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ORIGINAL

NO. 64499-8-1

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

PAUL HENRI MONGAUZY, Appellant

v.

KATHLEEN DIANE MONGAUZY, Respondent

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

I. STATEMENT OF FACTS.....1

II. DIANE FOLLOWED THE PROPER PROCEDURE FOR ENFORCEMENT OF DECREES UNDER LOCAL RULES ADOPTED BY THE KIND COUNTY SUPERIOR COOURT.....10

III. THE FAMILY LAW MOTIOS COMMISSIONER PROPERLY HEARD THE MOTION TO ENFORCE ON 14 DAYS NOTICE.....11

IV. THE COURT DID NOT ERR BY HEARING DIANE’S MOTION WITHOUT AN EVIDENTIARY HEARING.....12

V. THE TRIAL COURT MAY DETERMINE CREDIBILITY OF EACH PARTY BASED ON SOURCES OTHER THAN ORAL TESTIMONY, AND THERE WAS NO DUTY ON THE PART OF THE SUPERIOR COURT TO CONDUCT A HEARING WITH LIVE TESTIMLONY....17

VI. THE COURT SHOULD AWARD DIANE ATTORNEYS FEES.....21

VII. CONCLUSION.....21

TABLE OF AUTHORITIES

Table of Cases

Marriage of James, 79 Wn.App 436, 903 P.2d 470 (1985).....17

Marriage of Langham and Kolde, 153 Wash.2d 553, 106 P.3d 212 (2005).....14, 16, 19

Marriage of Maddix, 41 Wn.App 248, 703 P.2d 1062 (1985).....18, 19

Marriage of Mickens, 62 Wn.2d 876, 385 P.2d 14 (1963).....19, 20

Rules and Statutes

CR 60.....	18, 19
CR 60(b)(4)	18
LFLR 1.....	10
LFLR 5.....	10, 11
LFLR 5(b).....	10, 11
LFLR 5(4).....	11
LFLR 6(b)(2).....	12
LFLR 6(g)(1)(B).....	13
LFLR 6(g)(2).....	13
Uniform Child Custody Jurisdiction.....	11
RAP 18.1.....	21
RAP 18.1(c) and (d).....	21

I.
STATEMENT OF FACTS

This matter presents another in a series of attempts by the appellant to avoid and/or frustrate the operation of the Decree of Dissolution entered by default on May 22, 2007.¹ As will be seen, this is a marriage that was characterized by the appellant's domination, control, manipulation, threats, harassment, and instillation of fear in the respondent. As recognized by the trial court, the years of domestic violence perpetrated by appellant against Diane had so overcome Diane's will that appellant succeeded in exerting his influence over her after the Decree was entered.

On January 28, 2007 respondent entered the Decree of Dissolution by default. CP 1 - 8. Respondent was without funds with which to pay an attorney at the time of the divorce and represented herself. She was a stay-at-home mother of five young children, and had no access to funds with which to retain an attorney for the divorce. CP 24 Despite the fact that the Decree was obtained by default, it is likely far more advantageous to the appellant than any award that would have been made by a trial judge. Specifically, Diane sought minimal spousal maintenance and a 50/50 division of community property despite the fact that the parties had been married for eight years as of the date of separation and that Diane was totally dependant on the Respondent for her support. CP 1.

¹ Appellant does not now and never has sought to vacate the Order of Default or the Decree of Dissolution entered by default.

To appreciate the dynamics between these parties and to understand the footing of this case, it is important to understand the abuse that was perpetrated by the appellant upon the respondent throughout their marriage. When the parties' home was originally purchased, the appellant tried to have the house titled in his sole name. CP 92. He was unsuccessful. Angry he could not do so and that the house could not be put in his name alone, the appellant repeatedly, over and over and for a period of years, told Diane "this is not your home! This will never be your home! You did nothing to earn it! It is mine and mine alone!" CP 79.

Appellant tightly controlled the finances throughout the marriage to the point Diane had to obtain his permission before buying clothing for the children to get ready for school. When Diane asked the appellant for help or to do things for the children, he often conditioned his assistance by extracting promises of "OP's"² from Diane, and would not cooperate unless Diane agreed.

