Supreme Court No. 95327-9

Court of Appeals No. 50360-3-II

SUPREME COURT OF THE STATE OF WASHINGTON

In Re the Matter of the Marriage of

RALUCA VETRICI,

Respondent,

v.

GRIGORE VETRICI,

Petitioner.

PETITIONER'S SECOND AMENDED MOTION TO EXTEND TIME TO FILE PETITION FOR REVIEW

Grigore Vetrici, pro se

307, 935 Marine Drive
West Vancouver, BC V7T 1A7
(403) 702-5692

MOVING PARTY

This motion to extend time to file the Petition for Review is brought by Petitioner Grigore Vetrici.

REQUESTED RELIEF

Petitioner respectfully requests an extension of time to file the Petition for Review, making the Petition due as of the date of this filing.

FACTS RELEVANT TO MOTION

The order denying reconsideration was entered in the Court of Appeals on November 16, 2017. RAP 13.4 requires a Petition for Review to be filed within 30 days from the date denying reconsideration. December 16, 2017 was a Saturday. Weekend days are not counted under RAP 18.6. This motion to extend time was first filed on Monday, December 18, 2017, giving the Court and respondent timely notice of intent to seek review of the Court of Appeals decision.

Petitioner, acting pro se, is trying to restore his rights under the Washington decree which states that the children "reside with father" after a Canadian court has given the respondent shared custody on the basis of the separation agreement whose termination was memorialized in the decree. The superior court judge below found, at Finding of Fact 9, that the decree states there was no separation agreement; he further wrote in his written opinion that the separation agreement was expressly not recognized by the decree.

In Canada, Raluca has not admitted the stipulated nature of the decree, nor admitted her misrepresentation of the former separation agreement. The Court of Appeal for British Columbia has only recently entered its order dismissing the appeal. That court, whose 2015 decision was submitted to and relied on by the trial court below, entered its final order on September 15, 2017. There now appears to be a strong likelihood that the Supreme Court of Canada can reverse the British Columbia courts' non-recognition of the Washington decree's terms addressing the former separation agreement, custody and support, and the children's account.

While trying to enforce his decree in this state, Petitioner must concurrently litigate under different law in Canada. He received the foreign judgment only a few days before the Washington State Court of Appeals filed its decision. This has enormously burdened Petitioner's time, mental and emotional resources. He has continued to have his focus divided since and has been unable to complete the Petition within the time normally allowed by the rules.

GROUNDS FOR RELIEF

In *Reichelt v. Raymark Indus., Inc., 52 Wash.App. 763, 765, 764 P.2d 653 (1988)*, the court considered prejudice to the respondent as irrelevant, and noted that the prejudice of granting an extension of time would be "to the appellate system and to litigants generally, who are entitled to an end to their day in court." The court also considered

excusable error, and said that in such a case, a lost opportunity to appeal would constitute a gross miscarriage of justice because of the appellant's reasonably diligent conduct. *Reichelt* is otherwise distinguishable as the appellant there appeared to be motivated by a claim for payment and the notice of appeal was filed after expiration of the time for filing that notice.

The purposes of the rule for filing a Petition for Review within thirty days of an order denying reconsideration by a Court of Appeals are, firstly, notice to the Court and opposing party, and secondly, to enumerate for the Court and opposing party the issues which a petitioner contends were erroneously decided by the Court of Appeals. By filing the original of this motion to extend time to file the Petition for Review instead of the petition itself, Petitioner contends that the notice requirement was met.

