

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 23-0138

IN RE THE MARRIAGE OF,

JACQUILINE STEINMANN,

Petitioner/Appellee,

and

BRETT STEINMANN,

Respondent/Appellant.

Appellant's Petition for Rehearing

Appeal from the Montana Eighteenth Judicial District Court, Gallatin County
Cause No. DR-2020-336A
The Honorable Peter Ohman, Presiding

Karl Knuchel
Karl Knuchel, P.C.
P.O. Box 953
Livingston, MT 59047

Attorneys for Appellant

Christopher Gillette
Christopher J. Gillette, PC
11 East Main Street, Suite C
Bozeman, MT 59715

Attorney for Appellee

Table of Contents

Table of Authorities i
Statement of the Facts 1
Argument..... 3
Certificate of Compliance 5

Table of Authorities

Cases

Conrad v. Conrad, 2014 MT 159..... 3
Funk v. Funk, 2012 MT 14 363 Mont. 352, 270 P.3d 39..... 3
In re Marriage of Jackson, 2008 MT 25, 341 Mont. 227, 177 P.3d 474..... 3
In re Marriage of Tummarello, 2012 MT 18, 363 Mont. 387, 270 P.3d 28. 2
State v. Henson, 2010 MT 136, 356 Mont. 458, 235 P.3d 1274..... 3

Statutes

§ 40-4-202, MCA 3

COMES NOW, the Appellant, Brett Steinmann, to file this Petition for Rehearing pursuant to the Mont. R. App. Proc. 20. Specifically, this Petition is filed pursuant to Mont. R. App. Proc. 20(1)(a)(i), in that the Montana Supreme Court overlooked the following facts material to its decisions.

Statement of the Facts

In 1998, Appellant “Brett” first purchased real property, along with a mobile home valued at \$70,000, at 6212 Shadow Circle in Bozeman, Montana (“Shadow Cricle”). FoF-CoL, ¶ 20. Shadow Circle’s value thereafter appreciated for almost ten years under Brett’s ownership alone. *Id.* It was not until 2007 that Appellee “Jackie,” moved to Montana and began living with Brett, but even then Brett continued to cover all major expenses related to the home. *Id.*, ¶ 21.

In 2006, Brett also purchased 128 acres of land called the Camp Creek Road property in Manhattan, Montana borrowing \$790,000 to do so. App. 1, ¶ 25. This property was eventually subdivided, and all but one parcel (131 “Diego Way”) was sold prior to the dissolution proceedings. *Id.* The Deigo Way property was also eventually sold in 2008 for \$125,000 to Brett’s grandmother, who passed in 2015, causing Brett’s mother to then inherit it. *Id.*, ¶ 26. Ultimately, in 2016, after eight years’ worth of appreciation, Brett’s mother gifted 131 Diego Way back to Brett alone. *Id.* The Diego Way property was only retitled in both parties’ names in 2020, when the parties took out a lone to build their dream home thereon. *Id.*, ¶ 27.

Jackie then ceased making contributions to the interest only loan of \$500-\$600/month in late 2020, and Brett made payments on his own through early 2021 when the payment increased. *Id.*, ¶ 28.

At trial, the parties presented competing testimony as to each other's involvement with the Childrens' rearing and extra-curricular activities, but both parties acknowledged that Brett continued to cover a majority of the expenses for mortgages, power and construction of their ideal home for these properties until 2019, when the parties first began to commingle funds. Brett also presented evidence of Jackie violating the economic restraining order in place for this case, which was fortunately redressed in part on appeal to the District Court's Judge Ohman.

Standard of Review

This Court reviews a district court's findings of fact regarding the division of marital assets to determine whether the decision is clearly erroneous. *In re Marriage of Tummarello*, 2012 MT 18, 363 Mont. 387, 270 P.3d 28. A finding is clearly erroneous if it is not supported by substantial evidence, if the district court misapprehended the effect of the evidence, or if our review of the evidence convinces us that the district court made a mistake. *Id.*

If the factual findings are not clearly erroneous, we will reverse the district court's decision if there has been an abuse of discretion. *In re Marriage of Jackson*,

2008 MT 25, 341 Mont. 227, 177 P.3d 474. A district court abuses its discretion if it acts “arbitrarily without conscientious judgment or exceeds the bounds of reason, resulting in substantial injustice.” *State v. Henson*, 2010 MT 136, 356 Mont. 458, 235 P.3d 1274.

