

67225-8

67225-8

NO. 67225-8-1

THE COURT OF APPEALS, DIVISION 1
OF THE STATE OF WASHINGTON

Rosa M. Sarausad, Appellant,

v.

Romulo Y. Sarausad, Respondent.

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2011 SEP 29 PM 4:15

APPELLANT'S BRIEF

Dated Today, September 29, 2011



Rosa M. Sarausad/pro se /Appellant
4606-230th Terrace SE
Sammamish, WA 98075

cc: Atty. Joshua Wheeler
9709 3rd Ave NE Suite 504
Seattle, WA 98115

TABLE OF CONTENTS

	PAGE NO.
I. INTRODUCTION	1
II. ASSIGNMENT OF ERROR	2
III. STATEMENT OF CASE	2-5
IV. DISCUSSION AND ARGUMENT	5-6
V. CONCLUSIONS	6

TABLE OF AUTHORITIES

	PAGE NO.
In Marriage of Moody, 137 Wn.2d 979	5
1 Washington State Bar Ass'n.	6
1 Homer H. Clark jr.,, The Law of Domestic Relationship in the United States section 7.4, at 458 (2d ed.1987)	6

TABLE OF STATUTES

	PAGE NO
RCW 26.09.050(1)	6
RCW 26.09.150	6
RCW 26.09.170(1)	6
CR 60 (b)(1)	6
CR 60 (b)(4)	6

I. INTRODUCTION

The appellant, Rosa M. Sarausad, pro se, is seeking review of the foregoing material issues of facts of the case on hand with the great hope that justice and mercy be achieved in the end.

This is the case of a married couple who has been living together as husband and wife for the last 42 years and raised four beautiful and successful children.

After 42 years of living together as husband and wife, respondent, Romulo Y. Sarausad moved out from home last February 26, 2010. He did this move surreptitiously, secretly, and deceitfully. The appellant, Rosa Sarausad, was in Sacred Heart Church in Seattle that day, when he moved out. He never discussed with her up to the present time his responsibilities as to the properties and debts they have accrued over the years. As he is living with the other woman, he is claiming that he and Rosa Sarausad have already been divorced by virtue of a fraudulently obtained and illegally executed Decree of Dissolution in 1996 even if he and Rosa Sarausad had been living together for the last 42 years, married, and as husband and wife. This decree was not known to the appellant, Rosa Sarausad, until on August 20, 2009 when some woman confronted both the appellant and the respondent, and said that this woman and Romulo Sarausad had been married for sometime without living together because Romulo Sarausad was still living with Rosa Sarausad at the time.

Because of this situation appellant's home is under foreclosure, utility bills and other personal bills of respondent, Romulo Sarausad that are supposed to be paid by him has been over due and left unpaid. Appellant had to file bankruptcy while dealing with the bank for the matter of her home foreclosure. Appellant is incurring more damages as time goes on so appellant is praying for a quick resolution.



II. ASSIGNMENT OF ERROR

The Superior Court erred in entering the Commissioner's Order, dated 3/21/11, denying the appellant to show cause to vacate the Decree of Dissolution of 1996, CP 40-42 and also erred in entering the Judge Pro-tem Robert Leach's Order, dated 5/3/11, denying the revision of the Commissioner's Order of 3/21/11, CP 20-21.

1. Did the Commissioner in Superior Court erred in denying the appellant to show cause to vacate the Decree of Dissolution of 1996?

2. Did the Commissioner in Superior Court erred in not hearing testimony about the **fraud and misrepresentations** involved in obtaining and executing the Decree of Dissolution of 1996, thus unable to hear that in the Findings of Facts and Conclusions of Law in this Decree of Dissolution of 1996 has been entered the following and signed by a Commissioner Arden J. Bedle in September 25, 1996:

“ Both petitioner and respondent mutually agreed to have legal separation due to irreparable differences and they both mutually and willingly support each of their children under 18 years of age.” CP 185. Also as Exhibit D.

So, this decree of 1996 is not a divorce decree but a Decree of Legal Separation.

III. STATEMENT OF THE CASE

The following declaration of Rosa M. Sarausad will constitute the statement of the case.