Petitioner assumes notice is the primary purpose for the following reasons. The Supreme Court does not review the contents of a petition for an appreciable period of time and not until after a respondent has had opportunity to answer the petition. A petition for review identifies, *inter alia*, issues for review and conflicting decisions of the Supreme Court and Court of Appeals. A respondent is informed of the issues for review in multiple ways, including the motion for reconsideration in the Court of Appeals and the motion to publish. As a respondent will have read and responded to an opening brief in the Court of Appeals, they will be aware of precedents and prior rulings in conflict with the decision of the Court of

Appeals terminating review. Further, as this Court has recognized in *In re Marriage of Greenlaw & Smith, 123 Wn.2d 593, 869 P.2d 1024 (1994)*, issues might not become identified until supplemental briefs are filed in this Court, which is normally a substantial length of time after the Petition for Review is due. In addition, the Court accepts statements of additional authorities up to the filing of a decision on the merits. Finally, a brief may be corrected or replaced under RAP 10.7. Consequently, as the overriding purpose of the rule for filing a petition for review within thirty days after a decision on a motion for reconsideration in the Court of Appeals appears to be notice, and as this purpose was met by the filing of the original of this motion to extend time to file the Petition for Review within the thirty-day period or the first business day thereafter as the period ended on a weekend day, the Petition for Review should be considered by the Court to have been timely filed.

The Petition for Review seeks to enforce strong public policies for the stability and support of children. RAP 18.8(b) "expresses a public policy preference for the finality of judicial decisions over the competing policy of reaching the merits". *Shumway v. Payne, 136 Wash.2d 383, 964 P.2d 349 (1998)* quoting *Pybas v. Paolino, 73 Wash.App. 393, 401, 869 P.2d 427 (1994)*. Under this rule, the appellate court will "ordinarily" hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. But "children

[also] have a strong interest in finality". *In re Parentage of C.M.F., 179 Wn.2d 411, 420, 314 P.3d 1109 (2013)* quoting *In re Parentage of Jannot, 149 Wn.2d 123, 127-28, 65 P.3d 664 (2003)*. As argued in the petition, it appears that in rejecting the rule of strict construction, both the judiciary through its published decisions and the legislature have raised the strength of public policy for the stability of children above that of other public policies. "Such is also in keeping with the overarching principle that procedural rules must be liberally construed to meet the ends of justice and reach the merits of cases." *Shumway* quoting *Sheldon v. Fettig, 129 Wash.2d 601, 609, 919 P.2d 1209 (1996)*. On this basis, the Court must note that the issues are such that a waiver of public policy does not affect subsequent litigation even when not appealed by the parties. See *In re Marriage of Pippins, 46 Wn. App. 805, 808, 732 P.2d 1005 (1987)*. An early termination of review in this case would similarly not affect subsequent litigation necessitated by the fact that the judgment of the Superior court and the decision of the Court of Appeals make the decree ambiguous and put it in conflict with statute and public policy, and would further conflict with the interest in judicial economy.

RAP 18.8(b) allows for an extension of time in extraordinary circumstances and to prevent a gross miscarriage of justice. This case and its circumstances is anything but ordinary and falls outside the ordinary application of RAP 18.8(b). The enforcement action in the trial court was

prompted by Respondent's action in Canada to defeat a Washington decree of dissolution which assigned a stable home for the children and required her to provide for their support. Jurisdiction of the Canadian courts was achieved by Respondent's misrepresentation of an invalid document and her Canadian lawyer's non-admission into evidence before those courts of the Washington document comprising findings and conclusions of the dissolution. That latter document memorializes termination of the former separation agreement as concluded by the Superior court. If Petitioner succeeds in the Supreme Court of Canada and that court reverses the Court of Appeal for British Columbia, then a premature termination of review by this Court will allow a decision to stand on the basis of another which has been reversed.

The litigation in Canada relates to construction of a Washington decree of dissolution and the Washington statutes which apply. "There is a local interest in having localized controversies decided at home. There is an appropriateness, too, in having the trial of a diversity case in a forum that is at home with the state law that must govern the case, rather than having a court in some other forum untangle problems in conflict of laws, and in law foreign to itself." *Acharya v. Microsoft Corp., 189 Wn. App. 243, 354 P.3d 908 (2015)*. Reaching the merits in a decision of this Court would be helpful in the Canadian appeal to achieve actual finality for the parties and restore finality for the children.

