

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LILY TERRO-EDMON* § No. 134, 2019
§
v. § Court Below: Family Court
§ of the State of Delaware
TRAVIS EDMON, §
§ File No. CN13-04089
§
§ Petition No. 18-38235
§
§

The following docket entry has been efiled in the above cause.

March 12, 2020 Record and mandate to Clerk of
Court Below. **Case Closed.**

cc: The Honorable Janell S. Ostroski
Ms. Lisa Tenaglia-Evans
Mr. Thomas J. Evans

Family Court Clerk
Received Above

By _____

Date _____

Date: March 12, 2020

/s/ Lisa A. Dolph
Clerk of the Supreme Court

* By Order dated March 27, 2019, the Court assigned a pseudonyms to the appellant and minor child, pursuant to Supreme Court Rule 7(d).

MANDATE

THE SUPREME COURT OF THE STATE OF DELAWARE

TO: Family Court of the State of Delaware in and for New Castle County

GREETINGS:

WHEREAS, in the case of:

Lisa Tenaglia-Evans v. Thomas J. Evans

File No. CN13-04089
Petition No. 18-38235

a certain judgment or order was entered on the 25th day of February 2019, which reference is hereby made; and **WHEREAS**, by appropriate proceedings the judgment or order was duly appealed to this Court, and after consideration have been finally determined, as appears from the Orders dated **February 20, 2020** and **March 12, 2020**, a certified copy of which is attached hereto;

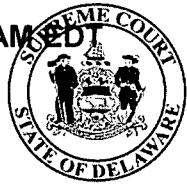
ON CONSIDERATION WHEREOF IT IS ORDERED AND ADJUDGED that the orders or judgments be and is hereby **AFFIRMED**.

/s/ *Lisa A. Dolph*

Clerk of the Supreme Court

Issued: March 12, 2020

Supreme Court No. 134, 2019



IN THE SUPREME COURT OF THE STATE OF DELAWARE

LILY TERRO-EDMON,¹

§
§ No. 134, 2019

Petitioner Below,
Appellant,

§
§ Court Below—Family Court
§ of the State of Delaware

v.

§
§ File No. CN13-04089
§ Petition No. 18-38235

TRAVIS EDMON,

§
§
§

Respondent Below,
Appellee.

Submitted: March 5, 2020
Decided: March 12, 2020

Before **SEITZ**, Chief Justice; **VALIHURA**, **VAUGHN**, **TRAYNOR**, and **MONTGOMERY-REEVES**, Justices, constituting the Court *en Banc*.

ORDER

This 12th day of March, 2020, the Court having carefully considered the motion for rehearing *en Banc* filed by appellant and it appears that the motion for rehearing *en Banc* is without merit and should be denied.

NOW, THEREFORE, IT IS ORDERED that the motion for rehearing *en Banc* is DENIED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

¹ The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d).



IN THE SUPREME COURT OF THE STATE OF DELAWARE

LILY TERRO-EDMON,¹

§
§ No. 134, 2019

Petitioner Below,
Appellant,

§
§ Court Below—Family Court
§ of the State of Delaware

v.

§
§ File No. CN13-04089
§ Petition No. 18-38235

TRAVIS EDMON,

§
§
§

Respondent Below,
Appellee.

Submitted: December 20, 2019
Decided: February 20, 2020

Before SEITZ, Chief Justice; VAUGHN, and TRAYNOR, Justices.

ORDER

After consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The petitioner below-appellant, Lily Terro-Edmon ("the Wife"), filed this appeal from a Family Court order, dated February 25, 2019, denying her motion for modification of alimony. We find no error or abuse of discretion in the Family Court's decision. Accordingly, we affirm the Family Court's judgment.

(2) The Wife and the respondent below-appellee, Travis Edmon ("the Husband"), were married on August 2, 2001, separated on October 31, 2012, and

¹ The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d).

divorced on September 12, 2013. They resolved ancillary matters, including alimony, in a stipulation and order dated January 13, 2014 and entered by the Family Court on January 23, 2014 (“Stipulation and Order”). Both parties were represented by counsel in connection with the Stipulation and Order.

