Response to 5-26-2015 VRP” with the Court of Appeals. A copy of same was received by Pamela E. Englett, Attorney for Janice Gray, on or about November 23, 2015. However, he did not submit the Report of Proceedings. The Court of Appeals sent the Report of Proceedings on December 21, 2015. Although Mr. Eggum’s “Response” is not in a proper format for an Appellant’s Brief, it appears to state Mr. Eggum’s case. In order to try to expedite this matter, which, as the court says, has been “increasingly and unnecessarily complicated,” I am submitting Ms. Gray’s Response in good faith that the assumption that said Response was meant to be Mr. Eggum’s Appellant’s Brief is true.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

STATEMENT OF CASE

Janice Gray filed and served a Petition for Dissolution Marlow Eggum in 2002. In Paragraph 1.7, she asserted that the court had jurisdiction over Mr. Eggum for the following reasons: (1) Mr. Eggum was currently living in Washington State, (2) they had lived in Washington while married and Ms. Gray continued to live there, (3) they had conceived a child in Washington state. On April 10, 2002, Mr. Eggum filed a response to petition in which he admitted all the facts asserted in Paragraph 1.7. On July 8, 2003, the court entered Findings of Fact which determined that the court had jurisdiction over Respondent, Mr. Eggum. As such the Final Decree divided the marital property, as well as ordering final child support and parenting plan for the dependent child of this marriage. When dividing the property, the court did not address video tapes and images of a sexual nature taken of Ms. Gray during the time of the marriage.

1 Mr. Eggum retained these images and videotapes, using them as an additional means to
2 torment his ex-wife. He released these videotapes online on a for-profit pornography website .
3 These video tapes were seized as part of an ongoing criminal investigation against Mr. Eggum.
4 On March 4, 2005, a Temporary Restraining Order enjoined “the return of any videotapes,
5 photographs, and/or other materials containing images of Janice Gray to *Matthew Todd Eggum*,
6 is restrained and enjoined until further hearing on this matter. This includes the website operated
7 by Mr. Eggum which shall be removed today.”
8

9
10 On May 6, 2005, the court entered it’s Order On Show Cause And Re: Continuing
11 Restraining Order And Use/Ownership Of Images Of The Petitioner. This found that the
12 videotapes and images were community property that had not been divided in the decree. As
13 such, the parties had become tenants-in-common. (Order, supra, Page 2, Lines 21-23) However,
14 in using these for profit without disseminating any profits or control to Ms. Gray, Mr. Eggum had
15 violated his fiduciary duty, and as such these images were awarded entirely to Ms. Gray. (Order,
16 supra, Page 3, Lines 1-5, and Page 4, Lines 13-15) *Mr. Gray* was restrained from "displaying,
17 selling, distributing, advertising, or otherwise disseminating images of Janice Gray (including
18 facilitating, participating in, and/or encouraging any such actions by third parties), on the internet
19 or otherwise.” (Order, Supra, Page 3, Lines 20-22) He was further permanently enjoined from
20 *using* the website to utilize property and images in an inappropriate manner. He was enjoined
21 from disseminating or distributing the images *through any action of his own*, and Mr. Eggum
22 was enjoined from *doing all the things which the Court has ordered including facilitating and*
23 *participating and/or encouraging such actions by third parties.* (Order, Supra, Page 5, Lines –
24 15) At no time, did this order seek to restrain any company or other third party, instead
25 restraining Mr. Eggum from facilitating the dissemination of these images.
26
27
28
29

1 The court retained exclusive continuing jurisdiction over this dissolution for several
2 contempt hearings, motions for enforcement, parenting plan issues, and for a modification. This
3 included two hearings in 2004 regarding contempt issues, seven hearings in 2005 regarding the
4 ex parte restraining order and additional contempt issues, one in 2006 regarding a motion for
5 clarification, and a Parenting Plan Modification in 2007. Between 2005 and present, Mr. Eggum
6 has been intermittently incarcerated in a Washington state facility – and remains in this facility
7 consistently since 2010 - but he has remained active in filing motions in the Whatcom Superior
8 Court and the Washington Court of Appeals since that time. At no time does he seem to have
9 provided evidence disputing that this court has exclusive continuing jurisdiction over him as
10 respondent in this dissolution matter.
11
12