As is often the case in an abusive relationship, Diane always had the sense that she was "walking on eggshells" during the marriage and fearful of saying or doing anything that might prompt a violent or intimidating outbursts on the part of the appellant. Diane became conditioned to making her decisions on her perception as to how the appellant would react. She became preoccupied with appellant's needs, desires, and habits, and sought to minimize situations that

² The emails from appellant to Diane use the terms "OP's" which is, in the appellant's parlance, a term for oral sex (oral pleasure).

might be a target of appellant's additional verbal abuse or intimidation. She learned to avoid friends, groups, situations, comments, or even glances that might produce further verbal, mental, or physical abuse from the appellant. In order to survive in the relationship, Diane avoided such situations at all costs.³

Diane does not dispute that the parties attempted reconciliation after the Decree of Dissolution was entered. In truth, Diane was psychologically and financially trapped with appellant because she depended on him for her support and the support of the parties' five children. On their face, and with the benefit of hindsight, it would appear that Diane made choices following the entry of the divorce that were inconsistent with the terms of the Decree and inconsistent with the abuse she suffered for years. However, with the understanding of the dynamics of the parties, an understanding of the psychology of long-term abuse, and keeping in mind how trapped Diane was at the time, the reality is that she did not and could not exercise her free will. As a result, the actions that appellant cites in his brief on the part of Diane that are inconsistent with the terms of the divorce

³ The Decree identifies property in Leavenworth, Washington. This property was obtained during marriage and is community property. Nevertheless, during marriage appellant persuaded the respondent to sign a quit claim deed to this property claiming that he could "flip" the property faster and easier if just one person was on the title. Diane knew this was further manipulation the part of the appellant, but also knew that it was not worth the fight and ongoing pressure so she signed the quit claim deed. CP 135. The same thing occurred later with regard to the marital home as discussed herein.

were the product of years of abuse and Diane's inability to protect her own interest when dealing with appellant.

The "period of reconciliation" between the parties was only a few months and not 16 months as claimed by the appellant. During the attempted reconciliation in February 2008, appellant pressured Diane to vacate the divorce decree or to remarry. As is true with so many victims of domestic violence, Diane believed that if she acceded to the appellant's demands that he would change. However, at the time, Diane was extremely vulnerable because she was a full-time mother caring for five small children. She had no source of support other than the appellant, and enforcement of the Decree was, as a practical matter, impossible because she lacked the resources to retain counsel and enforce the Decree. In short, Diane felt trapped and acted in such manner that she believed would appease the respondent and ultimately lead to his compliance with the Decree. She was mistaken, and now the appellant seeks to gain by convincing this court (as he was unable to convince the trial court), that Diane's signing of a quit claim deed after the divorce was a volitional act on her part. It was not volitional, and her signing the quit claim deed was disregarded by the trial court when it entered an order enforcing the Decree.

In his Brief, appellant places great importance on the quit claim deed he persuaded her to sign during the period of reconciliation. Respondent claims that Diane signed the quit claim deed in exchange for her and the children being able

to live with him “for free”. This contention is false and is most telling of the appellant’s credibility, selfishness, and narcissism. In truth, Diane signed the quit claim deed solely because the appellant assured her that he would then be able to refinance the house in his own name and pay her the amount in the Decree. CP 127. To induce and unduly influence Diane to sign the quitclaim deed, appellant told Diane that he could not refinance the property because they were no longer legally married and she was not working. CP 127. Appellant told Diane that he would never deceive her and would pay her share of the equity. At the same time, he told her that signing the quit claim deed was the “ultimate act of love and trust, and that doing so would prove her “love and devotion him.” CP 22. Appellant assured Diane that he would pay her share of the equity as his sign of good faith and dedication to the relationship. Diane believed these statements and signed the quit claim deed. Soon thereafter, appellant began twisting this execution of a quit claim deed against Diane.

Appellant continued to exert undue influence and control over Diane after the divorce in connection with the sale of the home. The home was listed for sale on June 28, 2007 and the parties received two offers for purchase. It soon became clear that appellant would not accept any reasonable offer or counteroffer because he knew that doing so would result in having to share the equity in the home with Diane. CP 22. In the course of their attempted reconciliation, the parties discussed that their assets would be divided and maintained separately even if they

reconciled. They discussed they would split the equity in the properties, each would deposit their respective shares in to separate bank accounts and they would move forward. This was the subject of an email between the parties attached Diane's Declaration of August 2009. CP 87.

