

FILED

11/29/2024

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Form 11(6)(b)
Case Number DA 24-0403

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

Case No. DA 24-0403

Jon Kurtis Oblinger,

Plaintiff /Appellant,

FILED

NOV 29 2024

Bowen Greenwood
Clerk of Supreme Court
State of Montana

v.

APPELLANT'S BRIEF

Lora Jean Oster,

Respondant/Appellee.

On appeal from the Montana Eleventh District Court,

County of Flathead

Cause No. DR 24-051.

Appearances:

Jon Kurtis Oblinger,
334 Freckles Rd.
Kalispell, MT 59901

Attorney for Appellee
Mary Elizabeth Sampsel
PO Box 918
Kalispell, MT 59903

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TABLE OF AUTHORITIES

Cases

Adami v. Nelson (in re J.K.N.A.) 2019 mt 286

Estate of Alcorn (1994) MT 263

Estate of Hunker (1998) MT 279

Estate of Murnion No 83-385 Mont. Supreme Court

Estate of Ober Mont. Supreme Court No 02-438

Marriage of Geertz (1998) MT 232

State v. Bullman 2009 MT 37

Statutes

Montana Code 3-2-204(5)

Montana Code 26-1-602(30)

Montana Code 3-2-201

Montana Code 40-1-104

Montana Code 40-1-103

Montana Code 40-1-101

Rule 52(a)

Motion for Leave to File Information

DC-19-349 Dec. 22, 2019 Rule 401

STATEMENT OF ISSUES

1. Order denying Common Law Marriage. Did the District Court err in finding there was no marriage? According to 40-1-104 since our marriage was validated by the laws of Colorado it should be validated in the State of Montana.
2. Did the District Court err in adopting Appellee's Findings of Fact and Conclusions of Law regarding Appellee never putting Jon on her motor vehicle titles? When in Case Filing #44, 48 Jon admits titles into evidence to a 2013 Chevrolet, 1969 GMC, 1971 El Camino, 2019 Yamaha wave runner, 2014 Sea Doo, and a 2011 Suzuki. All of which are owned jointly by Jon and Lora.
3. Did the District Court err in adopting Lora's Findings of Fact and Conclusions of Law that she states she pays all of the bills and the mortgage. When Jon admitted his bank statements in Court Filing #39 that shows 1000's of dollars of bank transfers to Lora for Mortgage payments and bills.
4. Did the District Court err in its Findings of Fact and Conclusions of Law that Jon states his sole source of income was SSI payments? When in Court Filing #43, 44, 48 Jon submitted into evidence pictures of customers vehicles located at the shop at the property of 334 Freckle's Ln. Kalispell.

5. Did the District Court Err in finding Lora as a credible witness? In film #39 Jon produced 3 months of bank statements that prove Lora's testimony in filing #30 is completely erroneous.

6. Did the District Court err in not recognizing a Common Law Marriage when Judge Amy Eddy of the same Court recognized Jon as Lora's husband in case # DC-19-349 on December 22, 2019 in her Motion to File Leave for Information.

7. Did the Court Err in not recognizing a Common Law Marriage when Jon Submitted into evidence (Exhibit 1) an email between City Attorney Amy Kenison and Lora where Lora refers to us as Common Law Married and refers to the home as "our home".

8. Did the Court err in not recognizing a Common Law Marriage by not recognizing that Jon assumed Lora's last name? See (Exhibits 8, 9, 10)

9. Did the Court err in its Findings of Fact and Conclusions of Law #22 stating that given the history of Domestic Violence at Jon's hands, Lora was not able to consent to a Common Law Marriage? Jon filed Exhibit 13 of a P.F.M.A. charge and arrest on Lora in December of 2023 and also extensive video footage of Lora being violent in the home on 2 separate flash drives in filing 43, 44, 48.

STATEMENT OF THE CASE

This Appeal arises from an Order of the District Court, 11th Judicial District, Appendix 1.

The District Court Ordered that there was no Marriage contracted between Jon and Lora. Jon filed for Dissolution of Marriage in February 2023, after 3 years of therapy by Jon. Jon failed to submit his Findings of Fact and Conclusions of Law and Proposed Order to the Court. At the time Jon was being represented by Attorney Michael Klinkhammer and he believed Mr. Klinkhammer would file those documents. This failure to do so by Jon resulted in the Court Adopting Lora's Findings of Fact and Conclusions of Law and Proposed Order for it's Judgement in the Case.

In resolving the issues we first look to the Findings of Fact, to determine if under 52(a) the Findings of Fact are clearly erroneous, for if so the Conclusions that the District Court drew from such finding must clearly fall.