13
14 Mr. Eggum initially filed his Motion to Vacate Void Order on June 6, 2014. He failed to file
15 an appropriate Note for Motion Docket. Instead he asked the court to set the matter for June 24,
16 2014, at 9:00 a.m. “or as soon as possible thereafter...” This Motion to Vacate was mailed to
17 Ms. Eggum’s Attorney, Pamela Englett. Mr. Eggum did not schedule his motion on June 24th.
18 Mr. Eggum did not confirm any hearing date and did not attend this hearing. Instead he filed
19 another Notice of Appeal on July 9, 2014. This disputed both criminal charges against him and
20 his Motion to Vacate. He filed several additional motions with the Court of Appeals. The Court
21 of Appeals recognized in January 2015 that this matter could not be heard on appeal, as it had
22 never been heard in this court. Mr. Eggum filed a Note for Motion to Vacate Void Order, and
23 Ms. Gray’s Attorney received it on April 3, 2015. He asserted no additional facts or
24 documentation, but referred to the 2014 motion in a short note.
25
26

27
28 A Hearing followed on May 26, 2015. The Court denied Mr. Eggum’s Motion to Vacate
29 Void Order.

1 **ARGUMENT**

2
3 The Order Is Not Void, As Washington Has In Personam Jurisdiction Over Mr. Eggum:

4 Mr. Eggum argues that this order should be vacated under CR 60 60(b)(5). This rule would
5 require that any order which is void be vacated. Mr. Eggum further claims that Washington lacks
6 “in personam jurisdiction” over his “Canadian business interests,” namely the pornography
7 website from through which he may have released photographs belonging to Ms. Gray, and thus
8 the order was inherently void. His argument is an erroneous misunderstanding of the order itself.
9
10

11 The court did *not* order that the Canadian Website be shut down. It instead ordered that Mr.
12 Eggum, himself, was restrained from releasing these photos in any manner to any third party or in
13 facilitating that release. (Order on Show Cause entered 5/6/20015, p. 5) It would make no
14 difference if Mr. Eggum released these photos to the City Hall in Bellingham or in to a magazine
15 based in Guam. The order addresses only Mr. Eggum’s actions regarding property that was
16 divided by the court in a dissolution action and in this Order (supra) for which it has continuing
17 exclusive jurisdiction (Order on Show Cause, p. 4).
18
19

20 It is difficult to assess Mr. Eggum’s claims regarding the Candian government, as he has
21 provided no documentation of hearing transcripts or orders. Nor would such an analysis be
22 relevant in this case. The order prohibited Mr. Eggum from facilitating this property at risk of
23 either (1) contempt for violation of the restraining order, a matter which would be heard in
24 Washington State (2) liability in Washington State for a suit in tort for damages by Ms. Gray
25 (Order, Supra, p. 5. This order does not seek to direct Canadian law enforcement or to directly
26 impose rules on a Canadian business corporation as Mr. Eggum claims.
27
28
29

1 **CONCLUSION**

2
3 The Order on Show Cause entered in the Court on 5/6/2005, is not void, and should not
4 be vacated on that basis.
5

6
7 Respectfully submitted:

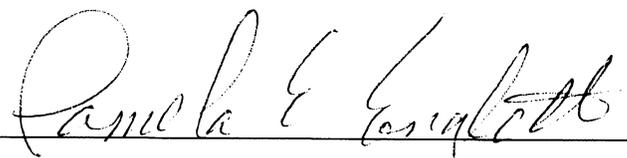
8
9 LAW OFFICE OF PAMELA E ENGLETT, PLLC

10 

11 Pamela E. Englett, W.S.B.A. #31042
12 Attorney for Petitioner
13
14

15 ***Declaration of Mailing/Delivery***

16
17 ***I declare, under penalty of perjury under the laws of the State of Washington, that on***
18 ***Monday, January 11, 2015, I mailed or caused delivery of a true and correct copy of this***
19 ***document to Marlow Todd Eggum at his regular residence thereof.***
20

21
22 

23
24 Pamela E. Englett, WSBA #31042

25
26 Attorney for Petitioner
27
28
29