

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

KATHY ALMEIDA, *Petitioner/Appellee*,

v.

TONY RAY RAMIREZ, SR., *Respondent/Appellant*.

No. 1 CA-CV 15-0486 FC
FILED 7-5-2016

Appeal from the Superior Court in Maricopa County
No. FC2007-053675
The Honorable Cynthia Bailey, Judge

AFFIRMED

COUNSEL

Tony Ray Ramirez, Sr., Phoenix
Respondent/Appellant

MEMORANDUM DECISION

Presiding Judge Peter B. Swann delivered the decision of the court, in which Judge Lawrence F. Winthrop and Judge Donn Kessler joined.

S W A N N, Judge:

¶1 Kathy Almeida petitioned for dissolution of her marriage to Tony Ray Ramirez, Sr., in November 2007. Ramirez did not file a response. Accordingly, the court entered a default decree in July 2008. Among other things, the decree restored Almeida's pre-marital name, awarded Almeida 90% of Ramirez's monthly pension benefits, and ordered Ramirez to pay child support. Ramirez later successfully sought modification of the child support obligation.

¶2 In April 2015, Ramirez filed a "Motion to Amend Divorce Decree and Cease and Desist." He asked that the decree be amended to award him his pension as separate property and to allocate a community debt. He further requested that the court order Almeida to stop using his surname.

¶3 The court denied Ramirez's motion as untimely. Ramirez appeals.

¶4 We hold that Ramirez's motion was untimely whether construed as a motion for new trial under ARFLP 83, a motion for reconsideration under ARFLP 84, or a motion to correct mistakes under ARFLP 85. A motion for new trial must be filed within fifteen days of the entry of judgment, ARFLP 83(D)(1); a motion for reconsideration must be filed within thirty days, ARFLP 84(D); and a motion to correct mistakes must be filed within a reasonable time (which for some types of mistakes may not exceed six months), ARFLP 85(C)(2). Ramirez filed his motion almost seven years after entry of the decree. He provided no explanation for the delay, and his substantive arguments suggested none.¹ The court

¹ Ramirez now argues, for the first time, that he did not receive notice of the dissolution petition or decree. The record shows, however, that Ramirez was served with process in accordance with

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therefore did not abuse its discretion by refusing to grant relief. *See Martin v. Martin*, 182 Ariz. 11, 16 (App. 1994) (holding, under civil analogue to ARFLP 85, that court did not abuse discretion by refusing to set aside judgment when motion did not address the latest time when party reasonably should have realized the alleged error). Moreover, the court now lacks the power to modify the property terms of the decree under A.R.S. § 25-327(A).

¶5 We affirm.



Ruth A. Willingham · Clerk of the Court
FILED : AA

ARFLP 41(C)(1), and that he was aware of at least the child-support determination as early as August 2008.