DECLARATION OF ROSA M. SARAUSAD (In Support of this Appeal Case, 9/28/11)

I, Rosa M. Sarausad, a US citizen and a resident of the State of Washington, declare the following statements are true and correct to the best of my knowledge and ability:



1) I am declaring that this Decree of Dissolution of 1996 has been fraudulently obtained and illegally executed by respondent , Romulo Y. Sarausad, and he is so aggressively being defended by his counsel, who could be doing a lot of misrepresentations to the extent that at this very point in time I am at the verge of being evicted from my home due to a wrongful foreclosure so I am needing an attorney to keep me in my home.

2) For the background of my marriage to Romulo Y. Sarausad, please see CP 49 to 50.

3) The Decree of Dissolution of 1996 was obtained fraudulently as is related in pages 51 to 52 of CP.

4) On August 20, 2009 , an incident happened that exposed Romulo Sarausad's **fraud. Pages 52 to 53 of CP.**

5) By November 17, 2009 Romulo Sarausad admitted fraud. He filed a declaration divorcing Lourdes Limbo but later he did not file this in court.. CP 54 to55; CP 68 to 77; CP 78 to80.

6) On February 26, 2010, Romulo Sarausad left home surreptitiously, secretly and deceitfully without discussing anything with me. See pages 103 to 105 CP.

7) So I filed a petition for divorce in the King County Superior Court by May of 2010 pro se. with the cause number, 10-3-03656-7 SEA. This was dismissed last February 13, 2011 for the following reason by the counsel of respondent, Romulo Y. Sarausad, Atty. Joshua C.

Wheeler, so quoting:

“ There is no basis for this action in either law or fact. The entry of the Decree of Dissolution with Snohomish County Superior Court on September 25, 1996 precludes Petitioner from trying that same action in some other venue. Petitioner is a pro se party who has conferred with two different attorneys regarding this same matter. Despite obtaining advice from two different attorneys, and the fact that she is to be held as an attorney, she persists with this frivolous action



against which Respondent has incurred considerable cost to defend. Accordingly, this action should be dismissed with prejudice pursuant to CR12(b)(6), and the Respondent should be awarded \$2,000 for and as attorney's fees, and a further \$5,000 should be awarded to Respondent for terms against the Petitioner. "

8) On May 26, 2011, I was being garnished. CP 7 to 19.

9) On March 4, 2011, I was with my ex-counsel, Atty. Edward Chung and the counsel of Romulo Y. Sarausad, respondent, Atty. Joshua Wheeler before Commissioner Lester H. Stewart to hear the matter: Show Cause/Vacate Decree #17

The finding by the court is that there was no order to show cause filed. So the hearing was stricken, my ex-counsel got sanctioned \$300 and was given a new hearing date and that he was to serve properly Romulo Y. Sarausad to come to court to answer questions regarding the case on hand. The new hearing date was March 21, 2011. CP 117-120.

10) On March 21, 2011, we had the continuance hearing. My ex-counsel came in late and then we had the hearing; the Commissioner gave each side of the party 10 minutes to talk. At this time I did not understand what is going on because Romulo Y. Sarausad was still not present, then Atty. Wheeler got to talk first and my ex-counsel could not defend and our motion got denied. So the Commissioner did not hear our side of the case. CP 40-42.

11) So, I am here before you seeking review of the various evidence of misrepresentations, fraud, etc. that would lead to vacate the Decree of Dissolution of 1996 (September 25, 1990) such as the following:

Exhibit A Romulo Sarausad's November 17th 2009 Declaration.....CP 64-66

Exhibit B A mailing service document blankCP 250

Exhibit C Page 5, line 52 of Findings of Facts & Conclusions of Law: CP 183

"Petitioner and Respondent mutually agreed to have a legal separation due to irreparable differences" (Handwritten by Petitioner)



Exhibit D Page 7, lines 48-52 of Findings of Facts and Conclusions of Law: *with Commissioner's signature: Both Petitioner and Respondent mutually agreed to have legal separation due to irreparable differences and they mutually and willingly support each of their Children under 18 years of age.*" CP 185

Exhibit E Page 6 of the Decree CP 175
No spousal maintenance

IV. DISCUSSION AND ARGUMENT

Appellant, Rosa M. Sarausad herein discusses and argue each of the exhibit presented above.

