

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT SCOTLUND VAILE,
Appellant,
vs.
CISILIE A. VAILE N/K/A CISILIE A.
PORSBOLL,
Respondents.

Supreme Court No. 61415
District Court No. D230385
Due Date: September 24, 2012

FILED

SEP 04 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
Tracie K. Lindeman
DEPUTY CLERK

CIVIL PROPER PERSON APPEAL STATEMENT

Appellant in Proper Person

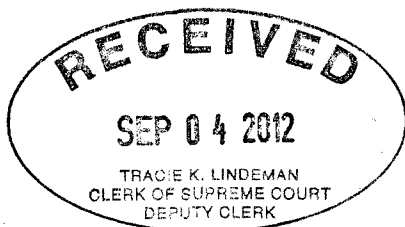
Robert Scotlund Vailie
P.O. Box 727
Kenwood, CA 95452

Appellant:
ROBERT SCOTLUND VAILE

Attorney for Respondent

Marshal S. Willick
Richard L. Crane
Willick Law Group
3591 E. Bonanza Rd., Ste. 200
Las Vegas, NV 89110-2101

Respondent:
CISILIE A. VAILE
N/K/A CISILIE A. PORSBOLL



CIVIL PROPER PERSON APPEAL STATEMENT

INSTRUCTIONS: You must complete and file this Appeal Statement with the Nevada Supreme Court on or before **September 24, 2012**.

HOW TO FILL OUT THE FORM: The form must be typed or clearly handwritten. Write only in the space allowed on the form. **Additional pages and attachments are not allowed.** The Nevada Supreme Court prefers short and direct statements. You do not need to refer to legal authority or the district court record.

WHERE TO FILE THE FORM: You may file your form in person or by mail.

To file your form in person: Bring the form to the Clerk's Office at the Supreme Court of Nevada, 201 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701-4702. You can file your form Monday through Friday, 8:00 a.m. to 4:00 p.m.

To file your form by mail: Mail the form to the Clerk of the Supreme Court of Nevada, 201 SOUTH CARSON STREET, CARSON CITY, NEVADA 89701-4702. Your form must be postmarked by the due date.

You must file the original form and 1 copy with the Clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your form, you must submit the original form and 2 copies and include a self-addressed, stamped envelope. Forms cannot be faxed or e-mailed to the Nevada Supreme Court Clerk's Office.

Copies of the completed form must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also fill out the certificate of service that is attached to the form. The Nevada Supreme Court may return any document that does not meet these requirements.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
July 10, 2012	"Court's Decision and Order"
August 16, 2012	Order for Fees and Costs
August 17, 2012	Order on Child Support Penalties

Notice of Appeal. Give the date you filed your notice of appeal in the district court: July 30, 2012, Amended August 27, 2012

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
This case is related to previous appeals in this Court with numbers: 36969, 37082, 51981, 52244, 52457, 52593, 53687, 53798, 55396, 55446, 55911, 60502; also SFL 49802	Vaile v. Porsboll	Superior Court of California, County of Sonoma

Issues on Appeal. Does your appeal concern any of the following issues? Check all that apply:

- | | | |
|---|---|---|
| <input type="checkbox"/> divorce | <input type="checkbox"/> child custody/visitation | <input checked="" type="checkbox"/> child support |
| <input type="checkbox"/> relocation | <input type="checkbox"/> termination of parental rights | <input checked="" type="checkbox"/> attorney fees |
| <input type="checkbox"/> paternity | <input type="checkbox"/> marital settlement agreement | <input type="checkbox"/> division of property |
| <input type="checkbox"/> adoption | <input type="checkbox"/> prenuptial agreement | <input type="checkbox"/> spousal support |
| <input type="checkbox"/> other—briefly explain: _____ | | |

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

On January 26, 2012, this Court determined that the district court's retroactive modifications made to the child support provisions of the parties' 1998 divorce decree were entered without jurisdiction. This Court also directed the district court to determine whether a Norwegian child support order exists and to assess its bearing on the district court's enforcement of the 1998 decree using NRS 130.207. This Court reversed the district court's 2009 decisions which had been in favor of Respondent (Defendant below) and rejected every one of Respondent's arguments on appeal.