The ultimate benefit of reaching the merits accrues to the appellate system and to litigants generally. The issue is of continuing and substantial public interest since an authoritative determination will provide future guidance to public officers. *In re Marriage of Horner, 151 Wn.2d 884, 891, 93 P.3d 124 (2004)* (this Court accepted review of a moot case because of the likelihood that the issue would escape review since the facts of the controversy were short-lived). *20 Wash. Prac., Fam. And Community Prop. L. § 33:29* highlights the "practical considerations" that have allowed superior courts to deny parents' motions for contempt and to deny the corresponding stability and support to their children. "As any parent can attest, time lost with your child is something you can never get back." Johnson J., concurring - *In re Custody of A.C., 165 Wn.2d 568, 200 P.3d 689 (2009)*.

For the reasons stated above, Petitioner respectfully requests this Court grant the motion for extension of time.

Respectfully submitted this 14th day of February, 2018.

s/ Grigore Vetrici
Petitioner, Pro Se

DECLARATION

I, Grigore Vetrici, declare and say:

I am the petitioner in this matter.

I am trying to enforce my rights under the Washington decree of dissolution and restore the parenting time I had with my children. The decree was modified by a Canadian court which enforced the former separation agreement misrepresented by Raluca in that court. Her lawyer did not put the dissolution findings into evidence, and although I did, I was unable to overcome the attendant prejudice. The Court of Appeal for British Columbia ignored the bulk of my argument and allowed Raluca to attack the decree in claiming she made a mistake in respect of terminating the separation agreement. See CP 381. That court then did not recite the respective provision of the decree in its decision. See CP 72-73.

I started working on my appeal of the Court of Appeals' decision the day it was filed on September 26, 2017. The attached letter documents my first request the same day to the Washington courts library for assistance researching authorities cited in the decision.

I have written multiple filings in the Court of Appeal for British Columbia in the intervening time between Division 2's filing of the decision and my filing of the original of this motion to extend time to file the Petition for Review. This limited my time to complete the Petition for Review of the Court of Appeals decision.

I was, and continue to be, further hampered by my ability to manage my emotions while working on pleadings.

On September 20, 2017, I received a letter from the Registrar of the

Court of Appeal for British Columbia. The Registrar canceled his certificate of costs as it had been issued in the absence of a final order awarding costs. The cancelled certificate had led to an order to pay judgment costs in 2015, and then an order finding me in contempt for non-payment in 2016. That contempt motion in Canada followed my motion in Washington to hold Raluca in contempt. (I made payment and purged the contempt within a few days of the order; I believe that order is in error and have tried reversing it.) Along with the letter, the Registrar provided a final order of the Court of Appeal relating to Raluca's relitigation of the former separation agreement, which finally gives the Supreme Court of Canada jurisdiction to review the case. I filed a notice of application for leave to appeal to that court in 2015, and expect that the court will allow me to reset that notice on the basis of the recent final order and Raluca's recent admission in the superior court below of her stipulations at dissolution.

I have not completed drafting my pleadings for the Supreme Court of Canada, but am encouraged by decisions of that court. At ¶27, *Chevron Corp. v. Yaiguaje, [2015] 3 SCR 69, 2015 SCC 42 (CanLII)*, http://canlii.ca/t/gkzns, says that the court has "adopted a generous and liberal approach to the recognition and enforcement of foreign judgments." *In Tercon Contractors Ltd. v. British Columbia (Transportation and Highways), [2010] 1 SCR 69, 2010 SCC 4 (CanLII)*, http://canlii.ca/t/27zz2, the dissent says that "a court has no discretion to

refuse to enforce a valid and applicable contractual term." (The court agreed on the appropriate framework of analysis but divided on the applicability of the exclusion clause to the facts). At ¶49, *Beals v. Saldanha, [2003] 3 SCR 416, 2003 SCC 72 (CanLII)*, http://canlii.ca/t/1g7bw, the court upheld its prior ruling that "fraud going to jurisdiction (extrinsic fraud) is always open to impeachment."

I started my Petition for Review concurrently with the motion for reconsideration of the Court of Appeal's decision. I had estimated that filing a motion to publish in the Court of Appeals after denial of the motion for reconsideration would increase the possibility of obtaining review in this Court and would in addition gain me additional time in which to perfect the Petition for Review. As I discovered later upon denial and upon review of my information, I had made an error with regard to being able to motion separately for both reconsideration and publishing as I did. I continued working on the Petition for Review after filing it on December 21, 2017 and have continued doing so until today, February 14, 2018.