1. Exhibit A, is the respondent Romulo Y. Sarausad, declaration that really supports the facts the Appellant has in her declarations all about fraud. CP 64-66

2. Exhibit B, is a document for mailing services, that said on the left-hand corner of the page, ***"FOR PARTIES PRO SE : Someone other than you must serve this document on the other parties in the action & that person must fill out the section below. "***

This document is not filled out and has a forged signature of the Appellant. This help support the fact the Appellant declared that she has never been served or notified by the Petitioner of the Decree of Dissolution of 1996. CP250

3. Exhibit C and D, are documents stating the findings of facts and conclusions of law that this Decree of 1996 is a Decree of Legal Separation and not a Decree of Dissolution of Marriage. In *Marriage of Moody, 137 Wn.2d. 979 p.987*, it is said, **"Legal separation proceedings in the State of Washington are governed by the dissolution statute. In a decree of legal separation the court does not dissolve the marriage. However, all other relief granted in a decree of dissolution, such as spousal maintenance, and disposition of property**

and debts, can be granted in the decree. RCW 26.09.050(1). See generally *1WASHINGTON BAR ASS'N*.

A decree of legal separation is final when entered, subject to the right of appeal. RCW26.09.150.....SEE 1 HOMER H. CLARK, JR., *THE LAW OF DOMESTIC RELATIONS IN THE UNITED STATES* & 7.4, at 458(2d ed.1987). *Either party may move to convert the decree of legal separation to a decree of dissolution after six months have passed from the entry of the initial decree <<3>> RCW 26.09.150. The spousal maintenance provisions of the decree may generally be modified prospectively upon a showing of substantial change of circumstances. RCW 26.09.170(1). However, the decrees provisions as to property disposition may not be revoked or modified , unless the trial court finds the existence of conditions that justify the reopening of a judgment under the laws of Washington. RCW26.09.170(1).*

4. Exhibit E , CP175, is page 6 of the Decree that said: Spousal maintenance does not apply. Appellant really disagree with this and looking forward by the Grace of God to be successful in getting one.

V. CONCLUSIONS

Appellant is seeking relief in accordance to RCW 26.09.150, RCW 26.09.170(1) and that she be awarded for damages incurred due to fraud and misrepresentations of the respondent, Romulo Y. Sarausad and his counsel in accordance to CR60(b)(1) and CR60(b)(4).

Dated today, September 29, 2011



Rosa M. Sarausad/Appellant/pro se
4606- 230th Terrace SE
Sammamish, WA 98075

CERTIFICATE OF MAILING

This is to certify that I, Rosa M. Sarausad, place in US mail certified and with return receipt of the document APPELLANT'S BRIEF to the following name and address:

Atty. Joshua Wheeler
9709-3rd Ave. NE Suite 504
Seattle, WA 98115

R. Sarausad
9/29/11

EXHIBITS

9/29/11

Exh. A

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

In re the Marriage of:

ROMULO Y. SARAUSAD,

Petitioner,

vs.

LOURDES C. LIMBO,

Respondent

) Case No.:

) PETITION FOR DISSOLUTION OF
) MARRIAGE

PETITIONER'S DECLARATION

I, Romulo Y. Sarausad, declare the following statements are true and correct to the best of my knowledge and ability:

1. My ex-wife, Rose Sarausad, whom I am living with for forty years now up to this time, overemphasized to me several times in the past few months that she has no foggiest idea that we were already divorced in 1996 at Snohomish County Court House, Everett, Washington.

2. When I married my wife, Lourdes Limbo, last December 6,

RS 9/29/11

1 2008, we were not living together. I was still living with my
2 ex-wife, Rosa Sarausad, who did not know that I married Lourdes
3 Limbo. Rosa Sarausad only knew about this marriage last August
4 20, 2009 when Lourdes Limbo confronted me and my ex-wife in the
5 Bus Stop as we (Rosa Sarausad and I) were trying to catch the
6 bus to go home. In fact today, November 17, 2009, she had to
7 confront my ex-wife again by the front door of our home with my
8 ex-wife that to let me sign document in regards to buying an
9 apartment. I did not sign, because this marriage is not legal
10 since my ex-wife, Rosa Sarausad whom I have been living with for
11 forty years now is not aware that we're divorce.
12

13 3. I'm requesting my ex-wife to resolve this problem
14 peacefully without going to Court and without hiring lawyers to
15 minimize expenses.
16

17 4. Quite honestly, I still live most of the time in my
18 house at 4606-230th Terrace SE, Sammamish, WA 98075 because I
19 have lots of obligations to do in my house such as paying the
20 mortgage, paying home equity loan, paying utility bills, water,
21 garbage, telephone, etc.

