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Petitioner/Appellant

IN THE SUPREME COURT OF THE STATE OF MONTANA
SUPREME COURT NO. DA 20-0460

In re the Marriage of: DAVINA ATTAR-WILLIAMS, Petitioner/Appellant, and STEVEN THOMAS WILLIAMS, Respondent/Appellee.	**EMERGENCY MOTION TO STAY DISTRICT COURT SHOW CAUSE HEARING PENDING THE MONTANA SUPREME COURT'S DECISION ON APPELLANT'S M.R.APP.P 22 MOTION TO STAY EXECUTION OF THE DISTRICT COURT'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DISSOLUTION DECREE PENDING APPEAL AND BRIEF IN SUPPORT**

COMES NOW Petitioner/Appellant Davina Attar-Williams and submits the following Emergency Motion requesting the Montana Supreme Court vacate (or, in the alternative) stay the Show Cause Hearing before the Yellowstone County District Court on Monday, November 9th 2020 at 9 a.m. because Appellant's M.R.App.P. 22 Motion to stay execution of the district court's Findings of Fact, Conclusions of Law and Final Dissolution Decree is still pending before the Supreme Court, as well as the fact that Petitioner is not denying Respondent any parenting time to constitute contempt of court charges just because she drops the parties' children at Respondent's residence every other weekend as ordered in the district court's invalid parenting plan which must be vacated on appeal, when the only difference is they don't sleep

over Respondent's apartment where they would have to share a tiny apartment bedroom instead of coming home to sleep in their beautiful rooms at the end of the night.

BRIEF IN SUPPORT

On October 5, 2020, Respondent/Appellee motioned the district court for a show cause hearing to hold Petitioner/Appellant in contempt of the district court's September 9, 2020 judgment because Appellant was has been bringing the parties' minor children, A.J.W. (5) and A.R.W. (20 months), to Appellee's residence for all of the parenting time the district court erroneously ordered as the final parenting plan after refusing to hear any evidence about the children, the parties' parenting of and respective relationships with A.J.W. and A.R.W., or any evidence or testimony relevant to the parenting of the parties' minor children or any information on which the district court could adequately assess what was in the best interests of A.J.W. and A.R.W. – let alone determine a proper parenting arrangement that specifically met the best interests of the children standard.

The district court's decree is not only clearly erroneous, not demonstrated by the record and/or completely based on bizarre misapprehensions of all the facts, evidence and testimony to either ignore or skip over all the facts and evidence demonstrating how terrible Respondent's case is or misrepresenting everything Petitioner said or did to support why the court could not find in her favor because she was always either wrong or lacking in credibility (i.e., because she discharged three in the more than one year the matter was pending).

Moreover, upon receiving service of Appellant's Motion for Leave to Amend on September 8, 2020, the District Court chose to ignore the Appellant's Motion for Leave of Court to Amend the Petition for Dissolution Appellant submitted to update the pleadings to properly

reflect Appellant's unanticipated and very substantial changes in circumstances which occurred at no fault of her own yet substantially changed Appellant's financial position on which the court at that point had to consider in its determination of an equitable distribution of the marital estate[1], as well a reasonable child support calculation, it would order in its final dissolution decree [2] and

[1] On August 14, 2020, after asking if either party had anything else to offer the court before it adjourned that final portion of the trial solely allocated for the proper division of the marital estate, Appellant informed the court her employer of nearly 5 years, Brown Law Firm, P.C., in Billings had just let her go a few days prior due to the toll the inordinately complicated underlying proceedings had taken on Appellant's work throughout the past year due to Appellee's refusal to ever even pretend to attempt to negotiate a reasonable compromise to which both parties were willing to agree. However, the district court refused to acknowledge or even mention in its judgment that Petitioner/Appellant lost her job due to the underlying proceedings during this very uncertain time of the global covid-19 crisis and has not been able to get another job offer since despite her trying very hard to find work since August 2020. Moreover, the district court erroneously, based on a major misapprehension of all the legitimate facts, testimony and evidence presented to the court, ruled that that note Petitioner's father gave Respondent in 2012 stating the $20,000 he gave the parties to purchase their first home was a gift to Respondent demonstrates that the over $100,000 with which Petitioner's parents basically built the parties' marital estate for them were also definitely gifts contrary to all the evidence and testimony and witnesses Petitioner provided demonstrating how much Respondent stole from Petitioner and her family while Respondent only paid the monthly mortgage payments for the Billings house and beyond that extremely financially abused Petitioner and hid all his money other than the small portion he used to pay the monthly mortgage payments while Petitioner amassed tens of thousands of dollars of credit card debt paying for everything else related to raising his two children he had out of wedlock when he was a teenager, and all the expenses related to A.J.W. and A.R.W. and all the household and family bills even though Petitioner's made just a fraction of what Respondent made and paid about $1500 per month in student loans which was around twice what Respondent had to pay each month in student loans. Not only was deeming Petitioner's parents' financial contributions to the marital estate gifts to which Respondent was entitled a much larger division of than the unemployed Petitioner, but the district court still persisted in this clearly erroneous injustice after seeing Petitioner had motioned for leave to amend the Petition for Dissolution to include her father only recently in September 2020 after the trial thought to mention to Petitioner that the only reason he wrote that note in 2012 stating that $20,000 was a gift to Respondent was because Respondent fraudulently and predatorily instructed Petitioner's father that such a note stating that money was a gift to Respondent was the only way Petitioner's parents and the parties could avoid incurring grave tax consequences from the transfer.

