

ORIGINAL

FILED

12/18/2019

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 19-0196

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 19-0196

FILED

DEC 17 2019

Bowen Greenwood
Clerk of Supreme Court
State of Montana

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

Plaintiff and Appellant,

v.

ORDER

DANIEL BRIAN BOUDETTE,

Defendant, Counter-Claimant,
and Appellee.

Appellee Daniel Boudette seeks rehearing of this Court's November 12, 2019 Opinion reversing the District Court's ruling that prohibited Appellant Tammy Oskerson from enforcing her Arizona judgment against Boudette in Montana because she had missed the Arizona statute of limitations. 2019 MT 268. Oskerson, through counsel, opposes the petition and seeks an award of attorney fees.

Under M. R. App. P. 20, this Court seldom grants petitions for rehearing. The rule makes clear that this Court will entertain a petition for rehearing on very limited grounds. We will consider a petition for rehearing only if the opinion "overlooked some fact material to the decision," if the opinion missed a question provided by a party or counsel that would have decided the case, or if our decision "conflicts with a statute or controlling decision not addressed" by the Court. M. R. App. P. 20.

Having fully considered Appellant's petition and the response, the Court concludes that rehearing is not warranted under Rule 20. Boudette contends that the Court's Opinion grants greater authority to a foreign judgment than it would receive in the rendering state. We noted, however, that Oskerson had "timely registered" her judgment in Montana in September 2012—within three years after the Arizona decree was entered. Opinion, ¶ 11. At that point, the Arizona judgment could be "enforced or

satisfied” in the same manner as a judgment of a Montana district court. Opinion, ¶ 11 (citing § 25-9-503, MCA). We thus rejected Boudette’s argument that full faith and credit required the Court to honor Arizona’s limitation period. Opinion, ¶ 14. Though he disagrees with that ruling, Boudette has not demonstrated that the Court overlooked material facts or issues raised by the parties or failed to address a controlling statute or decision that conflicts with the Opinion.

Oskerson requests an award of attorney fees as a sanction for Boudette’s appeal and petition for rehearing, which she argues is a frivolous attempt at a second bite of the apple. Under M. R. App. P. 19(5), this Court may award sanctions, including attorney fees or other penalty, to the prevailing party in an appeal if the appeal is “determined to be frivolous, vexatious, filed for purposes of harassment or delay, or taken without substantial reasonable grounds.” M. R. App. P. 19(5). As a general rule, however, “we impose sanctions in cases only where the appeal is entirely unfounded and intended to cause delay, or where [a party’s] actions otherwise constitute an abuse of the judicial system.” *Rintoul v. Rintoul*, 2014 MT 210, ¶ 19, 376 Mont. 167, 330 P.3d 1203 (quoting *Bi-Lo Foods, Inc. v. Alpine Bank*, 1998 MT 40, ¶ 36, 287 Mont. 367, 955 P.2d 154). Though we did not accept Boudette’s arguments on appeal, we did not impose sanctions against him, and we decline to do so on rehearing.

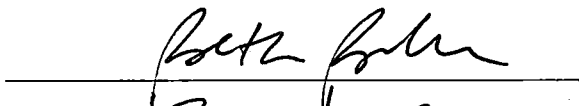
IT IS THEREFORE ORDERED that the petition for rehearing is DENIED.

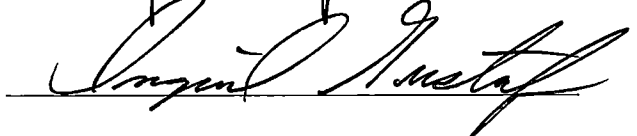
The Clerk is directed to provide copies of this Order to all parties and counsel of record.

Dated this ¹²17 day of December, 2019.



Chief Justice





Lawrence

John M. Salter

Justices