Below, Respondent and counsel had refused to produce the Norwegian child support orders which Porsboll requested from the Norwegian authorities when she was granted leave by this Court to take the children to Norway in 2002. As such, during the pendency of the previous appeal in this case, Appellant inquired and received from the Norwegian authorities the Norwegian child support order with effective date of April 1, 2002, and modified at Ms. Porsboll's request in 2005 and 2008. Mr. Vaile filed notice and copies of the Norwegian orders with the district court on March 6, 2012. At the same time, Porsboll's attorneys moved to hold Mr. Vaile in contempt of court for not paying the reversed attorney fee awards and the yet-to-be-determined, post-remand support amounts.

The district court held evidentiary hearings on April 9 and June 4, 2012. During the June evidentiary hearing, because Porsboll's counsel had another appointment, the district court cut short and limited the hearing primarily to the issues of the controlling effect of the Norwegian order. The district court communicated that once it determined the controlling effect of the Norwegian order, the Court would hold a follow-up hearing on the proper calculations of child support under the formula contained in the divorce decree. Instead, the district court entered a decision and order on July 10, 2012, adopting Porsboll's faulty and modified amounts without allowing argument or explanation relative to the calculations, providing no opportunity to be heard and almost no record on the topic.

In its order, the district court refused to make a determination under NRS 130.207 as directed by this court, found the statute "inapplicable" and then struck the Norwegian orders. The district court also refused to overturn the attorneys fees it awarded (pre-reversal) to Respondent, the non-prevailing party below, and in fact awarded \$57,000 more. The district court refused to overturn the \$16,000 contempt sanctions which the Court previously imposed against Mr. Vaile for not retroactively adhering to the now-reversed modifications. In addition, the Court levied additional sanctions in the amount of \$38,500 for periods when he fully paid, but which the court deemed "didn't count." The district court also held Mr. Vaile in contempt of court for refusing to violate this Court's stay of the proceedings below. The district court continued to adopt very significant

modifications to the 1998 divorce decree as to both duration and child support amount. Finally, the district court refused to apply the legal doctrines of waiver, prevention and estoppel to the facts of the case, and instead replaced the waiver standard created by this Court with a standard which would require an attorney sanctioned written agreement in order for waiver to apply.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

The district court has openly defied the directives of this Court's remand in every respect. This Court provided detailed directives that NRS 130.207 was to be used to resolve the conflict between the two potentially controlling orders. Because this statutory formula indisputedly results in the Norwegian orders being controlling (Nevada does not have continuing and exclusive jurisdiction, is not the home state of the children, and did not issue the last order), the district court found the statute to be inapplicable. The district court's nonsensical excuse for not applying section 207 was that (unbelievably) when the first of the two orders was issued, the second order had not yet been issued. The district court also reasoned that the Norwegian court did not follow Nevada law when it issued its controlling order which superseded the Nevada decree. In fact, Norway did follow UIFSA in every respect, even though, as a declared Foreign Reciprocating Country by both the US Department of State and the Nevada Attorney General's office, its procedures need not be identical to UIFSA to have its orders honored. The district court's refusal to follow this Court's directives and apply UIFSA law is wholly inexcusable, shows a profound bias for the outcome of the matter, and disregard for this Court's appellate mandates.

The district court also refused to give effect to this Court's remand which reversed the district court's previous decisions. Despite the fact that Respondent lost in every respect on appeal, the lower court refused to overturn the exorbitant (several hundred thousands of dollars) attorneys fees which it previously awarded Respondent – the non-prevailing

party, and then ordered over \$57,000 in additional fees. It also refused to overturn the \$16,000 in contempt sanctions that it imposed against Appellant for not retroactively adhering to the district court's previous modifications of the divorce decree, even after those modifications were overturned. It then added \$38,500 in additional sanctions. These actions were in error, and contradict to the reversal and remand issued by this Court.

