

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE E. RODRIGUEZ, III,

No. 34749

Appellant,

vs.

FE MARIE VALDES,

Respondent.

FILED

SEP 07 2001

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Bloom*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying an NRCP 60(b) motion to set aside a divorce decree. Appellant, Jose E. Rodriguez, contends that the district court should have granted his motion to set aside the divorce decree.

Rodriguez first argues that the district court was without jurisdiction to enter the divorce decree because his former wife, respondent Fe Marie Valdes, had not resided in Nevada for the statutory period required to seek a divorce. Nevada law, however, is well settled on this point - a party may be barred from raising a jurisdictional challenge under doctrines of waiver or estoppel.¹

Rodriguez contends that the district court improperly applied the doctrine of estoppel in rejecting his motion. He asserts that Valdes was the one who initiated the divorce proceeding in Nevada and compelled him to sign the divorce documents under duress. Rodriguez further argues that the district court was bound to accept his version of the facts because Valdes had presented no evidence countering it. We conclude that the district court's order is supported by

¹See Morse v. Morse, 99 Nev. 387, 388, 663 P.2d 349, 350 (1983) (concluding that the appellant was estopped or barred from challenging the district court's jurisdiction where the appellant had signed documents that "contained the facts necessary to at least ostensibly confer jurisdiction on the district court"); Boisen v. Boisen, 85 Nev. 122, 124, 451 P.2d 363, 364 (1969); Grant v. Grant, 38 Nev. 185, 188, 147 P. 451, 452 (1915).

substantial evidence and that the district court did not err in its application of the estoppel doctrine.²

Contrary to Rodriguez's assertion, we note that the district court had before it Valdes' affidavit asserting that Rodriguez was instrumental in obtaining the divorce through perjurious means. It appears that the district court gave credence to Valdes' version of the facts. Where, as here, there is conflicting evidence, we defer to the district court's interpretation of it.³

Regarding the district court's application of the estoppel doctrine, we conclude that the record supports the district court's finding that both parties were culpable in procuring the divorce and that both relied on the validity of the divorce in the years that followed. Thus, the district court properly determined that estoppel barred Rodriguez from seeking to set aside the divorce.⁴ Because we agree with the district court's estoppel determination, we need not address the parties' other contentions.

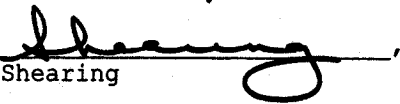
Although we are gravely concerned about any abuse of Nevada's divorce laws, under the circumstances of this case we think it appropriate to leave these parties where they stand. Accordingly, we

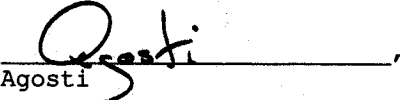
²See Yamaha Motor Co. v. Arnoult, 114 Nev. 233, 238, 955 P.2d 661, 664 (1998) ("If the district court's findings are supported by substantial evidence, they will be upheld.").


³See Sutherland v. Gross, 105 Nev. 192, 196, 772 P.2d 1287, 1289-90 (1989) (stating that where evidence in the record conflicts, this court will defer to the fact-finder's determinations).

⁴See Morse, 99 Nev. at 388, 663 P.2d at 350; Boisen, 85 Nev. at 124, 451 P.2d at 364; Grant, 38 Nev. at 188, 147 P. at 452.

ORDER the judgment of the district court AFFIRMED.


Shearing J.


Agosti J.


Rose J.

cc: Hon. David R. Gamble, District Judge
Richard F. Cornell
Silverman & Decaria
Douglas County Clerk