

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 28, 2003

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 02-2452
STATE OF WISCONSIN**

Cir. Ct. No. 99-FA-1510

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

VERA JEAN NAPUTI,

PETITIONER-RESPONDENT,

v.

RONALD PAUL RAUNIKAR,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Dane County:
MORIA KRUEGER, Judge. *Affirmed.*

Before Deininger, P.J., Dykman and Vergeront, JJ.

¶1 PER CURIAM. Ronald Raunikar appeals from the circuit court's order denying his motion to reopen a judgment divorcing him from Vera Naputi.

See WIS. STAT. § 806.07 (2001-02).¹ The issue is whether the circuit court erroneously exercised its discretion in concluding that the motion to reopen was untimely. We affirm.

¶2 Raunikar did not participate in any of the proceedings that led to entry of a judgment divorcing him from Vera Naputi, despite having been notified of the proceedings and having been personally served with both a summons and petition for divorce on September 27, 1999, and with an order for appearance for the trial on October 10, 2000. After judgment was entered, Raunikar moved to reopen the judgment under WIS. STAT. § 806.07(1)(a), (c) and (h), arguing that mistake, fraud or extraordinary circumstances warranted reopening the judgment. The circuit court denied the motion to reopen because it concluded that the motion was not brought within a reasonable period of time as required by § 806.07(2).

¶3 Whether to reopen a judgment under WIS. STAT. § 806.07 is committed to the circuit court's discretion and requires the circuit court to balance the interest in fair resolution of disputes with the policy favoring the finality of judgments. *Edland v. Wisconsin Physicians Serv. Ins. Corp.*, 210 Wis. 2d 638, 644, 563 N.W.2d 519 (1997). A circuit court “properly exercises its discretion when it examines the relevant facts, applies the proper standard of law and, using a demonstrated rational process, reaches a conclusion that a reasonable judge could reach.” *Baird Contracting, Inc. v. Mid Wisconsin Bank of Medford*, 189 Wis. 2d 321, 324, 525 N.W.2d 376 (Ct. App. 1994). A motion to reopen “shall be made within a reasonable time.” WIS. STAT. § 806.07(2).

¹ All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

¶4 The crux of Raunikar’s argument is that he was in such emotional and psychological distress over the divorce that he was incapable of understanding and participating in the divorce proceedings. He contends his failure to appear and participate should be excused because of this incapacity, especially in light of alleged errors in the property division that resulted in an inequitable division of assets. As for the circuit court’s conclusion that the motion to reopen was not brought within a reasonable period of time, Raunikar contends that “[t]he court did not consider the facts” about the timeliness of his motion because it refused to hold an evidentiary hearing.²

¶5 The circuit court assumed as true Raunikar’s allegations of mistake or fraud in the property division and his allegation that his distress rendered him incapable of understanding and participating in the divorce proceedings, but concluded that there was insufficient reason to reopen the judgment because the motion was not brought within a reasonable time as required by WIS. STAT. § 806.07(2). Raunikar has not shown that the circuit court erroneously exercised its discretion in so ruling. The judgment was signed November 30, 2000, but the circuit court gave Raunikar the benefit of the doubt and assumed that he first learned of the judgment of divorce in April 2001, while doing his taxes, as he claimed. Even assuming Raunikar did not learn of the judgment until April, the motion to reopen the judgment was not brought until six months later, on October 17, 2001. The circuit court concluded that Raunikar had no good reason for waiting so long to act, and that allowing the judgment to be reopened “would

² The circuit court considered all the parties’ arguments about timeliness. Raunikar does not indicate what additional facts would have been brought out by an evidentiary hearing on the timeliness issue.

flout the concept of finality of judgment.” Our review of the record shows that Raunikar had retained an attorney by the end of April, that he was capable of proceeding at that time through the attorney, and that there was no persuasive reason for Raunikar’s failure to bring the motion for over six months, even if he needed to review financial documents prior to bringing the motion. Because the circuit court made a decision that was based on the facts of the case and the proper legal standards, we affirm the circuit court’s decision that the motion to reopen was not brought within a reasonable time, regardless of whether we would have made the same decision had the choice been ours. *See Baird Contracting*, 189 Wis. 2d at 324.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