(3) Under the Stipulation and Order, the Husband agreed to pay the Wife \$850 in monthly alimony for five years beginning on January 20, 2014. The Husband’s alimony obligation was not subject to any upward or downward modification unless he was ordered to pay the Wife child support, in which case his monthly alimony obligation would be reduced by the amount of his monthly child support obligation. The Stipulation and Order further provided that no modification or waiver was effective unless there was a formal writing signed by both parties and subject to court approval.

(4) On December 30, 2015, the Wife filed a motion to set aside the divorce judgment. She alleged that the Husband committed perjury and fraud by concealing assets from her. The Family Court denied the motion, finding that the Wife refused to provide notice of her motion to the Husband. The Wife filed a motion for reconsideration, which the Family Court denied on the basis that the notice requirements were not met. The Wife filed additional motions for reconsideration, which the Family Court denied. The Wife did not appeal the Family Court’s denial of her motions.

(5) On December 27, 2018, the Wife filed a motion for modification of alimony. She alleged that there had been a real and substantial change in circumstances because her disability income was reduced after her son turned eighteen. She also alleged that the Husband and his counsel had violated their discovery obligations and concealed assets from her. According to the motion, the Wife signed the Stipulation and Order, despite having knowledge of the Husband's concealment of some assets, because she felt stressed and pressured. The Husband opposed the motion.

(6) After converting the Wife's motion into a petition, the Family Court dismissed the petition. The Family Court found that many of the Wife's claims were previously resolved and therefore barred by the doctrine of *res judicata*. As to the Wife's request for modification of alimony based on a real and substantial change in circumstances under 13 Del. C. § 1519(a)(4), the Family Court held that § 1519(a)(4) did not apply in light of the Stipulation and Order. This appeal followed.

(7) This Court's review of a Family Court decision includes a review of both the law and the facts.² Conclusions of law are reviewed *de novo*.³ Factual findings will not be disturbed on appeal unless they are clearly erroneous.⁴

² *Mundy v. Devon*, 906 A.2d 750, 752 (Del. 2006).

³ *Id.*

⁴ *Id.*

(8) The Wife's arguments on appeal may be summarized as follows: (i) the Family Court erred in denying her December 2015 motion to set aside the divorce and her subsequent motions for reconsideration; and (ii) she is entitled to relief based on her permanent disability during the marriage and after the divorce and the Husband's concealment of assets.

(9) Having carefully considered the parties' positions and the record below, we conclude that the Family Court did not err in denying the Wife's petition for modification of alimony. First, the Wife's challenges to the Family Court's 2016 orders denying her motions are untimely.⁵ The Wife could have appealed those orders, but did not do so.

(10) Second, the Family Court did not err in concluding that the Wife was not entitled to modification of alimony based on a real and substantial change in circumstances under § 1519(a)(4). As the Family Court recognized, this Court held in *Rockwell v. Rockwell*⁶ that an alimony agreement like the Stipulation and Order is governed by contract principles, not the "real and substantial change" standard in § 1519(a)(4). The Wife, whose motion for modification of alimony reflects that she was permanently disabled during the marriage and believed the Husband was

⁵ Supr. Ct. R. 6(a)(i) (requiring appeal from civil order to be filed within thirty days after entry of the order upon the docket).

⁶ 681 A.2d 1017 (Del. 1996).

concealing certain assets before she signed the Stipulation and Order, did not state a contractual basis to undo the Stipulation and Order.

(11) Finally, the Wife argues that the Family Court should have reopened the Stipulation and Order under Family Court Civil Rule 60(b)(2) (relief from a judgment based on newly discovered evidence) and 60(b)(6) (relief from a judgment for any other justifying relief). The Wife did not raise Rule 60(b) in her motion for modification of alimony in the Family Court. Absent plain error, which we do not find here, we will not consider the Wife's Rule 60(b) arguments for the first time on appeal.⁷

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

⁷ Supr. Ct. R. 8. We note that the newly discovered evidence appears to consist of documents the Wife found before 2016.