[2] It is worth noting that the "final straw" which ultimately led to Petitioner/Appellant's termination from her job of nearly five years was directly related to her brief in opposition to Respondent's Motion to enforce a parenting plan "agreement" to which Petitioner/Appellant's former attorney fraudulently deceived her into believing the June 2, 2020 MoU he convinced her to sign and date over Petitioner's several explicit objections and concerns reflected a parenting plan arrangement he knowingly misrepresented to her and blatantly assured her included fundamental terms and conditions on which Petitioner's consent to the so-called agreement was based to fraudulently deceive her into signing the MoU which he knew Petitioner would have never agreed to or signed had her lawyer not knowingly and purposely lied to her and assured Petitioner that her non-negotiable terms would not really be included in the final parenting plan. Petitioner is referring to her brief in opposition to Respondent's Motion to Enforce the MoU her former attorney knowingly and purposely lied to Petitioner/Appellant about the fundamental terms of the parenting plan agreement in order to fraudulently deceive her into signing the Memorandum of Understanding (MoU) on June 2nd, 2020, knowing that the multiple conditions on which Petitioner/Appellant's assent was based was not, in fact, part of the agreement and therefore would not be included in the final parenting plan as Petitioner/Appellant's lawyer assured her about 10 times during the roughly hour or so Petitioner/Appellant begged her lawyer to add to the MoU before she would sign it (which Petitioner/Appellant's

very shadily unexpectantly issued its Findings of Facts, Conclusions of Law and Final Dissolution Decree on the evening of September 9th 2020, nearly 24 hours after receiving Petitioner/Appellant's Motion for Leave to Amend with the updated facts and circumstances that completely negated the district court's clearly erroneous, misapprehension of the evidence and testimony presented at trial.

The district court then denied

Respondent/Appellee's "Motion for Order to Show Cause," and associated "Affidavit in Support of Motion for Order to Show Cause," are both dated October 6, 2020. However, Petitioner was never notified Respondent was filing such a motion and had been wholly unaware of any such motion until she received both on Saturday, October 8th 2020 – at the same time she also happened to receive the Court's October 7th, 2020 "Order Setting Show Cause Hearing" on November 9, 2020 at 9 a.m. Not only did Respondent/Appellee fail to even notify Petitioner/Appellant about any motion for order to show cause before filing it, Petitioner/Appellant was never permitted an opportunity to respond to Respondent/Appellee's Motion for Order to Show Cause, as the district court seemingly mailed Petitioner the order setting the November 9, 2020 Show Cause Hearing Petitioner was not yet aware had been

attorney refused to even discuss with opposing counsel every time she insisted she was not comfortable signing an MoU that only stated the necessary terms on which Respondent/Appellee's consent was based, while necessarily omitting all the necessary parenting plan conditions on which Petitioner/Appellant's assent to the so-called parenting agreement was based. Which her attorney oddly and frantically assured her at least 10 different times were part of the deal and would be reflected in the final parenting plan the parties were expected to draft at a later date…but he refused to add to the MoU or discuss adding with opposing counse,l because, as he kept assuring Petitioner on June 2nd, he knew what he was doing and she had to trust him and not do or say anything that could potentially confuse the issues and jeopardize the parenting plan settlement agreement he fraudulently deceived Petitioner to believe the MoU represented knowing he never intended to include the terms and conditions on which Petitioner's consent to the so-called parenting plan "agreement" was based in the final parenting plan contract the parties still needed to draft and finalize before the court could eventually approve it and order it as the parties' final parenting plan.

requested at the same time opposing counsel mailed its motion and affidavit to Petitioner/Appellant.

It was also very odd that they both served Appellant with the motion and order via U.S. Mail Judge Harris's Judicial Assistant Kim Anderson has been serving Petitioner/Appellant everything Judge Harris issues via email and opposing counsel only serves Appellant via U.S. Mail (as opposed to emailing filings to her before mailing them, when he chooses to do both). Opposing Counsel typically serves Appellant via U.S. Mail without first emailing it to her when he is doing something underhanded, such as when he submitted his Memorandum in Opposition to Petitioner's Motion for Leave to Amend the Petition for Dissolution an entire week after very arrogantly and suspiciously informing Petitioner in his September 11th email that the district court's September 9, 2020 judgment rendered Appellant's September 8, 2020 Motion for Leave to Amend Petition moot as if he is the judge. And as if the court informed opposing counsel (but not Petitioner/Appellant) that Petitioner's Motion for Leave to Amend filed September 8, 2020 was rendered moot by the court's September 9, 2020 findings, conclusions and decree it issued nearly 24 hours after opposing counsel and the judge's judicial assistant received Petitioner's Motion for Leave to Amend. Then the court told opposing counsel tell Petitioner what happened? Because the district court somehow remembered to engage in ex parte communications with opposing counsel (as it always shamelessly made clear it regularly did) after ignoring Petitioner's crucial motion it had no right to ignore a properly-filed motion to add essential facts that completely change the circumstances underlying the court's decision, not to mention undercut all the clear errors and abuses of the district court's discretion which compose its Findings of Fact, Conclusions of Law and Final Dissolution Decree before sending opposing counsel to fill me in on what the court won't tell me? And that opposing counsel gets to interpret