After Jon filed for Dissolution of Marriage Lora filed for and obtained an Order of Protection using erroneous information. Appellant submitted multiple emails, and video files of Lore's abuse, allegations, and the fact that Lora had been arrested last for a Partner Family member assault. All of which are located in the District Court

ROA, but none were looked at or referenced by the District Court during trial or referenced in the Order being appealed. Jon filed an Appeal in that Case and again Michael Klinkhammer did not follow through and this Appeal was Dismissed.

Jon is considered disabled and receives SSI payment income and supplements his income and helped pay the mortgage and maintenance of the home by working in the shop on the couples property. Jon and Lora owned numerous vehicles together that Jon has restored in the shop with the intention of selling in the future. Since Lora claimed that they did not own vehicles together and the Court Adopted those findings. Jon cannot access the vehicles on the property nor can he sell the vehicles to pay for a place to live. Jon is now homeless and sleeps in his truck. The Court never took into account (mont) 40-1-104 or the fact that in Montana Common Law Marriage is an equitable doctrine which ensures people are treated fairly once a relationship is established. “Snetsinger v. Mont. Univ. System, 2004 MT 390 Paragraph 24, 235 Mont. 148, 104 p. 3d 445 (explaining that the concept is “designed in part, to prevent unjust economic harm to couples who have held themselves out as spouses” See Attached (re Marriage of Hansen, 398 Mont. 64 (Mont. 2019)

STATEMENT OF FACT

The parties lived in Colorado for 8 years together where their Common Law Marriage began, and Moved to Montana in 2018. They lived as a couple and had vehicles jointly owned, presented themselves as married, their Last Will and Testament's left the named parties as spouses, and jointly they paid for bills and a mortgage. There are emails from Lora to Ms. Kinison to her email akinison@flathead.mt.gov on Thursday Jan. 31, 2019 at 2:34 pm, videos, and exhibits all presented to the District Court at the Hearing. (See District Court ROA 4/08/24 Filing # 43,44) Referencing Estate of Ober Mont. Supreme Court No 02-438 the District Court concluded from address labels, photos and the testimony that the couple had shown they were Common Law married. See Exhibit B.

Appellee states in emails to others, including City Attorneys and her work naming Appellant as her "husband". This establishes # 2 and 3 of Mont. Code Ann 40-1-403. The parties mutual named each other on multiple occasions to the public that they were married.

Appellant submitted multiple titles to the District Court for vehicles that the parties owned jointly. (See District Court ROA, file #'s 43,44,45,48. 56,56.1)

Appellee did not disclose this in their Findings of Fact Conclusion of Law they

submitted and the District Court did not amend that Order to reflect the property owned by both parties. Titles are still currently held in both parties name with no resolution from the District Court.

Appellant submitted bank statements showing transfers to Appellee, and payments to utilities and bills for the parties. This shows that the parties were sharing living expenses. Appellee also submitted Exhibits to the District Court that showed remodeling and investments he made into the Freckles property. Showing an interest in the property.

Appellant is requesting the Supreme Court overlook att of the files in the District Court ROA to show the vehicle titles, emails, contracts and documentation that clearly state from both parties that they were in a “marriage”, to allow for the District Court to set a hearing for the Dissolution of Marriage and the equal, fair distribution of the parties marital assets.

STANDARD OF REVIEW

The Supreme Court is asked to Review the entire case and see the prejudice against Appellant. The Appellees Findings of Fact and Conclusion of Law was signed without the consideration of the Court on the Jointly owned property. Along with

the fact that the Appellant clearly showed that both parties at multiple times throughout their relationship portrayed as husband and wife. There are bills, contracts, and the fact that they had confirmed their marriage through cohabitation and public repute. Despite holding separate bank accounts and not having all bills and expenses in both parties names. “Which is not unusual by the community or indicative of their marital status.” (Estate of Ober Mont. Supreme Court No 02-438) See also cases Adami v. Nelson (in re J.K.N.A.) 2019 mt 286, Estate of Alcorn (1994) MT 263, Estate of Hunker (1998) MT 279, Estate of Murnion No 83-385 Mont. Supreme Court, Marriage of Geertz (1998) MT 232, State v. Bullman 2009 MT 37 (Attachment B in Appellants Brief Appendix.)

SUMMARY OF ARGUMENT

According to M.C.A. 40-1-403, the parties 1) were competent to enter into a marriage, 2) the parties assumed a marital relationship by mutual consent and agreement, and 3) the parties confirmed their marriage by cohabitation and public repute.

