

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE  
CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 03-18-2010  
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BY: DN

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

In re the Marriage of: ) 1 CA-CV 09-0296  
)  
LIBBY FAERBER, ) DEPARTMENT D  
)  
Petitioner/Appellee, ) **MEMORANDUM DECISION**  
) (Not for Publication -  
v. ) Rule 28, Arizona Rules  
) of Civil Appellate  
DALE EUGENE GINGER, ) Procedure)  
)  
Respondent/Appellant. )  
)  
)  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Mohave County

Cause No. DO 2001-7215

The Honorable Randolph A. Bartlett

**AFFIRMED**

Libby Faerber  
Petitioner/Appellee

Prescott

Dale Eugene Genger  
Respondent/Appellant

Lake Havasu

O R O Z C O, Judge

¶1 Appellant Dale Eugene Genger (Genger) appeals the family court's order declining to address Genger's objection

to the Arizona State Retirement System Domestic Relations Order (QDRO). For the reasons set forth below, we affirm the family court's order.

#### **FACTS AND PROCEDURAL HISTORY**

¶12 On August 6, 2002, Genger's marriage to Appellee Libby Faerber (Faerber) was dissolved. On June 4, 2008, Faerber filed a Notice of Filing the QDRO requesting that the family court sign the proposed QDRO. The family court signed and filed the QDRO on June 26, 2008. On March 13, 2009, almost nine months later, Genger filed an objection to the QDRO. In an order dated March 25, 2009, the family court declined to address Genger's concerns because his objection was untimely.

¶13 Genger timely appealed.<sup>1</sup> We have jurisdiction pursuant to Arizona Revised Statutes sections 12-2101.B and -120.21.A.1 (2003).

#### **DISCUSSION**

¶14 Genger argues that the family court erred by declining to consider his objection because he was never given the opportunity to "voice his opinion." We review a

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<sup>1</sup> Although the family court's minute entry order declining to address Genger's objection was unsigned, this Court suspended the appeal pursuant to *Eaton Fruit Co. v. Cal. Spray-Chemical Corp.*, 102 Ariz. 129, 426 P.2d 397 (1967), to allow Genger an opportunity to obtain a signed order. The family court signed the order and filed it on July 21, 2009.

family court's conclusions of law de novo. *Alley v. Stevens*, 209 Ariz. 426, 428, ¶ 6, 104 P.3d 157, 159 (App. 2004).

¶5 Arizona Rule of Family Law Procedure 81.C.1<sup>2</sup> provides in pertinent part:

In case of a judgment other than for money or costs, or that all relief be denied, the judgment shall not be settled, approved, and signed until the expiration of five (5) days after the proposed form thereof has been served upon opposing counsel unless the opposite party or that party's counsel endorses on the judgment an approval as to form.

When computing time for any rule that "is less than eleven (11) days, intermediate Saturdays, Sundays, and legal holidays shall not be included." Ariz. R. Fam. L.P. 4.A. If a party is served by mail pursuant to Rule 43.C.2.c, "five (5) calendar days shall be added to the prescribed period." Ariz. R. Fam. L.P. 4.D.

¶6 In this case, Faerber filed her Notice of Filing the QDRO on June 4, 2008. Faerber's certificate of service indicates she mailed a copy to Genger and his attorney. On June 26, 2008, the family court signed and filed the QDRO. Under the applicable Arizona rules, the family court was only required to wait until June 16, 2008, to sign the QDRO.

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<sup>2</sup> Unless otherwise specified, hereafter, an Arizona Rule of Family Law Procedure is referred to as "Rule \_\_\_\_."

Genger filed his objection to the QDRO on March 13, 2009, almost nine months after receiving a copy of the Notice of Filing the QDRO.

¶7 Genger does not argue that he did not receive a copy of the Notice of Filing the QDRO. Rather, Genger claims he was denied the opportunity to be heard. To the contrary, the family court provided Genger with more than the prescribed period of time to object prior to signing the QDRO.

¶8 Alternatively, Genger contends that when he received a copy of the Notice of Filing the QDRO, he believed that a court date would be scheduled to discuss the issue. However, Genger's understanding of the rules is not controlling. Rule 81.C.2 does not provide for a hearing absent a timely objection. When a party chooses to represent himself as Genger did, he is held to the same standards as an attorney and is expected to follow required procedures and local rules. *In re Marriage of Williams*, 219 Ariz. 546, 549, ¶ 13, 200 P.3d 1043, 1046 (App. 2008). "A party's ignorance of the law is not an excuse for failing to comply with it." *Id.*

**CONCLUSION**

¶19 For the above mentioned reasons, we affirm the trial court's order declining to address Genger's objection as untimely.

/S/

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PATRICIA A. OROZCO, Presiding Judge

CONCURRING:

/S/

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DIANE M. JOHNSEN, Judge

/S/

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JON W. THOMPSON, Judge