

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUTTA A. GUADAGNOLI, F/K/A JUTTA
A. DINENNA,
Appellant,
vs.
CHRISTOPHER P. DINENNA,
Respondent.

No. 35373

FILED

MAR 13 2002

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

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Jutta A. Guadagnoli's NRCP 60(b) motion to set aside an order denying her post-judgment motion to divide community property, allegedly not distributed upon her divorce from respondent Christopher DiNenna.

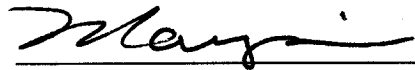
Guadagnoli and DiNenna were granted a divorce in May of 1997 pursuant to a joint petition. Neither party was represented by counsel and Guadagnoli, by her own admission, played a substantial role in drafting the decree. The decree required DiNenna to pay alimony over four years, payable in monthly installments of \$1,050.00. Thereafter, upon Guadagnoli's remarriage, DiNenna ceased spousal support payments. Guadagnoli then moved the district court to divide community property, in particular, DiNenna's military pension, claiming that the alimony was actually the quid pro quo for her waiver of any rights to the pension. The motion also sought an award of unpaid child support, but did not seek continued spousal support.


The decree was silent as to any agreement to pay alimony in return for a waiver of her claim against DiNenna's pension. Further, the decree provided no explicit or implicit provision that alimony would continue following remarriage. The district court granted Guadagnoli's request for the unpaid child support, but denied division of DiNenna's


pension. Guadagnoli then filed an NRCP 60(b) motion seeking relief from the denial of property division, arguing that her designation of the payments as alimony was a product of her excusable neglect. The district court denied the motion. Guadagnoli appeals solely from the denial of this NRCP 60(b) application.

The district court denied Guadagnoli's NRCP 60(b) motion, citing NRS 125.150(5), which provides that spousal support payments cease upon remarriage of the receiving spouse, unless the court issuing the divorce decree has ordered otherwise. Here, the divorce decree was entirely silent in this regard, and the cases to which Guadagnoli cites involve situations in which a divorce decree ordered expressly or by implication that spousal support payments continue despite remarriage.¹ Here, the district court correctly applied NRS 125.150(5) and we can see no abuse of discretion in not accepting or adopting Guadagnoli's position below. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Maupin


_____, J.
Agosti


_____, J.
Leavitt

¹See Waltz v. Waltz, 110 Nev. 605, 608, 877 P.2d 501, 502-03 (1994) (district court's order implied that payments would continue despite remarriage); Krick v. Krick, 76 Nev. 52, 58, 348 P.2d 752, 755 (1960) (district court specifically ordered continued payments).

cc: Hon. Robert W. Lueck, District Judge, Family Court Division
Stephen R. Minagil
Lemons Grundy & Eisenberg
Clark County Clerk