the court's absurd decree awarding most of the marital estate Petitioner's parents built to Respondent, who always made substantially more money than Petitioner (appx. $130,000 at this point), because it took the liberty of assessing Petitioner's approximately $60,000 in outstanding car loan debt for which she pays around $1200 in car payments each month as *assets* even though they're obviously debts; therefore, not only does that inexcusable injustice result in the court ordering Petitioner who lost her job because of the nightmare and bias the district court put Petitioner through for about a year and therefore doesn't have any money to pay Respondent who makes over $120,000 per year a $20,000 equitable payment and evidently also told opposing counsel he was allowed to count that clearly erroneous abuse of discretion against Petitioner in Respondent's favor twice?

In short, this whole experience has always been and continues to be a very corrupt and confusing disaster that somehow always ends up with Respondent/Appellee baselessly relying on circumstances Petitioner did not create to play victim and blame Petitioner so the district court has a false reason to treat Petitioner/Appellant is the problem and ignore all the legitimate and reliable facts and evidence and applicable Montana laws which clearly favor Petitioner in order to find a way to ludicrously rationalize unjustifiably denying Petitioner/Appellant absolutely everything it possibly can to give Respondent everything it can contrary to the facts, evidence, law and common sense. This has included everything from her own children in an arrangement that only serves Respondent/Appellee's arbitrary demands for parenting time which are not conducive to A.J.W.'s school schedule and related commitments and will prove similarly inappropriate for A.R.W. when she starts school – among the issues regarding their safety around K.J.W.(15) and J.B.W. (14), who Respondent has an extensive history of regularly encouraging and even often assisting them abuse A.J.W. (now 5) and A.R.W. (now 22 months) both

physically and emotionally since we brought A.J.W. home from the hospital – to denying Petitioner/Appellant everything down to all the money Respondent defrauded out of Petitioner and her parents while Respondent hid nearly everything he made during the marriage from Petitio0ner while she amassed tens of thousands of dollars in credit card debt paying for every bill, expense and cost related to all 4 kids and the entire household except the mortgage payments in Billings on Petitioner's substantially lower salary than what Respondent was paid. Even her basic rights to due process of the law whenever the opportunity arose – from barely allowing Petitioner say, ask or present anything at trial to protect Respondent, and illegally setting hearings on opposing counsel's motion in which Petitioner was allowed to participate or know about before the court and Respondent's attorney decided how and when to grant whatever it is Respondent requests or wants the court to order which will hurt Petitioner. Or to inappropriately and impermissibly punish Petitioner for no reason (the show cause hearing on Monday, November 9, 2020 without even permitting Petitioner any opportunity to respond first.

This gross injustice is further compounded, not only by all the unbelievable injustice Petitioner/Appellant was forced to endure throughout the underlying proceedings, but also **by the fact that Petitioner/Appellant's only "violation" of the unenforceable parenting plan the district court ordered contrary to well-established Montana law** after even refusing to hear any evidence about the parties' children at all, let alone anything related to what is in their best interests, assessing their best interests by the fact that the only thing Petitioner is A.J.W. and A.R.W. haven't slept over Respondent's apartment during his every other weekend parenting time. But Respondent still gets the kids every other weekend.

CONCLUSION

Petitioner/Appellant prays the Supreme Court stay the District Court's November 9, 2020 Show Cause Hearing at 9 a.m. because her Rule 22 Motion to Stay the district court's judgment is still pending – and also because the district court had no basis to order the hearing which is still scheduled to take place despite the district court's refusal or acknowledge or even deny Petitioner/Appellant's motion to vacate pending the Montana Supreme Court's decision on her Rule 22 Motion to Stay Execution of the very court order Monday's inappropriate show cause hearing at issue is scheduled to find Petitioner/Appellant in contempt for "refusing to follow the parenting plan that was incorporated into the decree of dissolution entered in this case dated September 9, 2020."

DATED this 6th day of November, 2020.

/s/ Davina Attar-Williams

CERTIFICATE OF SERVICE

I, Davina Attar, hereby certify that I have served true and accurate copies of the foregoing Rulings - Commissions to the following on 11-06-2020:

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Electronically Signed By: Davina Attar
Dated: 11-06-2020