There are many allegations made by the appellant below that were obviously rejected by the trial court. These were rejected because they defy common sense and ordinary understanding. For example, appellant complains Diane signed a quit claim deed and the same time complains that she made no financial contribution toward the household. He makes this complaint about Diane at a time when Diane had no income, no access to funds, no savings, and significant debt because none of the debts in the Decree of Dissolution had been paid. CP 93. During the attempted reconciliation, Diane signed a quit claim deed purportedly releasing all of her interest in the former marital home to the appellant. She did not sign this quit claim deed to relinquish her interest in the property or funds due her under the Decree of Dissolution. On the contrary, Diane signed this quit claim deed to facilitate what she was told would be appellant's refinance of the property in order that he might buy out her interest in accordance with the Decree. Appellant represented to Diane, (and she believed) that he could not refinance the home with Diane on the title because they were no longer married, she was not working, and consequently he could not qualify for a loan. Appellant told Diane, as stated in her declaration:

He told me that I would be destroying my children's future by taking money away from them and therefore, ultimately, destroying our family. Paul Mongauzy convinced me it was the ultimate act of love and trust. He told me it would prove my love and devotion to him. He promised that he would never dupe me and would pay me my share of the equity. Paul Mongauzy and I had very specific discussions about him paying me my share of the equity as his act of good faith and dedication to the relationship. I wanted to believe him and I really bought into his mind games, I trusted him. At the time, I felt I was doing what was best for our family and I thought it would change Paul Mongauzy's and my relationship. So I signed the quit claim deed. Now he is twisting it and using that against me. CP 95.

Subsequent to Diane signing the quit claim deed, appellant borrowed against the marital home and further encumbered it with a line of credit totaling \$37,890.00. These additional encumbrances benefitted the appellant and added no benefit whatsoever for Diane. On the contrary, the equity in the home was diminished by reason of these refinances by making the likelihood of Diane recovering her equity significantly less.

Appellant complains that he is not responsible for the failure of the house to sell and that Diane is equally responsible. This is utterly and completely false.

As Diane stated to the trial court:

We had counteroffers on our house after our inspections because of improvements that needed to be made. These offers were all within the range of the fair market value. Paul Mongauzy has a long history of controlling, coercing, and bribing me to do things with regard to his obsession with power and control over me. I may have signed the offer rejections and documents to cancel a house listing but I did

so because I was being manipulated, controlled and deceived by Paul Mongauzy. Our situation was a textbook domestic violence situation. I always ended up giving in to him.

In support of the above statements, Diane attached to her declaration emails corroborating appellant's abuse domination.

There are numerous instances of domestic violence perpetrated by the appellant following the attempted reconciliation. On August 28, 2008, appellant tried to physically force himself into Diane's parents' home where she and the five children were staying. CP 24. As a result of this invasion, Diane obtained a Temporary Order for Protection on September 3, 2008. Appellant violated the Order for Protection on September 7, 2008 by physically assaulting Diane. CP 24 On September 17, 2008, a one year Order for Protection was entered. In connection with that Order for Protection, appellant was ordered to participate in phase 1 of DV treatment. CP 25. Appellant has never completed that treatment and has been expelled from the program for non-compliance. Appellant further violated the Order of Protection in the Issaquah Municipal Court. This occurred while appellant was present in court to plead guilty on January 28, 2009. As a result of that assault, a no contact order has been entered that will remain in effect until 2011. CP 24.

Appellant also violated the Order for Protection in December, 2008 at a hearing at the King County Superior Court before Commissioner Hollis Holman.

At that time, appellant became volatile and aggressive toward Diane and her father. A King County sheriff was called to stand beside Diane at all times that she was present in the courthouse. After the hearing was completed, Diane and her father waited in the courtroom with the sheriff for protection, and the sheriff ultimately escorted Diane and her father to their automobile. CP 24.

