

IN THE UTAH COURT OF APPEALS

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Kassie L. Ricks,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellee,)	
)	Case No. 20080165-CA
v.)	
)	F I L E D
Michael Todd Ricks-Bey,)	(May 30, 2008)
)	
Respondent and Appellant.)	2008 UT App 200

Third District, Salt Lake Department, 074903818
The Honorable William W. Barrett

Attorneys: Michael Todd Ricks-Bey, Sayre, Oklahoma, Appellant
 Pro Se
 Michael G. Sundwall, Bountiful, for Appellee

Before Judges Billings, Davis, and McHugh.

PER CURIAM:

This case is before the court on a sua sponte motion for summary disposition and on Appellee Kassie L. Ricks's (Wife) motion to dismiss.

Appellant Michael Todd Ricks-Bey (Husband) filed a notice of appeal in the Third District Court on February 19, 2008. The notice states that the appeal is taken from the order entered on January 3, 2008, which denied Husband's motion to dismiss. The district court signed and entered a divorce decree on January 29, 2008. The February 19, 2008 notice of appeal was timely filed within thirty days after the entry of the divorce decree, which was final and appealable. The notice of appeal also conferred jurisdiction over an appeal challenging the interlocutory order denying Husband's motion to dismiss. We deny Wife's motion to dismiss the appeal as untimely or for failure to file a cost bond.

The claim that the court lacked jurisdiction to consider a divorce proceeding is without merit. The district court found that Wife had been a resident of the Third Judicial District for over three months at the time she filed the verified petition for divorce. See Utah Code Ann. § 30-3-1(2) (2007) (providing that a

court may decree a dissolution of marriage where either petitioner or respondent has been an actual and bona fide resident of this state and the county where the action is brought for three months prior to commencement of the action). The district court had subject matter jurisdiction to consider the divorce proceeding based upon Wife's affidavit attesting to her residence in the district for the requisite time period before she filed for divorce.

Husband claims that the district court erred by not allowing him an opportunity to respond after it rejected his jurisdictional claims. Husband was served with the divorce petition on October 30, 2007, at the Oklahoma prison where he resides. However, he returned the summons to both the Beckham County (Oklahoma) sheriff's office and Wife's counsel, asserting that the Utah court lacked jurisdiction over him. On December 4, 2007, Wife submitted documents to the court for the entry of Husband's default. On December 10, 2007, Husband filed his petition seeking dismissal of the divorce petition. He claimed that he is a nonresident alien and an "Indigenous, U.S. Non-Citizen Moorish American National." The district court rejected the petition for dismissal in a minute entry and order, signed on January 3, 2008, and served on Husband by mailing on that date. After his receipt of the order, Husband typed on the envelope "OPEN BY MISTAKE (per State and U.C.C. Section 1-103 'Underlying Principles of Law' Return to Sender)." By a letter dated January 25, 2008, Husband sent a Notice of Nonappearance by Special Appearance/Clarification on Minute Entry and Order. This letter quotes the January 3, 2008, minute entry and order in its entirety and asks for information on how to file an appeal. Despite having ample opportunity to do so, at no time did Husband seek to respond to the merits of the divorce petition filed in the district court. He repeatedly asserted his claim that he is an "Indigenous Washitaw Moorish American" who is not within the jurisdiction of the court. The district court entered the default divorce decree on January 29, 2008. Husband did not file any postjudgment motion challenging the procedure or seeking to respond to the divorce petition on the merits. Accordingly, Husband did not assert in the district court that he was denied an opportunity to respond to the merits of the divorce petition. We do not consider the claim for the first time on appeal. "As a general rule, appellate courts will not consider an issue, including a constitutional argument, raised for the first time on appeal unless the trial court committed plain error or the case involves exceptional circumstances." State v. Brown, 856 P.2d 358, 359 (Utah Ct. App. 1993).

Husband's jurisdictional claims were appropriately denied. The district court had subject matter jurisdiction to consider the divorce proceeding based upon Wife's affidavit attesting to

her residence in the Third Judicial District for the requisite time period. Husband's claim that he is a "non-person" or "non-citizen" not subject to state or federal laws is without merit.

The claim that the marriage was not valid was not raised in the district court. The letter from the Marriage License Clerk for Arapahoe County, Colorado, which letter Husband attached to his docketing statement, states that their records indicate that he and Wife "applied for a [marriage] license, but it was never returned for recording." As a result, "the State of Colorado has no record of your marriage." The letter disclaims any opinion on the validity of the marriage. It does not state, as Husband asserts, that the marriage is not legal. Husband did not preserve the issue by raising it in the district court for review, and we do not further review the claim for the first time on appeal.

We affirm.

Judith M. Billings, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge