

IN THE SUPREME COURT OF THE STATE OF NEVADA

CASE NO. 80090

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~~Elizabeth A. Brown~~
Clerk of Supreme Court

RAJWANT KAUR,
Appellant / Cross-Respondent,

vs.

JASWINDER SINGH,
Respondent / Cross-Appellant.

ON APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT
CASE NO. 04D323977

**RESPONDENT / CROSS-APPELLANT'S
CROSS-REPLY BRIEF**

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NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

The following persons / entities are disclosed:

- F. Peter James, Esq.;
- Law Offices of F. Peter James, Esq., PLLC.

As to the Appellant, there are no other parent corporations or publicly-held companies at issue. Appellant is not using a pseudonym.

Dated this 17th day of July, 2020

/s/ F. Peter James

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1 **ARGUMENT**

2 This Court should reverse the district court as to its failure to declare the
3 Motion to Set Aside as time-barred. This Court should also reverse the lower
4 court as to its denying Jaswinder’s request for attorney’s fees.

5 **I. THE DISTRICT COURT ERRED IN DENYING JASWINDER’S**
6 **REQUEST TO DISMISS THE MOTION AS TIME-BARRED**

7 Jaswinder stated his arguments in support of this issue in his Cross-
8 Opening Brief. As such, Jaswinder will only respond to Rajwant’s arguments.

9 Rajwant claims over and over that no time deadlines ever began as she
10 claims she did not know she was divorced, which, as she claims, is required for
11 the time deadlines to begin to run. Rajwant’s claims are absolutely meritless.

12 First off, “Every one [sic] is presumed to know the law and this
13 presumption is not even rebuttable.” *Smith v. State*, 38 Nev. 477, 151 P. 512, 513
14 (1915). Bigamy is illegal. *See* NRS 201.160; *see also* Cal.Penal Code § 281. It
15 is uncontested that Rajwant remarried after divorcing Jaswinder. Rajwant merely
16 wants the Court to believe she did not know. In doing so, Rajwant would admit
17 to bigamy. The real truth is that Rajwant knew she was divorced.

18 Rajwant would have the Court believe that she did not know until 2018
19 that she was divorced from Jaswinder. (*See* Reply Brief / Cross-Answering Brief
20

1 at 7:9). This assertion on appeal **directly contradicts** Rajwant's deposition
2 transcript.

3 Rajwant testified in her deposition that she married another man
4 (Jaswinder's brother) in November 2004. (RA at 19-20). This was in response
5 to being asked:

6 Q. After the divorce [from Jaswinder] was filed on September 8, 2004,
7 did you marry someone else?

8 (RA at 19). Further, Rajwant admitted that Jaswinder did not remarry after they
9 divorced, which was asked and answered as follows:

10 Q. To your knowledge after you divorced Jaswinder in 2004, did he
11 ever remarry?

12 A. No, he didn't remarry.
13 (RA at 21). So, Rajwant admits to the knowledge of the divorce in 2004 and as
14 to the status of the marriage / the parties remarrying or not. But, there is much
15 more.

16 Rajwant attempted to deny knowing being divorced from Jaswinder after
17 admitting she knew she was divorced. (RA at 21-22). Upon being asked why
18 she filed for divorce from Jaswinder in California [just before filing the Motion
19 to Set Aside], the questions and answers were as follows:

20 A. I was living in California. I had to file over there.

1 Q. But you were already divorced from Jaswinder.

2 A. I don't know about that. We were living together in the same house.

3 Q. But you just testified that you did not re-marry after you divorced
4 Jaswinder's brother and you just testified that you knew you
5 divorced Jaswinder.

6 A. He had divorced me to get his brother here, and he had told me that
7 this will not be a permanent divorce, it would just be a divorce on
8 papers.

9 Q. But you knew the judge had signed the Decree of Divorce?

10 A. He never showed me any papers that the judge signed or not signed.

11 Q. But you were aware you were divorced?

12 A. I just told you that it was just to get his brother. In reality, we were
13 not divorced from each other.

14 Q. That was not my question, My question was you were aware that
15 you were divorced, correct?

16 A. Yes, I do. Yes, I know.

17 (RA at 21-22).

18 So, Rajwant admits that at the time she married Jaswinder's brother she
19 knew she was divorced from Jaswinder. This directly contradicts the assertions
20 made in her Reply Brief / Cross-Answering Brief. Moreover, this was not a

1 contested issue as referenced in the initial Motion to Set Aside that Rajwant
2 remarried after divorcing Jaswinder. (1 AA 45:22-23).

3 It is important to note that the defense of Rajwant’s knowledge of the act
4 which begins the clock ticking was never raised in the district court. (1 AA 74-
5 81, 146-160). There is good reason why they did not raise this issue then—
6 Rajwant knew she knew she was divorced in 2004. This is what she admitted to
7 in her deposition transcript.

8 Oddly, Rajwant argued over and over regarding credibility—yet Rajwant
9 made very disingenuous arguments in the Reply / Cross-Answering Brief as to
10 her knowledge of being divorced from Jaswinder. Rajwant no longer gets the
11 benefit of the doubt as to credibility.