On June 12, 2009, the treatment facilitator for appellant's DV program, Patrice Bishop, wrote to the court that the appellant:

...does not seem to be willing to examine his own belief system nor does he appear to understand how his family has been affected by his past actions. It does not appear that he is changing abusive behavior regarding his ex-wife Diane as evidenced by paperwork presented to a court hearing (4-13-09) to see his children which resulted in Mr. Mongauzy providing documentation to humiliate his wife.

I am concerned that he does not seem to understand the acts as abusive nor is willing to examine the intents of his abuse. Mr. Mongauzy seems to be obsessed with gathering information to degrade and depict his ex-wife negatively.

CP 26.

Appellant has also attempted to modify or have the Order for Protection dismissed.

The appellant did not suddenly become abusive, manipulative and controlling after the default Decree of Dissolution was entered. Rather, he was following a pattern of behavior that had started early in the marriage. As found by the Family Law Commissioner and later by the Judge on revision, the appellant

has a history of domestic violence that has obviously resulted in Diane's inability to assert herself or protect her own rights. This is the reason why the commissioner and the superior court judge on revision rejected to the appellant's claims that Diane had freely signed the quit claim deed and enforced the provisions of the Decree of Dissolution. Indeed, this appeal is yet another in a long line of steps taken by the appellant to harm Diane.

II.
DIANE FOLLOWED THE PROPER PROCEDURE FOR
ENFORCEMENT OF DECREES UNDER LOCAL RULES ADOPTED BY
THE KING COUNTY SUPERIOR COURT

The King County Superior Court has adopted extensive local rules for the management of its cases. One chapter of those local rules is entitled "Family Law Rules", and the citation to these rules is "LFLR".

LFLR 1 specifies that the local family law rules along with applicable state and local rules shall apply to all family law proceedings except adoptions. LFLR 5 specifies where Family Law Motions (like the Motion to Enforce Decree that is the subject of this appeal) shall be heard. LFLR 5(b) motions like the one at bar to be heard on the Family Law Motions Calendar and states "except as otherwise provided in these rules, contested pre-trial and post-trial motions in family law proceedings, including non-marital relationships involving parenting

and/or the distribution of assets/liabilities, shall be heard on the Family Law Motions Calendar.”

LFLR 5(4) identifies the types of motions that shall be brought before a judge and identifies the types of motions that shall be brought before a court commissioner. LFLR 5 identifies seven specific types of motions that must be brought before a judge. All motions other than those to be brought before a judge shall be heard by court commissioners. The motions to be brought before a judge include motions to seal a file, motions to change a trial date or deadline in a case schedule, motions for summary judgment, motions to resolve which court shall exercise jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act, motions related to discovery, motions to enforce a CR2A agreement, and motions for revision of a commissioner’s order. Inasmuch as the motion that is the subject of this appeal was a contested, post-trial motion in a family law proceeding that does not fall within the motions that must be brought before a judge, Diane properly noted her motion on the Family Law Motions Calendar pursuant to LFLR 5(b) for hearing by a family law commissioner.

**III.
THE FAMILY LAW MOTIONS COMMISSIONER PROPERLY HEARD
THE MOTION TO ENFORCE ON 14 DAYS NOTICE**

The King County Family Law Rules specify the number of days of notice that must be given to an adverse party prior to the hearing on a family law motion.

LFLR 6(b)(2) specifies that the motion and all supporting documents “must be filed with the Clerk and copies served on all parties at least fourteen (14) calendar days before the date of the hearing.” Diane followed this procedure and appellant was given at least 14 days notice of the hearing. Appellant has cited no statute, state-wide court rule, or local court rule to support his claim that Diane did not follow the proper procedure.

Diane followed the letter and the spirit of the local civil rules adopted by King County for the hearing of motions to enforce Decrees. Appellant cites no authority in support of his contention that the court erred by deciding this matter on fourteen days notice, and there is no merit to his contention that he was given in sufficient notice.

**IV.
THE COURT DID NOT ERR BY HEARING DIANE’S MOTION
WITHOUT AN EVIDENTIARY HEARING**

Appellant claims that the trial court erred by failing to conduct an evidentiary hearing in order to make findings of fact. Rather than commit any error, the trial court properly followed the procedures adopted by local rules in scheduling, hearing, and deciding Diane’s motion. Indeed, appellant makes this claim of error despite the fact that he ignored and failed to follow the procedure adopted by the King County Superior Court that a party must follow when an evidentiary hearing is sought.