Finally, The Montana Supreme Court will consider a petition for rehearing presented upon the grounds, among others, that it overlooked some fact material to the decision. Mont. R. App. Proc. 20(1)(a)(i).

Argument

I. The Montana Supreme Court Overlooked How the Existing Distribution Both Arbitrarily Discounted Mr. Steinmann’s Unrefuted Testimony of his \$200K Contribution toward the Shadow Circle Property and Arbitrarily Reduced his Share Regarding Certain Construction Equipment.

Section 40-4-202, MCA, governs the distribution of a marital estate. *Funk v. Funk*, 2012 MT 14 363 Mont. 352, 270 P.3d 39. Specifically, it vests the district courts with discretion to apportion the marital estate in a manner equitable to each party under the case’s unique circumstances. *Id.* This does not require the court to split the estate down the middle; Rather, the aim is to "equitably apportion all property belonging to either or both parties however and whenever acquired, without regard to title, and without regard to marital misconduct." *Conrad v. Conrad*, 2014 MT 159, ¶ 9.

At trial and on Appeal, Appellant presented evidence not only showing that he initially contributed \$70,000 towards the Shadow Circle Property (Trial Tr., Oct. 8, 2021, Pg.s 200-201), but that he also 1) also invested \$200,000 of his own funds to build the home on this property before the parties were married (Trial Tr., Oct. 8, 2021, Pg. 74 , and 2) took out a \$200,000 loan in his name alone, of which about \$35,000 was used to finish building said home. (Trial Tr., Oct. 8, 2021, Pg.s 200 - 205). Despite this testimony from Appellant about his sizeable contributions, which went unrefuted by Appellee both at trial and on appeal, the Montana Supreme Court, in affirming the decision, overlooked the impact created by the lower court's arbitrary decisions to discount this evidence of Appellant's contributions when it divided the marital estate. There remains no reasonable explanation for why Appellant was shorted over \$200,000.

Likewise, despite Appellant's evidence to the contrary, there was no reasonable basis for the lower court's decision to arbitrarily reduce Appellants' share by accounting for his excavator and dump trailer twice in dividing the marital estate. Accordingly, based upon the arguments above, this Court should grant Appellant's Petition for Rehearing pursuant to Mont. R. App. Proc. 20(1)(a)(i), and provide Appellant.

DATED this 9th day of February, 2024.

KARL KNUCHEL, P.C.

By: /s/ Karl Knuchel
Karl Knuchel
Attorney for Appellant

Certificate of Compliance

Pursuant to Rules 11(4)(e) and 20(3) of the Montana Rules of Appellate Procedure, I certify that this brief is printed with proportionally spaced Times New Roman typeface of 14 points; is double spaced (excluding any footnotes and long quotations, which are single spaced); has left, right, top and bottom margins at one inch; and has a word count of 839 words, as calculated by Microsoft Word, excluding the Table of Contents, Table of Authorities and Certificate of Compliance, which does not exceed the 10,000 word limit.

DATED this 9th day of February 2024

KARL KNUCHEL, P.C.

By: /s/ Karl Knuchel
Karl Knuchel
Attorneys for Appellant

Certificate of Service

I hereby certify that I served a full, true and accurate copy of the foregoing document on the 9th day of February, 2024, to the following named person:

_____ by personal service

 X by electronic filing service

_____ by depositing a copy of same in the United States Mail, postage prepaid, and addressed as follows:

Christopher Gillette
Christopher J. Gillette, PC
11 East Main Street, Suite C
Bozeman, MT 59715

Dated this 9th day of February, 2024

By: /s/ Karl Knuchel
Karl Knuchel
Attorneys for Appellant

CERTIFICATE OF SERVICE

I, Webster Mallory Crist, hereby certify that I have served true and accurate copies of the foregoing Petition - Rehearing to the following on 02-15-2024:

Karl Knuchel (Attorney)
101 North E Street
P.O. Box 953
Livingston MT 59047
Representing: Brett Steinmann
Service Method: eService

Christopher J. Gillette (Attorney)
11 E. Main Street
Suite C
Bozeman MT 59715
Representing: Jacqueline Steinmann
Service Method: eService

Electronically Signed By: Webster Mallory Crist
Dated: 02-15-2024