ARGUMENT

Pursuant to M.C.A. 40-1-403, Appellant has provided sufficient evidence as to prove a Common Law Marriage according to Law. (See cited cases Adami v. Nelson (in re J.K.N.A.) 2019 mt 286, Estate of Alcorn (1994) MT 263, Estate of Hunker (1998) MT 279, Estate of Murnion No 83-385 Mont. Supreme Court, Estate of Ober Mont. Supreme Court No 02-438, Marriage of Geertz (1998) MT 232, State v. Bullman 2009 MT 37) All cases state that only 3 things are needed to make a Common Law Marriage Valid. According to M.C.A. 40-1-403, the parties 1) were competent to enter into a marriage, 2) the parties assumed a marital relationship by mutual consent and agreement, and 3) the parties confirmed their marriage by cohabitation and public repute.

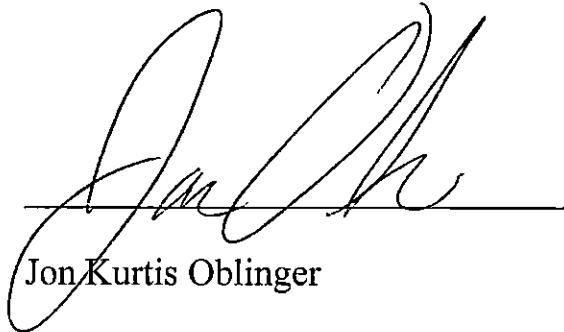
There is knowledge from both parties that Appellant and Appellee used Appellee's last name for bids, and contracts for the remodel of the home, as well as veterinary bills. If the case had not been to mutually have these bills or use those names, then Appellee had ample time to correct these errors in the 13 years the parties were together. Appellant provides bank statements to show the transfer of monies and payments to bills in the Appellees name. Appellee wore a ring off and on for the majority of the relationship. Appellee in several legal documents in

Courts, and in emails to her work, portrayed Appellant had her husband. Parties owned several vehicles in both of their names. With Appellant providing these titles in District Court (Submitted during Hearing and submitted to the court in ROA file #'s 43,44,45,48. 56,56.1). Appellee has made contradictory statements to law enforcement, Judges, and in statement submitted to the Courts. (as seen in ROA Exhibits submitted by Appellant). Appellee seems to change their statements when it benefits her.

CONCLUSION

The District Court adopting the Appellees Findings of Fact and Conclusion of Law is clearly in error. The parties lived together for 13 years, 8 of which were in Colorado as Common Law Married. The Appellant and Appellee have multiple contracts in both names, including vehicle titles. Appellant, even though his main income is SSI Disability, has contributed toward the mortgage, remodel and maintenance of the home on Freckles Ln, including the proceeds from the sale of his motorhome. Appellant and Appellee should be considered Common Law Married and a hearing should be set for the Dissolution of the marriage. To allow for the fair dispersion of the marital assets and property.

Respectfully submitted this 24th day of November, 2024.



Jon Kurtis Oblinger

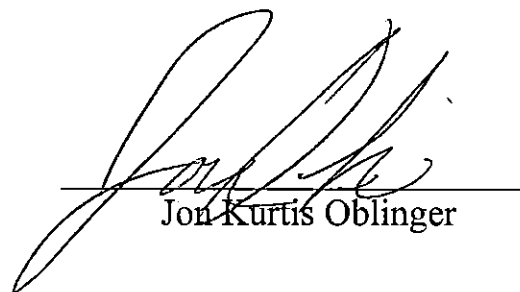
Certificate of Service

COMES NOW the Appellant , Jon Kurtis Oblinger, Pro Se, and hereby notifies the Court that on the 15th Day of October, 2024, she served by First Class USPS Mail, Appellant BRIEF OF Jon Kurtis Oblinger upon the following;

Attorney for Appellee

Mary Elizabeth Sampsel
PO Box 918
Kalispell, MT 59903

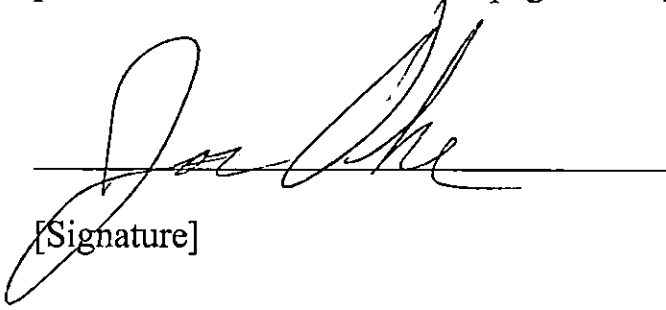
DATED this 26th day of November, 2024.



Jon Kurtis Oblinger

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Brief is proportionally spaced typeface of 14 points and does not exceed 30 pages or 10,000 words.

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and cursive, appearing to read "Jon Me".

[Signature]

Appendix

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- Attachment A - District Court Order
- Attachment B - In re Marriage of Hansen DA 19-0137
Estate of Ober
Estate of Murnion
- Attachment C - Appellants Findings of Fact Conclusion of
Law and proposed order to District Court.
(Attorney for Appellant never filed)