LFLR 6(g)(2) authorizes the court to entertain live testimony if a party seeking to offer such testimony follows the correct procedure to obtain the same. That rule specifies that “a party seeking to present live testimony at a hearing must file a request in writing in the same manner as a request for additional time for argument”. LFLR 6(g)(2) specifies the procedure to be followed when a party seeks to offer or elicit live testimony. That rule provides that such requests shall be made in writing addressed to the Family Law Motions Coordinator. The rule requires that the request state the extraordinary features of the case. Finally, LFLR 6(g)(1)(B) specifies that the written request shall be filed with the Clerk and working copies shall be submitted to the Family Law Motions Coordinator and served on all other parties at least six court days prior to the scheduled hearing date.

Appellant failed to follow this procedure. Rather, he claims that he “objected” or “asked for discovery” in the body of his response to Diane’s motion. The King County Local Rules do not authorize or recognize inclusion of such a request in the body of a pleading as a means of seeking live testimony. On the contrary, those rules recite that the procedure described above is the exclusive means of obtaining live testimony. Having failed to follow the specific procedure adopted by local rule⁴, appellant cannot and should not now be heard to complain

⁴ Appellant has not only failed to follow this procedure, he chose to disregard it in his opening brief and made no mention of it.

that there was any “failure” on the part of the trial court to entertain live testimony or authorize discovery.

The King County Local Rules allow for evidentiary hearings with live testimony on motions and specify the procedure to be followed when a party seeks an evidentiary hearing. Appellant failed to follow the rules that litigants must follow when they seek an evidentiary hearing. He offers no explanation or excuse for his failure to follow those rules. Based upon the lack of any reference in his brief to the applicable rules, it appears that appellant remains unaware of those rules. He offers no reason why he did not follow those rules nor does he offer any reason why the rules do not apply. Appellant should not now be heard to complain that he was “denied” an evidentiary hearing when he failed to properly seek the same when he had the opportunity to do so.

The procedure Diane followed to enforce her Decree of Dissolution is identical to that which was the subject of Supreme Court’s review in *Marriage of Langham and Kolde*, 153 Wash.2d 553, 106 P.3d 212 (2005). In *Langham*, the trial court entered a Decree of Dissolution awarding the wife certain stock options in the name of the husband. Believing that her husband had converted stock options awarded to her in the Decree, the wife filed a Motion to Enter Judgment against the husband for conversion. Just like the case at bar, the *Langham* matter began with a Motion for Enforcement of Decree that was noted for hearing before

the Family law Motions Commissioner. Just like the case at bar, the dissatisfied former husband filed a Motion for Revision of Commissioner's Ruling. The superior court judge hearing the Motion for Revision denied the Motion, and the matter was appealed to the Court of Appeals and then to the Supreme Court.

On appeal, the husband argued that he had been "deprived of the usual protections afforded a tort defendant" because the case arose as an enforcement of a dissolution decree. He claimed that in a normal civil action, he would have had time to answer, engage in discovery, and seek a jury trial with the ability to cross-examine witnesses.

The Supreme Court rejected this contention out-of-hand. It found that the trial court clearly had authority to enter a judgment enforcing the decree stating:

Having before it at the outset a cause cognizable in equity, the court retains jurisdiction over the subject matter and the parties to be affected by its decree for all purposes – to administer justice among the parties according to law or equity. *Yount v. Indianola Beach Estates Inc.*, 63 Wash.2d 519, 387 P.2d 975 (1964). The superior court unquestionably has authority to enforce property settlements. RCW 26.12.010. It further has the authority to use "any suitable process or mode of proceeding" to settle disputes over which it has jurisdiction, provided no specific procedure is set forth by statute and the chosen procedure best conforms to the spirit of the law. RCW 2.28.150. Indeed, "when the equitable jurisdiction of the court is invoked...whatever relief the facts warrant will be granted." *Ronken v. Bd. of County Commissioners*, 89 Wash.2d 304, 572 P.2d 1 (1977).