22 5. There was a big miscommunication between me and my ex-
23 wife, Rosa Sarausad, based on the fact that according to her,
24 she doesn't have the slightest idea that we were divorced
25 already in 1996.

26 6. So I have to divorce Lourdes Limbo because we were not
27 living together 100% of the time due to being incompatible with
28 each other.

Rakha 111

65

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

7. I hope that this matter be resolve peacefully and as soon, as possible.



Romulo Sarausad, 11/17/09

cc: Lourdes C.Limbo

RA 9/29/11

66

FOR PARTIES PRO SE: Someone other than you must serve this document on the other parties in the action & that person must fill out the section below.

I hereby certify that I am not a party to this action & that I have mailed/personally served this document on the parties listed below on the _____ day of _____ 19____.

Noted by:

[Signature]
CHECK ONE [Petitioner/Plaintiff] [Respondent/Defendant]
[Signature]

Exh. B

SIGNED

This document was [] Mailed
[] Personally served
[] Other _____
Specify

Persons served:

Persons served:

Name _____

Name _____

Address _____

Address _____

Name _____

Name _____

Address _____

Address _____

Name _____

Name _____

Address _____

Address _____

(Additional parties should be added below)

WHERE TO NOTE VARIOUS MATTERS:

FAMILY LAW/DOMESTIC MOTIONS: Most are heard on Court Commissioner calendar. The exceptions are matters relating to trial settings and continuances or revisions, which are heard in Presiding Department.

CIVIL MOTIONS: The following are heard on the Court Commissioner Civil Calendar: Defaults, Discovery, Motions & enforcement thereof; Supplemental Proceedings; Unlawful Detainer or Eviction; Probate, Guardianship & Receiver actions; Motions to Amend Pleadings. All other civil motions are heard on the Presiding Calendar.

CONFIRMATION NOTES: All matters set on the Presiding or Court Commissioner Calendars must be confirmed at 388-3587. Matters set before a specific judge must be confirmed/continued by his/her law clerk. Adoptions, reasonableness hearings and minor settlements are specially set and confirmed through Presiding Law Clerk: 388-3421. If you reach voice mail when confirming, you must leave the requested information or the matter will not be continued/confirmed

250

[Handwritten signature]
9/29/11

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50
52

The wife has incurred the following separate liabilities:

Creditor Amount

Exh. C

Other:

2.12 MAINTENANCE.

Maintenance was not requested.
 Maintenance should not be ordered because:

Maintenance should be ordered because:

Other:

2.13 CONTINUING RESTRAINING ORDER.

Does not apply.
 A continuing restraining order against the husband wife both parties is necessary because:

Other:

2.14 FEES AND COSTS.

There is no award of fees or costs because:

The husband wife has the need for the payment of fees and costs and the other spouse has the ability to pay these fees and costs. The husband wife has incurred reasonable attorney fees and costs in the amount of \$ _____.

Other: *Petitioner and Respondent mutually agreed to have a legal separation due to irreparable differences.*

183

H 9/29/11

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- Does not apply.
- Each party shall hold the other party harmless from any collection action relating to separate or community liabilities set forth above, including reasonable attorney's fees and costs incurred in defending against any attempts to collect an obligation of the other party.
- Other:

Exh. E

3.7 SPOUSAL MAINTENANCE.

- Does not apply.
- The husband wife shall pay maintenance as set forth in Exhibit _____. This exhibit is attached or filed and incorporated by reference as part of this decree.
- The husband wife shall pay \$ _____ maintenance. Maintenance shall be paid weekly semi-monthly monthly. The first maintenance payment shall be due on _____. The obligation to pay _____ (date) future maintenance is terminated:
 - upon the death of either party or the remarriage of the party receiving maintenance.

DECREE
 WPF DR 04.0400 (6/94)
 RCW 26.09.030; .040; .070 (3)
 Page 6

175

8/29/11

FILED
 COURT OF APPEALS, DIV. 1
 WASHINGTON
 JUL 28 AM 10:37