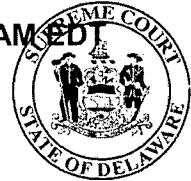
**STATE OF DELAWARE }
KENT COUNTY } ss.**

I, Lisa A. Dolph, Clerk of the Supreme Court of the State of Delaware, do hereby certify that the foregoing is a true and correct copy of the Orders dated February 20, 2020 and March 12, 2020, in ***Lily Terro-Edmon v. Travis Edmon, No. 134, 2019***, as the same remains on file and of record in said Court.

IN TESTIMONY WHEREOF,

I have hereunto set my hand and affixed the seal of said Court at Dover this 12th day of March A.D. 2020.

/s/ Lisa A. Dolph
Clerk of the Supreme Court



IN THE SUPREME COURT OF THE STATE OF DELAWARE

LILY TERRO-EDMON,	§	
Petitioner Below,	§	No. 134, 2019
Appellant,	§	Court Below—Family Court
	§	of the State of Delaware
v.	§	in and for New Castle County
TRAVIS EDMON,	§	File No. CN13-04089
Respondent Below,	§	Petition No. 18-38235
Appellee.	§	

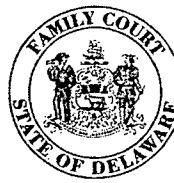
ORDER

This 9th day of April, 2019, upon consideration of appellant's motion for leave to proceed *in forma pauperis*, IT IS HEREBY ORDERED that appellant be GRANTED leave to proceed *in forma pauperis*, limited only to waiver of the docketing deposit required by Supreme Court Rule 20(a).

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Justice

The Family Court of the State of Delaware



JAY H. CONNER
JUDGE

NEW CASTLE COUNTY COURTHOUSE
500 N. KING STREET, SUITE 9400
WILMINGTON, DELAWARE 19801-3732

June 13, 2016

Lisa Tenaglia Evans
122 Kenmark Road
Newark, DE 19713

LETTER DECISION AND ORDER

Clifford B. Hearn, Esquire
326 E. Main Street
P.O. Box 776
Middletown, DE 19709

RE: Thomas J. Evans v. Lisa Tenaglia Evans
File No. CN13-04089, Petition No. 13-24221
Motion for Explanation & Reconsideration

Before the **HONORABLE JAY H. CONNER, JUDGE** of the Family Court of the State of Delaware:

The Court has received a fourth Motion from Ms. Tenaglia Evans for Reconsideration of the denial of her motion to set aside a divorce agreement and Order entered in this Court on January 23, 2014, when both parties were represented by counsel. The initial Motion to Set Aside the Divorce Judgment was not filed until December 30, 2015, almost two (2) years from the entry of the divorce agreement and Order. When considering the previous motions, the Court believed that the one (1) year eleven (11) month delay in filing was so obvious on its face that no explanation was needed. Such a delay is clearly untimely in light of the fact that there must be finality to divorce proceedings so that each party may move on with their separate financial lives.

APPENDIX "A"

Lisa Tenaglia Evans
Clifford B. Hearn, Esquire
June 13, 2016

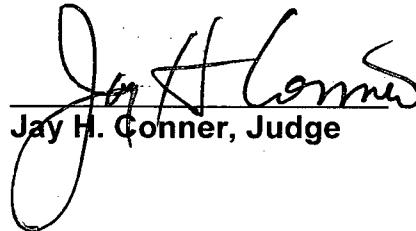
RE: Motion for Explanation & Reconsideration
File No. CN13-04089, Petition No. 13-24221

Due to Ms. Tenaglia Evans request, the Court will amplify the rulings of untimely in this fourth Motion for Reconsideration, even though the Motion itself is extremely duplicitous.

