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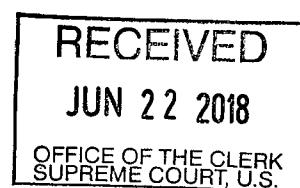
IN THE
Supreme Court of the United States
AMBROSE KING
PETITIONER
V.
MARY KING
RESPONDENT

PETITION FOR A WRIT OF CERTIORARI TO THE MARYLAND COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. DID THE LOWER COURT VIOLATE SUBSTANTIVE AND PROCEDURAL DUE PROCESS IN NOT VACATING THE DISMISSAL OF THE APPEAL IN THE INSTANT MATTER?
2. DID THE LOWER COURT VIOLATE THE PETITIONER'S DUE PROCESS IN FAILING TO ARTICULATE A COMPREHENSIVE AND/OR CLEAR BASIS FOR THE ISSUANCE OF A \$175,900 AWARD AGAINST THE PETITIONER?

LIST OF PARTIES AND CORPORATE DISCLOSURE STAEMENT

The parties to the proceeding in the Court of appeals for Maryland, whose judgment is sought to be reviewed, are Respondent, Mary King and Petitioner Ambrose King.

As the Petition is not a non- governmental or any other type corporation, Rule 29.6 is not applicable.

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1. ORDER OF COURT ENTERED BY THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND FAMILY DIVISION ON MARCH 9, 2017 IN THE MATTER OF *King v. King*, Case Number CAD15-06793;
2. ORDER OF COURT ENTERED BY THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND FAMILY DIVISION ON APRIL 19, 2017 IN THE MATTER OF *King v. King*, Case Number CAD15-06793;
3. ORDER OF COURT ENTERED BY THE COURT OF SPECIAL APPEALS OF MARYLAND FAMILY DIVISION ON JANUARY 12, 2018 IN THE MATTER OF *King v. King*, No. 430, September Term 2017 ;
4. ORDER OF COURT ENTERED BY THE COURT OF SPECIAL APPEALS OF MARYLAND FAMILY DIVISION ON FEBRUARY 21, 2018 IN THE MATTER OF *King v. King*, No. 430, September Term 2017 ; and

5. ORDER OF COURT ENTERED BY THE COURT OF APPEALS OF
MARYLAND FAMILY DIVISION ON MARCH 23, 2018 IN THE MATTER OF *King*
v. King, Petition Docket Number 15, September Term 2018

JURISDICTION

1. The Court of Appeals denied Petitioner's Petition For Writ of Certiorari in the matter of *King v. King*, Petition Docket Number 15, September Term 2018 via an Order that was entered on July 12, 2016;
2. This Court has jurisdiction to review this matter pursuant to USCS Supreme Ct R 10 and 28 U.S.C § 1257 and/or 28 U.S.C § 1254.

RELEVANT PROVISIONS INVOLVED

USCS Supreme Ct R 10: Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers: (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power; (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals; (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

MD. Rule 3-522: In a contested trial, the judge, before or at the time judgment is entered, shall prepare and file or dictate into the record a brief statement of the reasons for the decision and the basis of determining any damages.

STATEMENT

On March 9, 2017, the Court issued an order wherein which the Court awarded the Respondent a marital award of \$175,900. The Court also ordered that both parties retain their respective automobiles and ordered the Petitioner return the family photographs to the Respondent within ten days of the Order entered on March 9, 2017. Further, the Court found that the parties were married in August of 2001 in a traditional Nigerian marriage ceremony. The Court indicated that it “essentially” adopted the Proposed Finding Of Facts And Conclusion Of Law as submitted by the Respondent. However, the Court asserted the following in support of its decision:

-the Court asserted that there was substantial problems with regards to determination of marital property and attributed such to a lack of full cooperation on the part of the Petitioner.

-the Court indicated that it “essentially” adopted the Proposed Finding of Facts and Conclusion Of Law after reviewing the “...matter, the file, the court’s notes and recollection of the evidence and the past trial filings of the parties, subject to modification made in this Order...”

-the Court indicated that “...where it felt appropriate from the evidence presented along with reasonable inferences to be drawn from that evidence, credited the Plaintiff [Petitioner] with expenses used to enhance certain items of real estate owned by the parties.”

-the Court indicated that “[i]n making the calculation regarding marital property the court has also accepted the representation that the Plaintiff took the household furniture held by the parties.”

-the Court indicated that it “...[couldn’t] find competence evidence of the value of that furniture...”

In this contested proceeding, the Court issued an Order on March 9, 2017 that was not proceeded by any oral decision or any other type of decision based on the fact that the Court ordered the parties to submit Proposed Finding Of Facts And Conclusion Of Law. While the Court did incorporate by reference the Respondent’s rationale for the marital award sought by the Respondent, the Court indicated that it “essentially” adopted the Respondent’s Proposed Finding of Facts and Conclusion Of Law. The Court also indicated that “where it felt appropriate”, the Court credited the Plaintiff [Petitioner] with expenses used to enhance certain items of real estate owned by the parties.

