

DA 19-0196

IN THE SUPREME COURT OF THE STATE OF MONTANA

2019 MT 268

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TAMMY MARIE BOUDETTE,  
n/k/a TAMMY MARIE OSKERSON,

Plaintiff and Appellant,

v.

DANIEL BRIAN BOUDETTE,

Defendant, Counter-Claimant,  
and Appellee.

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APPEAL FROM: District Court of the First Judicial District,  
In and For the County of Broadwater, Cause No. BDV-2012-49  
Honorable Michael F. McMahon, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Adam H. Owens, Gregory G. Constanza, Granite Peak Law, PLLC,  
Bozeman, Montana

For Appellee:

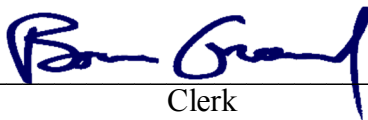
Daniel B. Boudette, Self-Represented, Townsend, Montana

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Submitted on Briefs: September 4, 2019

Decided: November 12, 2019

Filed:

  
Clerk

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Justice Beth Baker delivered the Opinion of the Court.

¶1 Daniel Boudette, a Montana resident, and Tammy Boudette (now Tammy Oskerson) were married and divorced in Arizona. The Arizona Decree of Dissolution of Marriage ordered Daniel to pay Tammy a sum certain for her share of the parties' community proceeds. In 2012, Tammy registered the Arizona judgment in Montana under the Uniform Enforcement of Foreign Judgments Act ("UEFJA"). In 2018, Daniel moved to extinguish the registered Arizona judgment because Arizona's statute of limitations for enforcing judgments had expired. Tammy asserted that Montana's longer statute of limitations should apply to foreign judgments filed in Montana. The District Court granted Daniel's motion to dismiss, holding that the Full Faith and Credit Clause required the court to apply Arizona law. Because Montana law allows a registered foreign judgment to be enforced just as a Montana judgment would be, we hold that the Montana statute of limitations applies. We reverse and remand for further proceedings on Tammy's enforcement of the Arizona judgment.

### **PROCEDURAL AND FACTUAL BACKGROUND**

¶2 Daniel and Tammy were married in Arizona in 1994. In 2005, they moved to Montana. Tammy later returned to Arizona and, in 2008, filed for dissolution of marriage. An Arizona court entered the Decree on December 18, 2009. The court held that proceeds from the sale of property in Arizona—which the parties used to purchase property in Montana—were community funds; it ordered Daniel to reimburse Tammy \$68,293.50 for her share of those proceeds. Daniel was given six months to pay Tammy

or to make the necessary arrangements, after which she could seek to foreclose her community interest in the Montana property and enforce the money judgment. The Arizona Court of Appeals affirmed the Decree, and the Arizona Supreme Court denied review. Daniel did not pay Tammy or make arrangements to do so.

¶3 Tammy registered the Arizona judgment on September 12, 2012, in Broadwater County, Montana, pursuant to the UEFJA. Title 25, chapter 9, part 5, MCA. She took no further steps to enforce the foreign judgment.

¶4 On December 13, 2018, Daniel moved to extinguish Tammy's December 2009 Arizona judgment, contending that under applicable Arizona law, the statute of limitations to enforce the judgment had expired because Tammy did not seek enforcement within five years of the 2009 Decree. Arizona law limited execution on a judgment lien to five years absent renewal of the judgment. Ariz. Rev. Stat. Ann. § 12-1551 (2009). Tammy responded that Montana's ten-year statute of limitations for actions upon judgments, § 27-2-201(1), MCA, instead applied. The District Court granted Daniel's motion to extinguish on March 13, 2019. Citing its "exacting" full faith and credit obligation owed to final judgments of sister states, the court held that Arizona law applied to determine the time limit for execution on the judgment. The court held the money judgment unenforceable because more than five years had elapsed since the Decree was issued. Tammy appealed.

## STANDARD OF REVIEW

¶5 The District Court concluded that Tammy’s foreign judgment was unenforceable in Montana as a matter of law. We review a district court’s conclusions of law to determine whether they are correct. *Rose v. Rose*, 2016 MT 7, ¶ 10, 382 Mont. 88, 364 P.3d 1244.