There does exist the legal doctrine of "laches", which requires the denial of Motions to Reopen proceedings when there is unreasonable delay and prejudice to the opposing party. As noted, a delay of almost two years is clearly unreasonable on its face. Any opposing party in a divorce proceeding would be prejudiced as they have moved on with their financial lives two years after the finality of the divorce litigation. The Supreme Court of the State of Delaware has stated many times that "finality" is of the utmost importance in divorce proceedings.

This fourth Motion for Reconsideration must be denied. The divorce proceeding between these parties has been closed since January 23, 2014, and must remain so.

IT IS SO ORDERED.



Jay H. Conner, Judge

cc: File

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

Lisa Tenaglia-Evans)
Petitioner)
V.)
Thomas J. Evans)
Respondent)
File No.: CN13-04089
Petition No.: 13-24221
In Re: Motion to Set Aside Divorce
Judgment
)
)

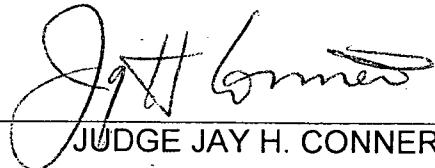
ORDER

Having considered the request of the movant, Lisa Tenaglia-Evans,

IT IS SO ORDERED, this date: 02/26/16

That the Motion to Set Aside Divorce Judgment must be denied and all attachments returned to Ms. Tenaglia-Evans for failure to send notice of Motion to Clifford Hearn, Esquire, Attorney- of- Record for Thomas Evans, or to the litigant himself. Court staff advised that they informed Ms. Tenaglia-Evans of requirement to mail notice and she refused to do so.

The Court, on February 4, 2016, previously denied her request to consider the Motion on an ex parte basis. Thus, the Court can only consider this or any Motion after the opposing party, or his attorney, if represented, has had an opportunity to review the application and respond thereto.



JUDGE JAY H. CONNER

CC: Petitioner Respondent Petitioner Attorney Respondent Attorney DAG PD
 Other _____ DCSE FC.Appointed.Attorneys@state.de.us

DATE MAILED: 2/26/16

APPENDIX B

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

EMERGENCY EX PARTE ORDER

Lisa Tenaglia-Evans

Petitioner

Pro Se

Petitioner's Attorney

v.

Thomas J. Evans

Respondent

C. Hearn

Respondent's Attorney

File No.:

CN 1304089

Petition No.:

13-24221

In the interest of:

D.O.B. _____

D.O.B. _____

D.O.B. _____

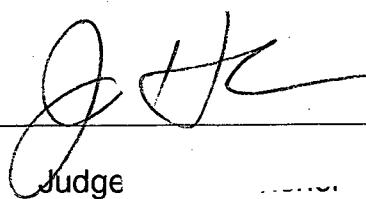
Upon consideration of the Motion and affidavit(s) of the Movant alleging the prospect of immediate and irreparable harm, and pursuant to Family Court Civil Rule 65.2(a), the Court hereby finds that:

Accordingly, IT IS SO ORDERED that the Motion is:

- Granted. Temporary custody/guardianship of the above child(ren) is granted to the Movant.
- Granted. Temporary custody/guardianship of the above child(ren) is granted to the Division of Family Services. The court hereby finds that such placement is in the best interest of the child(ren) and that reasonable efforts were made under the circumstances to prevent removal from the home.
- Denied. The underlying action will proceed in the usual course of business.
- A hearing on the Motion will be held on / / , at before Judge/Commissioner for which 30 minutes has been allotted. This may be your only notice of the hearing. Not appearing risks an adverse ruling. The Family Court is located at:
 - 500 N. King Street, Wilmington, DE 19801
 - 400 Court Street, Dover, DE 19901
 - 22 The Circle, Georgetown, DE 19947
- Other:

DATE:

2/4/2016


Judge

CC: Petitioner; Petitioner's Attorney; Respondent; Respondent's Attorney; File; DFS;
 Other: mailed 2/4/16

Clifford Hearn, Esq.

**Additional material
from this filing is
available in the
Clerk's Office.**