Despite this Court's clear directive that the district court lacked jurisdiction to modify the child support provisions contained in the decree once the parties moved from the state, the district court is continuing to modify those provisions in several respects. Firstly, the decree directs Mr. Vaile to pay 0% as Appropriate Child Support Percentage when both the parties' children lived him. Yet the district court imposed a child support obligation of 25% (along with sanctions, penalties, and interest) during the period his children lived with him in accordance with the custody order of the previous district court, from May 2000 to April 2002, as a punishment for the custody decree eventually being overturned by this Court. The district court also rejected (modified) the child support provisions in the decree that would have lowered Appellant's obligation to 18% when the older child emancipated in 2009 as only one child is being supported. Lastly, the district court wrongly adopted Respondent's calculations, without proof of her income for all relevant years, and using her net income instead of gross income, which results in child support obligations that are roughly twice the amount that the decree specifies.

Mr. Vaile moved his residence for a time while this case was stayed pending appeal. Because of the stay, he communicated his new address details to Respondent's counsel but did not violate the stay with a filing, until the stay was lifted. The district court erred when it held Mr. Vaile in contempt and sanctioned him \$500 for not filing a change of address within 30 days of his change in residence during the stay imposed by this Court.

During the same period, when the Nevada District Attorney did not collect support through salary intercept, Mr. Vaile made support payments to Porsboll directly in Norway. The district court erred when it held that those direct payments did not count towards his child support obligations, and then held him in contempt for payments actually made.

During the April 9, 2012 hearing, Mr. Vaile provided testimony (and reminded the district court of testimony that Porsboll previously provided in 2008) that she directly and clearly communicated that she would pursue child support through the Norwegian system because the Nevada child support provisions were "void" according to her belief. She made these assertions to Vaile in the presence of her current counsel. Porsboll did not pursue child support under the 1998 decree for nine years, testified that she refused Mr. Vaile's request to continue to honor the 1998 decree, and refused to provide her income information required to calculate support under the decree. Respondent offered no evidence to counter prevention and waiver of child support under the Nevada decree. The district court refused to find waiver because Porsboll did not sign an attorney-reviewed agreement waiving support. The lower court did not apply the correct standard for waiver.

The district court also refused to make any finding relative to Mr. Vaile's assertions that the principle of estoppel prevents Porsboll from denying the validity of the Norwegian child support order which she sought and then modified in Norway, even after her Nevada counsel began asserting in November 2007 that only the Nevada decree was valid.

Petitioner respectfully requests based upon the facts and argument presented above, that this Honorable Court: 1) allow full briefing of the matters addressed herein; 2) immediately stay the proceedings and enforcement of the district court judgments while the matter is pending on appeal; 3) declare as a matter of law that the Norwegian child support orders are controlling as of April 1, 2002, and that since it is undisputed that Appellant fully paid support in accordance with the decree, or was exercising custody of the children until that date, no further child support is due under the 1998 Nevada decree; 4) order remand to an alternate district court judge in the Eighth Judicial District Court with explicit directions to vacate all orders, judgments, and awards previously entered by the district court after April 2002, and to dismiss the case for lack of jurisdiction under NRS 130.202; and 5) direct the Clark County District Attorney to cease withholding of Mr. Vaile's salary and to remove any related tax return or other federal intercepts in place.

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

Marshal S. Willick
Willick Law Group
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Attorneys for Respondent

DATED this 30th day of August 2012



Signature of Appellant

Robert Scotlund Vaile

Print Name of Appellant

PO Box 727

Address

Kenwood, CA 95452

City/State/Zip

707 633 4550

Telephone