/s/ Grigore Vetrici
Grigore Vetrici, Pro Se

307, 935 Marine Drive
West Vancouver, BC V7T 1A7

Subject: RE: Shepherdizing, Keycite request
From: "Library, Requests" <Library.Requests@courts.wa.gov>
Date: 2017-09-26 05:08 PM
To: G Vetrici <98gvlaw@outlook.com>

I've attached the Keycite citing reference from Westlaw.

-----Original Message-----
From: G Vetrici [mailto:98gvlaw@outlook.com]
Sent: Tuesday, September 26, 2017 4:04 PM
To: Library, Requests <Library.Requests@courts.wa.gov>
Subject: Shepherdizing, Keycite request

Hello,

It has been a while since I last requested your assistance with Shepherd or Keycite listings for cases.

If they are now available online, please let me know where.

Otherwise, I ask for help with the following:

Danielson v. City of Seattle, 45 Wn. App. 235, 240, 724 P.2d 1115 (1986), aff'd, 108 Wn.2d 788, 742 P.2d 717 (1987) In re Marriage of Stern, 68 Wn. App. 922, 928-29, 846 P.2d 1387 (1993) In Re the Marriage of Williams, 156 Wn. App. 22, 27, 232 P.3d 573 (2010) State v. McKenzie, 157 Wn.2d 44, 52, 134 P.3d 221 (2006)
MH2 Co. v. Hwang, 104 Wn. App. 680, 684-85, 16 P.3d 1272 (2001)

If you are limited to 5 per day of either, please provide Shepherd listings today and Keycite tomorrow.

Thank-you,
Grigore

Attachments:

Westlaw - List of 183 Citing References for Danielson v City of Seattle.doc	1.4 MB
Westlaw - List of 38 Citing References for Danielson v City of Seattle.doc	333 KB
Westlaw - List of 29 Citing References for M H 2 Co v Hwang.doc	246 KB
Westlaw - List of 57 Citing References for Williams v Williams.doc	523 KB

Westlaw - List of 197 Citing References for In re Marriage of Stern.doc	1.6 MB
Westlaw - List of 558 Citing References for State v McKenzie.rtf	11.4 MB

THE LAW COURTS
400 - 800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

COURT OF APPEAL

September 15, 2017

Grigore Vetrici
307 - 935 Marine Drive
West Vancouver, British Columbia
V7T 1A7

Matthew Brandon
Lessing Brandon & Company LLP
#306 – 15957 84th Avenue
Surrey, British Columbia
V4N 0W7

Dear Sirs:

RE: VETRICI, RALUCA
vs.
VETRICI, GRIGORE (A)
Court of Appeal File No: CA40942

I have reviewed Mr. Vetrici's letter of 14 September 2017.

I attach a memorandum of 2 June 2015 concerning the settlement of the two orders in question, summarizing the outcome of the appointment on the same day. In answer to Mr. Vetrici's concerns, it contains the reasoning behind the change to the order of 20 February 2015, specifically that the final paragraph is a direction, not an order. Madam Justice Neilson approved this change, as she signed the order.

As well, I note that the final order in this appeal was never submitted for entry following the appointment. The certificate of costs that issued on 2 June 2015 is accordingly cancelled, as it was submitted and signed without a formal order having been entered.

I have redrafted the order in accordance with directions I gave on 2 June 2015 and it has been entered. A new certificate of costs, replacing the cancelled certificate, is attached to this letter.