The Court asserted that there was substantial problems with regards to determination of marital property and attributed such to a lack of full cooperation on the part of the Petitioner. The Court asserted on September 9, 2016 that it had spoken with forensic accountant Michelle Crislip and she had conveyed to the Court that she had felt that the Petitioner was not forthcoming with information that he may have had access to. The record is void of any testimony and/or documents, correspondence or other tangible items that depict the forensic accountant’s impressions and/or conclusions of the Petitioner.

Further, the forensic accountant indicated that she “felt” that the Petitioner was not being forthcoming. On March 9, 2017, the Court issued an order wherein which the Court awarded the Respondent a marital award of \$175,900. The Court also ordered that both parties retain their respective automobiles and ordered the Petitioner return the family photographs to the Respondent within ten days of the Order entered on March 9, 2017. Further, the Court found that the parties were married in August of 2001 in a traditional Nigerian marriage ceremony. The Court adopted the Proposed Finding Of Facts And Conclusion Of Law as submitted by the Respondent. Further, the Court asserted that there was substantial problems with regards to determination of marital property and attributed such to a lack of full cooperation on the part of the Petitioner. On March 27, 2017, the Petitioner filed a motion to revise, alter and/or amend the judgment as entered on March 9, 2017. On April 14, 2017, the Respondent filed an opposition to Petitioner’s motion to revise, alter and/or amend the judgment. On April 19, 2017, the Court denied the Petitioner’s motion to revise, alter and/or amend the judgment. On May 3, 2017, the Petitioner filed a notice of appeal to this Court. That consistent with the Court’s previous orders, the Petitioner filed opening briefs in the instant matter on November 13, 2017. On November 18, 2017, Petitioner’s counsel was forced to abruptly move from his office of 8011 Flower Avenue, #1, Takoma Park, MD 20912 to 811 Eastern Avenue, Fairmont Heights, MD 20743. Consistent with such move, the Petitioner’s counsel attempted to change his address during the month of December. However, the Petitioner’s counsel was not successful in that effort and

has made weekly travels back and forth to Petitioner's counsel's office from November to January to acquire mail. The Petitioner's counsel has presently rectified the mailing issue. However, the Petitioner's counsel had considerable issue with the receipt of mail between November and January. Further, Petitioner's counsel has a sister that was diagnosed with multiple sclerosis at or around the time between November and January. The aggregate of the circumstances impeded on Petitioner's counsel's adequate responses to the filings in the instant matter. On February 6, 2018, Petitioner's counsel contacted this Court and discovered, for the first time, that the instant appeal had been dismissed on January 12, 2018 and that there was a notice sent out on November 28, 2017 that the briefs were insufficient because they failed to comply with this Court's requirement that they have the font of 13 and be double spaced¹. Petitioner's counsel filed a motion with the Court of Special Appeals on February 6, 2018 and simultaneously filed with the Court briefs that rectified the defects as previously asserted. The Petitioner has asserted a variety of issues in the brief/appeal that include the lower court's failure to articulate a comprehensive and/or clear basis for the issuance of a \$175,900 award against the Petitioner. On February 21, 2018, the lower court denied Petitioner's motion for reconsideration. On March 8, 2018, the Petitioner filed a Petition For Writ of Certiorari with the Court of Appeals. On

¹ A review of the brief that was filed on November 13, 2017 demonstrates that it had font size 12 and that most of the brief was done in double space, but there were some sections that were inadvertently single spaced.

March 23, 2018, the Court of Appeals denied the Petitioner's Petition For Writ of Certiorari.

REASONS FOR GRANTING THE PETITION

1. DID THE LOWER COURT VIOLATE THE PETITIONER'S DUE PROCESS IN FAILING TO ARTICULATE A COMPREHENSIVE AND/OR CLEAR BASIS FOR THE ISSUANCE OF A \$175,900 AWARD AGAINST THE PETITIONER?

“In a contested trial, the judge, before or at the time judgment is entered, shall prepare and file or dictate into the record a brief statement of the reasons for the decision and the basis of determining any damages.”

SEE MD. RULE 3-522

On March 9, 2017, the Court issued an order wherein which the Court awarded the Appellee a marital award of \$175,900. The Court also ordered that both parties retain their respective automobiles and ordered the Appellant return the family photographs to the Appellee within ten days of the Order entered on March 9, 2017. Further, the Court found that the parties were married in August of 2001 in a traditional Nigerian marriage ceremony. The Court indicated that it “essentially” adopted the Proposed Finding Of Facts And Conclusion Of Law as submitted by the Appellee. However, the Court asserted the following in support of its decision:

-the Court asserted that there was substantial problems with regards to determination of marital property and attributed such to a lack of full cooperation on the part of the Appellant.

-the Court indicated that it “essentially” adopted the Proposed Finding of Facts and Conclusion Of Law after reviewing the “...matter, the file, the court’s notes and recollection of the evidence and the past trial filings of the parties, subject to modification made in this Order...”