## DISCUSSION

¶6 *Did the District Court err when it applied Arizona’s statute of limitations for enforcing a judgment lien to an Arizona judgment registered in Montana under the Uniform Enforcement of Foreign Judgments Act?*

¶7 The UEFJA governs enforcement in Montana of judgments initially rendered in a foreign state. Its purpose is to provide the “procedural framework” for enforcing foreign judgments. *Carr v. Bett*, 1998 MT 266, ¶ 41, 291 Mont. 326, 970 P.2d 1017. It allows a party to register a foreign judgment in Montana state courts. Once registered, a judgment may be enforced in the same manner as a state judgment. The UEFJA provides:

A copy of any foreign judgment . . . may be filed in the office of the clerk of any district court of this state. *The clerk shall treat the foreign judgment in the same manner as a judgment of a district court of this state.* A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a district court of this state and *may be enforced or satisfied in like manner.*

Section 25-9-503, MCA (emphases added).

¶8 The UEFJA statute does not specifically discuss timelines for enforcement. But it treats a foreign judgment the same as a Montana judgment. Section 25-13-101(1), MCA, references the time limit prescribed in § 27-2-201, MCA, for executing on a Montana

judgment. Section 27-2-201, MCA, prescribes a ten-year period to commence actions upon judgments or decrees of “any court of record . . . of *any state* within the United States.” (Emphasis added.) The statutes thus allow a ten-year period for enforcing any valid judgment.

¶9 In *Carr*, ¶¶ 42-43, we held that under the UEFJA, the parties could not relitigate the merits of a Wyoming judgment in Montana. We did not address the legal process to enforce a foreign judgment, such as which state’s statute of limitations to apply. In *Robinson v. First Wyo. Bank*, 274 Mont. 307, 909 P.2d 689 (1995), we addressed the federal counterpart to the UEFJA, 28 U.S.C. § 1963, which authorizes registration of judgments in districts other than the rendering district. We held that Montana’s statute of limitations applied to the Wyoming judgment, and the enforcement time ran from the original date the judgment was rendered. *Robinson*, 274 Mont. at 315, 909 P.2d at 694.

¶10 Daniel argues that Tammy’s 2009 money judgment against him is unenforceable because the period to enforce the judgment under Arizona law was five years from entry of the Decree and thus expired in 2014. Ariz. Rev. Stat. Ann. § 12-1551 (2009). Tammy asserts that we should apply Montana’s ten-year statute of limitations for action upon a judgment. Section 27-2-201(1), MCA.

¶11 We agree with Tammy. The plain language of Montana’s UEFJA statutes provides that registered foreign judgments “may be enforced or satisfied” in the same manner as a judgment of a Montana district court. Section 25-9-503, MCA. The period prescribed for the commencement of an action upon a judgment or decree “of any court

of record . . . of any state” is ten years. Section 27-2-201(1), MCA; *see also* § 25-13-101(1), MCA. When Tammy timely registered the Arizona judgment in Montana on September 12, 2012, it became subject to Montana’s enforcement limitations.<sup>1</sup>

¶12 A review of other UEFJA states reveals uniform application of the forum state’s procedural laws or statutes of limitation to registered foreign judgments. *See Citibank (S.D.), N.A. v. Phifer*, 887 P.2d 5, 6 (Ariz. Ct. App. 1994) (stating that “Arizona courts have held that its own statute of limitations applies even if it bars the enforcement of a foreign judgment filed under the Uniform Enforcement of Judgments Act.”); *Eschenhagen v. Zika*, 696 P.2d 1362 (Ariz. Ct. App. 1985) (holding that Arizona applies its statute of limitations to enforcement of foreign judgment); *Grynberg v. Shaffer*, 165 P.3d 234 (Ariz. Ct. App. 2007) (applying Arizona law to determine the statute of limitations to file foreign judgment); *see also Morrissey v. Morrissey*, 713 A.2d 614 (Pa. 1998); *Yusten v. Monson*, 325 N.W.2d 285 (N.D. 1982); *Potomac Leasing Co. v. Dasco Tech. Corp.*, 10 P.3d 972 (Utah 2000); *Ware v. Everest Group. L.L.C.*, 238 S.W.3d 855 (Tex. Ct. App. 2007). Daniel has not cited any case to the contrary.