The trial court had jurisdiction over the subject matter and the parties via the equitable action to enforce the decree, and

it properly entered judgment against Velle when he admitted the facts relevant to the tort of conversion.

The Supreme Court made clear that in the absence of any specific procedure set forth by statute and if procedure followed best conforms to the spirit of the law, then the trial court has authority to use any suitable process or mode of proceeding to settle disputes over which it has jurisdiction. In the case at bar, there does not exist any specific statutory procedure for enforcement of decrees, and the appellant cites none. In the words of the *Langham* court, the procedure followed by the trial court in the case at bar “conforms to the spirit of the law.”

In light of the foregoing authority, there was no duty or obligation on the part of the trial court to conduct an evidentiary hearing to make findings of fact. Diane followed the correct procedure by noting a motion on the Family Law Motions Calendar to enforce the Decree, and appellant has failed to demonstrate that there is any “specific statutory procedure” that the trial court did not follow that would justify relief under this Court’s holding in *Langham*.

V.
**THE TRIAL COURT MAY DETERMINE CREDIBILITY OF
EACH PARTY BASED ON SOURCES OTHER THAN ORAL
TESTIMONY, AND THERE WAS NO DUTY ON THE PART OF THE
SUPERIOR COURT TO CONDUCT A HEARING WITH LIVE
TESTIMONY**

There are many instances when superior courts adjudicate the rights of parties without entertaining live testimony. This court has previously held that a trial court may weigh the credibility of each party based on sources other than oral testimony.

In *Marriage of James*, 79 Wn.App 436, 903 P.2d 470 (1985), the court reviewed the trial court's finding that both parents were in contempt of court for violating the Parenting Plan. On appeal, the mother argued that contempt hearings should be governed by the procedures and burden of proof analogous to those used for summary judgment motions. The mother claimed that because the parties' affidavits contained disputes of material fact, it was improper for the court to enter a judgment without oral testimony.

This court rejected this contention. In *James*, Judge Agid wrote:

The court may conduct a hearing on contempt by affidavit, oral testimony or both. 2 Washington State Bar Association, *Family Law Deskbook*, Section 63.5(1)(d), at 63-16(1991). The court conducts a hearing on affidavits in domestic relations cases in the same manner as other trials by affidavit. See e.g. King County Local Rule 94.04(g)(7)(C)(v). The trial court may weigh the credibility of each party based on sources other than oral testimony. These might include the plausibility of a party's position,

consistency with information in the court file and testimony at trial, and affidavits of persons other than the parties. If the trial court feels that it cannot adequately decide a material contested issue without oral testimony, it may on its own motion schedule an evidentiary hearing to resolving an issue upon which the decision depends.

Emphasis added.

Based upon the foregoing, it is clear that this court has previously found that an evidentiary hearing is not required simply because conflicting affidavits may be submitted in a Motion to Enforce. Appellant cites no authority for the proposition that he is somehow entitled to or has a right to an evidentiary hearing, and the judgment of the trial court should be affirmed.

Appellant cites *Marriage of Maddix*, 41 Wn.App 248, 703 P.2d 1062 (1985), in support of the proposition that conflicting affidavits require the taking of testimony. Appellant's reliance on *Maddix* is misplaced.

Maddix addressed the review of a trial court's vacation of a Decree of Dissolution pursuant to CR 60(b)(4) wherein Ms. Maddix alleged fraud, misrepresentation, or other misconduct by her former spouse. In reversing the trial court's vacation of the decree, the *Maddix* court held:

The affidavits raise an issue of fact which cannot be resolved without the taking of testimony. See *Wood v. Copeland Lumber Company*, 41 Wash.2d 119, 247 P.2d 801 (1952); *Baer v. Lebeck*, 126 Wash 56, 219 P. 22 (1923); *Wibby Land and Development Company v. Nye*, 5 Wash. 301, 31 P. 752 (1892); **See also CR 60(e)(2), which contemplates a show cause hearing.** The court erred in vacating the judgment

without first hearing and weighing testimony regarding fraud, misrepresentation or other misconduct.

Emphasis added.