-the Court indicated that “...where it felt appropriate from the evidence presented along with reasonable inferences to be drawn from that evidence, credited the Plaintiff [Appellant] with expenses used to enhance certain items of real estate owned by the parties.”

-the Court indicated that “[i]n making the calculation regarding marital property the court has also accepted the representation that the Plaintiff took the household furniture held by the parties.”

-the Court indicated that it “...[couldn’t] find competence evidence of the value of that furniture...”

In this contested proceeding, the Court issued an Order on March 9, 2017 that was not proceeded by any oral decision or any other type of decision based on the fact that the Court ordered the parties to submit Proposed Finding Of Facts And Conclusion Of Law. While the Court did incorporate by reference the Appellee’s rationale for the marital award sought by the Appellee, the Court indicated that it “essentially” adopted the Appellee’s Proposed Finding of Facts and Conclusion Of

Law. Thus, the Court did not fully adopt the Appellee's rationale. Such is corroborated by the fact that the Court issued a marital award of \$175,900, while the Appellee's rationale warranted a marital award of \$190,203.00. The Court's order does not provide any basis for the disparity between the Appellee's sought after award and the award ordered by the award, nor any basis for how it arrived at the marital award of \$175,900. Further, the Appellee's Proposed Finding of Facts and Conclusion Of Law does not provide any formula as to how they arrived at the marital award of \$190,203.00. The Court also indicated that "where it felt appropriate", the Court credited the Plaintiff [Appellant] with expenses used to enhance certain items of real estate owned by the parties. That aspect of the Order is ambiguous as there is no way for the Appellant to decipher what expenses the Court credited to the Appellant. The aggregate of these circumstances render the Appellant unable to understand the Court's rationale and/or assess the Court's rationale and/or formula in identifying and disbursing the marital and non-marital property of the parties. Consequently, the Appellant has been issued judgment against him in the absence of any way of determining how that judgment was arrived at, which is in direct contradiction of the express language and purpose of Md. Rule 3-522.

2. DID THE LOWER COURT VIOLATE SUBSTANTIVE AND PROCEDURAL DUE PROCESS IN NOT VACATING THE DISMISSAL OF THE APPEAL IN THE INSTANT MATTER?

That in the matter of *Anderson v. Hull*, 215 Md. 476, 138 A.2d 875 (1985), the

Court indicated that it was reluctant to dismiss an appeal when the alleged defect was not so "...serious as to call for a dismissal of the appeal." The Court also took note of the fact that dismissal was not mandatory with regards to the alleged deficiency. In that matter, the alleged defect was the Petitioner's failure to furnish the Respondents with a designation of the portions of the record. In the instant matter, the alleged defects were font deviation and/or spacing deviation. Neither of those deviations require dismissal pursuant to Maryland Rules. Further, the Petitioner submitted a brief on February 6, 2018 that rectified the alleged defects. The dismissal of the instant matter poses undue prejudice and results in an adjudication of important issues on a technical default, which the Court has advised against. See *Holly Hall v. County Banking*, 147 Md.App. 251, 266, 807 A.2d 1201 (2002) (where the Court held that "[t]echnicality, while important, should not be elevated to an exalted status.") The Court's reliance on the minor deficiencies to foreclose the Petitioner from his right to appeal and argue on the merits the issues that are raised in its brief that he did in fact timely submit pose serious and undue procedural and substantive due process implications. The Court has held that "[d]ismissing an appeal, on the basis of an appellant's violations of the rules of appellate procedure, is considered a drastic corrective measure, and reaching a decision on the merits of an appeal is always a preferred alternative. See *Rollins v. Capital Plaza Associates, L.P.*, 955 A.2d 869, 181 Md.App. 188, certiorari denied 962 A.2d 372, 406 Md. 746 (2008). Further, the Court indicated that it will not ordinarily dismiss an appeal "in the absence of prejudice to appellee or a deliberate

violation of the rule.” *Joseph v. Bozutto Management Co.*, 173 Md. App. 305, 348, 918 A.2d 1230 (2007) In the instant matter, the Petitioner manifested an intent to proceed in the instant matter on November 13, 2017, when he filed a brief before the Court of Special Appeals. While the Court of Special Appeals asserted flaws in the Petitioner’s brief, the alleged two flaws can be and were easily rectified. The Petitioner’s absence of response until February 6, 2018 was merely a result of lack of awareness on Petitioner’s counsel of the Court’s alleged defects with the brief and not an intentional disregard of the Court’s asserted defects. However, the Petitioner’s counsel turned submitted the briefs as soon as the Petitioner discovered the Court’s alleged defects. The record in the instant matter is void of any showing of prejudice posed to the Respondent in the instant matter. However, the Petitioner has been exposed to severe prejudice.

Wherefore, the Petitioner respectfully requests that this Court reverse the lower courts’ decision and set the instant matter back before the lower court so that the Petitioner can have his rightful opportunity to pursue his claims.

Respectfully Submitted,



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