12 Rajwant would have the Court believe that the two-year rule in *Deal v.*
13 *Baines*, 110 Nev. 509, 874 P.2d 775 (1994) has never been a bright-line rule.
14 (*See Reply / Cross-Answering Brief at 5:9-10*). It is fair to say that 14.5 years
15 after knowledge of the Decree far exceeds the reasonable amount of time to file
16 to set aside a Decree of Divorce. As established herein, Rajwant knew in 2004
17 that she was divorced from Jaswinder. However this is viewed, waiting 14.5
18 years to set aside a Decree after knowing it exists is simply too long to wait. The
19 policy of finality of decisions must be enforced. *See Doan v. Wilkerson*, 130

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1 Nev. 449, 453, 327 P.3d 498, 501 (2014) (policy in favor of finality of judgment
2 in a Rule 60(b) context).

3 Rajwant asserted on a side note that Jaswinder provided no citation to
4 issues of law. (Reply / Cross-Answering Brief at 3:20 – 4:5). This was in the
5 Statement of the Issues section, not legal argument. There is no duty to cite to
6 law in that section as it is a mere overview of the arguments.

7 Rajwant knew she was divorced from Jaswinder—and she knew in 2004.
8 Her own sworn deposition testimony affirms this. It was never a contested issue
9 at the motion stage that she knew this—in fact, she admitted it in her own motion.

10 As stated in the Cross-Opening Brief, there is either a two-year or at most
11 a six-year limitations period for filing the Motion to Set Aside. After 14.5 years,
12 both limitations periods are exceeded multiple times over. Enough is enough.

13 Accordingly, the Court should reverse the lower court and deem the
14 Motion to Set Aside as time-barred.

15 **II. THE DISTRICT COURT ERRED IN FAILING TO AWARD**
16 **JASWINDER ATTORNEY’S FEES**

17 Jaswinder set out his arguments as to this issue in the Cross-Opening Brief.
18 Rajwant failed to counter these arguments. As such, Jaswinder presents no
19 further argument and stands on the arguments raised previously.

20

1 **CONCLUSION**

2 The Court should reverse the district court on the timeliness issue and
3 dismiss the Motion to Set Aside as time-barred. Further, the Court should reverse
4 the lower court as to it denying Jaswinder attorney’s fees. The Court should
5 remand this matter to the district court to determine the amount of attorney’s fees
6 to award Jaswinder.

7 Moreover, the Court should affirm the lower court on the ultimate issue
8 that Rajwant failed to meet her burden at trial such that granting the motion for
9 judgment on the evidence was proper. Rajwant raises nearly all of her issues on
10 appeal for the first time, which is wholly improper. Rajwant creatively argues
11 that she did raise the arguments in the district court, but such is not so.

12 Should the Court determine that the Motion to Set Aside should have been
13 denied as time-barred, then the ultimate issue at trial argument is moot.

14 Dated this 17th day of July, 2020

15 */s/ F. Peter James*

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1 **ROUTING STATEMENT**

2 Pursuant to NRAP 3E(d)(1)(H), Appellant submits the following routing
3 statement:

- 4 • This appeal is not presumptively retained by the Supreme Court pursuant
5 to NRAP 17(a);
- 6 • This appeal is presumptively assigned to the Court of Appeals pursuant to
7 NRAP 17(b)(5) as it is a family law matter not involving termination of
8 parental rights or NRS Chapter 432B proceedings; and
- 9 • Appellant asserts that the matters should be routed to the Court of Appeals
10 as there are no issues that would keep the matter with the Supreme Court.

11 Dated this 17th day of July, 2020

12 */s/ F. Peter James*

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1 **CERTIFICATE OF COMPLIANCE (Rule 32)**

2 1. I hereby certify that this brief complies with the formatting requirements
3 of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the
4 type style requirements of NRAP 32(a)(6) because:

5 This brief has been prepared in a proportionally spaced typeface
6 using 14 point Times New Roman in MS Word 2013; or

7 This brief has been prepared in a monospaced typeface using [state
8 name and version of word processing program] with [state number
9 of characters per inch and name of type style].

10 2. I further certify that this brief complies with the page-or type-volume
11 limitations of NRAP 32(a)(7) because, excluding the parts of the brief
12 exempted by NRAP 32(a)(7)(C), it is either:

13 Proportionately spaced, has a typeface of 14 points or more and
14 contains 1,863 words (limit is 7,000 words); or

15 Monospaced, has 10.5 or fewer characters per inch, and contains
16 ___ words or ___ lines of text; or

17 Does not exceed 15 pages.

18 Dated this 17th day of July, 2020

19 /s/ *F. Peter James*

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1 **CERTIFICATE OF SERVICE**

2 The following are listed on the Master Service List and are served via the
3 Court's electronic filing and service system (eFlex):

4 Racheal H. Mastel, Esq.
5 Co-Counsel for Appellant

6 I certify that on this 17th day of July, 2020, I caused the above and
7 foregoing document to be served by placing same to be deposited for mailing in
8 the United States Mail, in a sealed envelope upon which first class postage was
9 prepaid in Las Vegas, Nevada to the attorney(s) / party(ies) listed below at the
10 address(es) indicated below:

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15 By: /s/ *F. Peter James*

16 _____
17 An employee of the Law Offices of F. Peter James, Esq., PLLC
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