There is a vast difference between the vacation of a decree under CR 60 and enforcement of decree under the inherent equitable powers of the court. The vacation of Decrees is controlled by CR 60, which expressly contemplates a hearing on show cause. The above cases cited by the *Maddix* court all address the *vacation of judgments* under CR 60, and none address the *enforcement of a decree*. As discussed above, the Supreme Court, in *Langham, supra*, expressly held in the context of an enforcement action that live testimony is not required.

For all of these reasons, *Marriage of Maddix* is inapplicable to enforcement of Decree actions.

Appellant also relies on *Mickens v. Mickens*, 62 Wn.2d 876, 385 P.2d 14 (1963) in support of his claim that a trial court cannot properly enter a judgment as an incident to a divorce decree. The *Mickens* matter was presented on an unusual procedural footing. Specifically, Ms. Mickens had filed an ancillary proceeding to a divorce decree seeking the entry of judgment against her former husband. In *Mickens*, the parties had purchased real property on a real estate contract and the wife was awarded specific dollar amounts to be paid from the sale of said real property. Unfortunately, Mr. Mickens failed to make payments on

the real estate contract and the property was forfeited. The trial court found that the husband was in violation of the decree, had deliberately abandoned the property by failing to make the monthly payment, and thereby allowed the vendors to forfeit the contract. The *Mickens* court held that inasmuch as the equity in the home was lost when the contract was forfeited, compliance with the property settlement agreement and decree became impossible and, consequently, so did its enforcement.

There are no similarities whatsoever between the *Mickens* case and the case at bar. The within matter presents a Decree of Dissolution that specifically orders the home listed for sale immediately. In the enforcement action below, the conduct complained of by Diane was that appellant delayed in listing the property and, once listed, frustrated its sale. Clear evidence was available to the court to establish the fair market value of the home at the time the husband frustrated its sale, and respondent's damages were readily calculable by reason of frustration of the decree. There is no similarity between this case and the facts in *Mickens*, and there exists no requirement that Diane file an independent action in order to realize the benefits of her Decree of Dissolution.

VI.
THE COURT SHOULD AWARD DIANE ATTORNEY FEES

RAP 18.1 specifies that if applicable law grants a party the right to recover reasonable attorney's fees or expenses on review, that party must request the fees or expenses with a section of its opening brief. In accordance with that rule, Diane hereby requests reasonable attorney's fees. Diane will file and serve an Affidavit of Fees and Expenses in accordance with RAP 18.1(c) and (d). Diane is entitled to an award of attorney's fees on the basis of her need for contribution from appellant and the appellant's ability to contribute to her fees. Diane's need and appellant's ability to pay will become clear when her financial declaration is filed.

VII.
CONCLUSION

This appeal presents the dissolution of a marriage wherein the economically-advantaged husband abused, controlled, and dominated the mother of his five children from the time of their marriage to this date. Indeed, Diane has been forced to obtain Orders for Protection on more than one occasion and the appellant has been found guilty of violating the same on at least one occasion. He has been expelled from his DV treatment program for lack of compliance.

This appeal also presents the challenges faces by the judiciary when presented with parties who are in unequal bargaining positions and when one

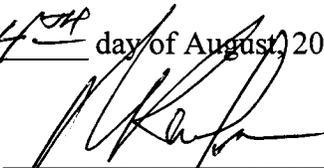
party, through years of manipulation and abuse, dominated the other party to extent that she is not able to exercise her own free will.

In isolation, Diane's actions by attempting to reconcile with the appellant and by signing the quit claim deed may appear inconsistent with her position taken with the trial court below. However, when one considers that her actions were not the product of her free will but, rather, were the product of a will overborne, it is clear that the decision of the trial judge should be affirmed.

The trial court committed no error by granting Diane relief on the family law motions calendar on 14 days notice to the appellant. Indeed, the local rules for King County Super Court specify the procedure to be followed to enforce decrees and Diane followed those procedures to the letter. While appellant complains of this procedure, he offers no statutory or other procedure that provides an alternative to the express procedure contained in local rules.

There is ample evidence to support the decision of the trial court, and it is respectfully requested that the court affirm the decision below and award Diane her reasonable attorney's fees and costs on appeal.

Respectfully submitted this 4th day of August, 2010.



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