

Received
Washington State Supreme Court

OCT 22 2015
E QRF
Ronald R. Carpenter
Clerk

92013-3

THE SUPREME COURT
OF THE STATE OF WASHINGTON

In re the Marriage of:)	
)	
TINA CASE, nka Mendoza,)	ANSWER IN RESPONSE
)	TO MOTION FOR EX-
Respondent,)	TENSION OF TIME
v.)	
)	
RICHARD A. CASE,)	
)	COA No. 71605-1-I
Appellant.)	

Before the Court is a motion for extension of time. We have been directed by letter from the Court dated September 28, 2015 to file and serve this Answer to the motion by October 28, 2015. Respondent is hereby responding to the motion for extension of time.

Mr. Case has filed a motion giving a lengthy explanation as to being ill during the time that the period for filing a request for discretionary review was open. This is completely unsupported by any medical evidence; no prescriptions, no doctor's note, no medical records. There are no other facts

which would lead us to believe that merely because of having a bad tooth that one could not file a petition for review. The amount of effort required to file a petition for review does not seem terribly great, particularly given the extraordinary time the Court of Appeals gave Mr. Case to perfect his appeal in that court, warning of dismissal all the while.

The appeal has been pending for 18 months. Nothing in RAP 18.8 or RAP 18.9 supports an extension of time. Instead the rule seems to favor declining this motion, particularly that portion which favors finality of decisions.

Here we are attempting to collect a child support debt against inheritance believed to have be pending in the state of Montana where we have domesticated the judgment. The attached order received from the State of Montana Eleventh Judicial District echoes our sense these pleadings have been filed to delay and ultimately frustrate collection of the judgment as contemplated in our RAP 18.9(a).

Mr. Case is not employed, has had 18 months to contemplate each move in this process and therefore we believe

the excuse is meritless and review should be terminated due to its untimely nature.

Respectfully Submitted this 19 day of October, 2015.

NEWTON KIGHT LLP

By:



Mark T. Patterson II, WSBA #13777
Attorney for Respondent

RECEIVED

AUG 28 2015

CROWLEY FLECK PLLP

1 David M. Ortley
2 District Judge, Department No. 4
3 Flathead County Justice Center
4 920 South Main, Suite 310
5 Kalispell, MT 59901
6 (406) 758-5906

ELEVENTH JUDICIAL DISTRICT COURT,
FLATHEAD COUNTY

Tina A. Rowley, Petitioner	Cause No. DV-14-015(D)
vs.	ORDER ON "RESPONDENT'S SECOND OBJECTION, W/ MOTION TO QUASH, VACATE & DISMISS"
Richard A. Case, Respondent.	

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This matter comes before the Court on "Respondent's Second Objection w/ Motion to Quash, Vacate & Dismiss," wherein Respondent Richard Case (Respondent) "moves the Court under § 25-9-503, MCA to quash the registration [of the foreign judgment by Petitioner Tina A. Rowley], vacate the foreign judgment and dismiss" the above-entitled action.

BACKGROUND

Petitioner Tina A. Rowley (Petitioner) was granted a judgment against Respondent, pursuant to that Findings and Order on Show Cause (the Order), dated January 02, 2014, entered by the Superior Court of the State of Washington, In and For Snohomish County, Case No. 85-3-02405-4.

On or about January 08, 2014, the Order was domesticated and docketed in the Montana Eleventh Judicial District Court, in the above-entitled action. On or about January 24, 2014, Petitioner filed a Notice of Filing Authenticated Foreign Judgment. On February 18, 2014, Respondent filed an Objection to Filing and Motion to Dismiss. On April 28, 2014, this Court issued an Order denying Respondent's Motion to Dismiss.

On May 05, 2014, Respondent filed the instant "objection" and "motion." Petitioner responded on June 04, 2014. On June 09, 2014, Respondent filed, in this

1 action, a form Notice of Appeal, dated June 05, 2014. This Court has not received any
2 related Notice of Filing of Appeal from the Clerk of the Montana Supreme Court.

3 ANALYSIS AND RATIONALE

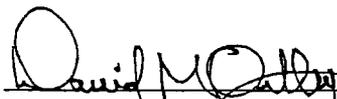
4 On April 28, 2014, this Court issued its Order denying "Respondent's Objection to
5 Filing w/ Motion to Dismiss."

6 A "motion to dismiss" is not among the post-judgment motions contemplated under
7 the Montana Rules of Civil Procedure. Further, the instant motion presents arguments
8 Respondent raised in his "Respondent's Objection to Filing w/ Motion to Dismiss," –
9 which the Court considered and rejected – and raises arguments that could have and
10 should have been made in the prior motion. A motion that seeks to accomplish the same
11 is substantively a motion for reconsideration. See *Nelson v. Driscoll*, 285 Mont. 355, 360-
12 61, 948 P.2d 256, 259 (1997). The Montana Supreme Court has repeatedly explained
13 that a "motion for reconsideration" does not exist under either the Montana Rules of Civil
14 Procedure or the Montana Rules of Appellate Procedure. *Id.*, 285 Mont. at 258, 948 P.2d
15 at 359. See also e.g., *Horton v. Horton*, 2007 MT 181, ¶ 14, 338 Mont. 236, 165 P.3d
16 1076; *Haugen v. Blaine Bank of Mont.*, 279 Mont. 1, 11, 926 P.2d 1364, 1369-70 (1996).

17 CONCLUSION

18 As set forth above, "Respondent's Second Objection w/ Motion to Quash, Vacate &
19 Dismiss" is substantively a motion for reconsideration and is procedurally improper.
20 Therefore, it is ordered that "Respondent's Second Objection w/ Motion to Quash, Vacate
21 & Dismiss" is denied.

22 August 21, 2015.

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25 _____
District Court Judge

26 c. Richard A. Case
27 Eli J. Patten
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