Sincerely,

Timothy R. Outerbridge, Registrar

/enc: Memorandum of 2 June 2016
Order entered 15 September 2017
Certificate of Costs issued 15 September 2017

COURT OF APPEAL

THE LAW COURTS
400-800 HORNBY STREET
VANCOUVER, B.C.
V6Z 2C5

MEMORANDUM

TO: **Mr. Grigore Vetrici, on his own behalf, appellant**
Mr. Matthew Brandon, for the respondent

FROM: Timothy Outerbridge, Registrar

DATE: 2 June 2015

RE: *Vetrici v. Vetrici,* CA40942, Appointment of 2 June 2015

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[1] At the appointment on 2 June 2015, I indicated I would review the recording of the hearing of the appeal to determine whether the application to adduce fresh evidence and the application to review the order of Madam Justice Neilson should be included in the Court's order arising from the appeal on 16 March 2015. I am of the view there should be a provision added to the order that states: "THIS COURT FURTHER ORDERS that the appellant's application to adduce fresh evidence is dismissed;"

[2] Having reviewed the audio recording, the Court refused to entertain the application to review the order of Madam Justice Neilson, stating that it was "not appropriate" to bring that application. As such, no term in the order is required as the application was not properly before the Court. My decision does not affect costs for the motion book, preparation, and attendance as the application was prepared and spoken to that day. I would ask Mr. Brandon to submit the revised order under cover to me. I will return entered copies to both of you with copies of the signed certificate of costs.

[3] I also enclose a copy of the entered order of Madam Justice Neilson. You'll see I have removed one portion of the order, as it was simply a direction given by the chambers judge, not a formal order.

Sincerely,

Timothy R. Outerbridge, Registrar, Court of Appeal for British Columbia

Court of Appeal File Nos: CA40942

COURT OF APPEAL

Between:

Raluca Vetrici

Respondent
(Claimant)

And

Grigore Vetrici

Appellant
(Respondent)

ORDER

BEFORE:

The Honourable Madam Justice Newbury
The Honourable Mr. Justice Chiasson
The Honourable Mr. Justice Frankel

Vancouver, British Columbia, 7 April 2015;

THE APPEAL from the judgment of Madam Justice Power at the Supreme Court of Brtitish Columbia dated 1 May 2013 coming on for hearing on 16 March 2015, AND ON HEARING the appellant, appearing in person, AND ON HEARING Matthew Brandon, counsel for the respondent; AND ON READING the materials filed herein; AND ON JUDGMENT BEING PRONOUNCED ON THIS DATE;

THIS COURT ORDERS that the appeal is dismissed;

THIS COURT FURTHER ORDERS that the appellant's application to adduce fresh evidence is dismissed;

THIS COURT FURTHER ORDERS that respondent do recover the costs of the appeal from the appellant promptly after assessment.

BY THE COURT

Mackenzie J.

Settled before the
Registrar
2 June 2015

GRIGORE VETRICI - FILING PRO SE

February 14, 2018 - 2:23 PM

Transmittal Information

Filed with Court:	Supreme Court
Appellate Court Case Number:	95327-9
Appellate Court Case Title:	In re the Marriage of: Raluca Vetrici and Grigore Vetrici
Superior Court Case Number:	10-3-00585-5

The following documents have been uploaded:

- 953279_Motion_20180214140615SC398354_8760.pdf
  This File Contains:
  Motion 1 - Extend Time to File
  The Original File Name was 20180214 Second amended motion to extend time.pdf
- 953279_Motion_20180214140615SC398354_9889.pdf
  This File Contains:
  Motion 2 - Amended Brief
  The Original File Name was 20180214 Motion to amend.pdf
- 953279_Petition_for_Review_20180214140615SC398354_2120.pdf
  This File Contains:
  Petition for Review
  The Original File Name was 20180214 petition for review.pdf

A copy of the uploaded files will be sent to:

- dpm@lifetime.legal
- drewmazzeo@outlook.com
- vetrici@hotmail.com

Comments:

Motion 1: Motion to amend previously amended motion to extend time to file Motion 2: Second Amended Motion to extend time to file petition for review Petition for Review: Amended proposed petition for review (20 pages as directed by the Court January 24, 2018) This web page (electronic filing form) shows two email addresses for me. I prefer that 98gvlaw@outlook.com be used.

Sender Name: Grigore Vetrici - Email: 98gvlaw@outlook.com
Address:
307, 935 Marine Drive
West Vancouver, BC, V7T 1A7
Phone: (403) 702-5692

Note: The Filing Id is 20180214140615SC398354