¶13 The District Court determined nonetheless that the principle of full faith and credit required it to enforce the Montana-registered judgment according to Arizona’s statute of limitations. Under Article IV, Section 1, of the United States Constitution, states must

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<sup>1</sup> Before Montana enacted the UEFJA, this Court held that Montana limitation periods controlled when enforcing foreign judgments. *See Hogevooll v. Hogevooll*, 117 Mont. 528, 533, 162 P.2d 218, 221 (1945) (“It is generally immaterial whether action is or is not barred by the law of the foreign jurisdiction in which the transaction occurred. The only exception is where the statutes of the forum make them applicable.”).

give full faith and credit to judicial proceedings of every other state. Although it requires recognizing and honoring foreign judgments, “the Full Faith and Credit Clause does not compel the forum state to use the period of limitation of a foreign state.” *Wells v. Simonds Abrasive Co.*, 345 U.S. 514, 517, 73 S. Ct. 856, 1216 (1953). Full faith and credit does not mean that the forum state must follow the rendering state’s mechanisms for enforcing judgments. *Baker v. General Motors Corp.*, 522 U.S. 222, 235, 118 S. Ct. 657, 665 (1998) (“Enforcement measures do not travel with the sister state judgment as preclusive effects do; such measures remain subject to the even-handed control of forum law.”).

¶14 This Court addressed the full faith and credit obligation with regard to the UEFJA in *Carr*. Considering whether § 25-9-503, MCA, was constitutional in light of the Full Faith and Credit Clause, we held that the “only defenses that may be raised to destroy the full faith and credit obligation owed to a final judgment” are those directed at the validity of the foreign judgment, such as lack of personal or subject matter jurisdiction. *Carr*, ¶ 42. Registering a foreign judgment does not allow the underlying merits of a foreign judgment to be reexamined by the forum state; foreign judgments under Montana’s UEFJA thus are accorded deference to avoid offending the Full Faith and Credit Clause. *Carr*, ¶¶ 42-43. Respect for the mandates of a foreign judgment is a matter of substance; enforcement of a valid foreign judgment is a matter of procedure. The latter lies in the forum state, not in the rendering state.

¶15 For similar reasons, Daniel’s argument that Montana’s conflict of laws statute, § 27-2-503, MCA, requires application of the Arizona limitations period is incorrect. He contends that the Montana court must apply the substantive law of the other state if the claim is substantively based on the other state’s law. He argues that, because the Arizona judgment substantively was based on Arizona divorce law, the court was required to apply Arizona law to determine any conflicting limitation periods.

¶16 Montana has adopted the Uniform Conflict of Laws—Limitations Act. Title 27, chapter 2, part 5, MCA. Under that Act, “if a claim is substantively based . . . upon the law of [an]other state, the limitation period of that state applies.” Section 27-2-503(1)(a), MCA. “Claim” is defined as “a right of action that may be asserted in a civil action or proceeding and includes a right of action created by statute.” Section 27-2-502(1), MCA. Section 27-2-503, MCA, thus applies to a *claim* asserted in a civil action that is based upon the substantive law of another state. Another state court judgment is not a claim.

¶17 In contrast to a “claim” governed by the conflict of laws statutes, foreign judgments are governed by the UEFJA. A foreign judgment is defined as “a judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.” Section 25-9-502, MCA. The UEFJA authorizes foreign judgments to be registered in Montana and enforced via Montana’s statutory processes. The UEFJA does not apply to claims brought in Montana courts that substantively are based upon another state’s law; such claims would be subject to conflict



of laws analysis. *See Harrington v. Energy West, Inc.*, 2015 MT 233, 380 Mont. 298, 356 P.3d 441; *Hutchins v. Hutchins*, 2018 MT 275, ¶ 13, 393 Mont. 283, 430 P.3d 502.

¶18 Montana's statute of limitations for enforcing judgments or issuing a writ of execution is ten years. Sections 27-2-201, 25-13-101(1), MCA. The principle of full faith and credit does not require forum states to apply foreign rendering states' statutes of limitation for enforcement. Accordingly, the Arizona judgment Tammy properly registered in Montana is subject to Montana's statute of limitations, and Tammy has ten years from entry of the Decree to seek execution of the Arizona judgment. Daniel's 2018 motion to extinguish the judgment should have been denied.

### CONCLUSION

¶19 We reverse and remand to the District Court for reinstatement of Tammy's September 2012 registered Arizona judgment.

/S/ BETH BAKER

We Concur:

/S/ MIKE McGRATH  
/S/ DIRK M. SANDEFUR  
/S/ LAURIE McKINNON  
/S/ INGRID GUSTAFSON