

No. \_\_22A62\_\_

In The Supreme Court of The United States

Javier Bautista-Scheuber, Petitioner,

v.

Alia Day Floren, Respondent.

On Petition for Writ of Certiorari to the Montana Supreme Court

---

**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

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Javier Bautista-Scheuber  
1441 Edward L. Grant Hwy. #4E  
Bronx, NY 10452

(213) 863-4830

[jbscheuber@gmail.com](mailto:jbscheuber@gmail.com)

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**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

**APPENDIX A**

Montana Supreme Court's non-cite memorandum opinion

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Montana Supreme Court's non-cite memorandum opinion affirming judgement....p. 1

FILED

04/26/2022

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 21-0181

DA 21-0181

IN THE SUPREME COURT OF THE STATE OF MONTANA

2022 MT 84N

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IN RE THE MARRIAGE OF:

ALIA DAY FLOREN,

Petitioner and Appellee,

v.

JAVIER BAUTISTA-SCHEUBER,

Respondent and Appellant.

---

APPEAL FROM: District Court of the Fourth Judicial District,  
In and For the County of Missoula, Cause No. DR-18-796  
Honorable Jason Marks, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Javier Bautista-Scheuber, Self-represented, Bronx, New York

For Appellee:

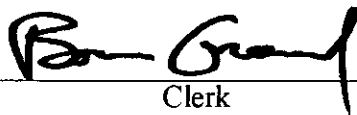
William J. Paul, III, The Paul Law Office, PLLC, Missoula, Montana

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Submitted on Briefs: March 23, 2022

Decided: April 26, 2022

Filed:

  
Clerk

AL

Justice Ingrid Gustafson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Respondent and Appellant Javier Bautista-Scheuber (Javier) appeals from the March 11, 2021 Order issued by the Fourth Judicial District Court, Missoula County. This Order denied Javier's March 9, 2021 Motion, which sought to set aside the District Court's March 2, 2020 Findings of Fact[,] Conclusions of Law[,] and Decree of Dissolution of Marriage. We affirm.

¶3 Javier and Petitioner and Appellee Alia Day Floren (Alia) were married in 2010. On November 2, 2018, Alia filed a Verified Petition for Dissolution of Marriage in the District Court. That same day, she also filed the Petitioner's Proposed Marital Property Settlement, which included, among other things, Alia's proposal that Javier be awarded their 1971 Land Rover and that Javier shall pay her €2,500 for her interest in that vehicle. Javier filed his Response to Petition for Dissolution on December 21, 2018. On January 29, 2019, Javier filed a motion which requested the District Court extend deadlines in the case because he needed to receive urgent medical care in Europe. No further action occurred in the case until Alia filed a Motion for Status Conference to Set Scheduling Order for Final

filed a Motion—consisting of 48 single-spaced pages, with an additional 168 pages of attachments—which sought relief from the decree of dissolution. Though it did not directly cite to M. R. Civ. P. 60(b), Javier’s motion did list quotations from subsections (1) to (6) of that rule on page 7 of his motion when arguing he was entitled to relief. On March 11, 2021, the District Court issued an Order denying Javier’s motion, finding the motion both “untimely” and “facially without merit.”

¶7 Javier appeals, raising several issues related to the dissolution proceedings; however, we need only address the following dispositive issue: whether the District Court abused its discretion when it denied Javier’s M. R. Civ. P. 60(b) motion for relief.

¶8 “Our standard of review of a district court’s ruling on a motion pursuant to M. R. Civ. P. 60(b) depends on the nature of the final judgment, order, or proceeding from which relief is sought and the specific basis of the Rule 60(b) motion.” *Essex Ins. Co. v. Moose’s Saloon, Inc.*, 2007 MT 202, ¶ 16, 338 Mont. 423, 166 P.3d 451. As a general rule, we review rulings on Rule 60(b) motions for an abuse of discretion. *Essex Ins. Co.*, ¶ 16. Exceptions to the general rule include motions made under Rule 60(b)(2), Rule 60(b)(4), or when a party seeks relief from a default or default judgment. *Essex Ins. Co.*, ¶¶ 16-17. Under the facts of this case, the abuse of discretion standard applies. “A district court abuses its discretion when it acts arbitrarily without employment of conscientious judgment or exceeds the bounds of reason resulting in substantial injustice.” *In re Marriage of Orcutt*, 2011 MT 107, ¶ 6, 360 Mont. 353, 253 P.3d 884 (citing *Essex Ins. Co.*, ¶ 19).

¶9 “There must be some point at which litigation ends and the respective rights between the parties are forever established. Under ordinary circumstances, once this point is reached a party will not be allowed to disturb that judgment.” *In re Marriage of Waters*, 223 Mont. 183, 186, 724 P.2d 726, 729 (1986). M. R. Civ. P. 60(b), however, provides an exception to the finality of judgments doctrine. Rule 60(b) provides:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

“A motion under Rule 60(b) must be made within a reasonable time -- and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.” M. R. Civ. P. 60(c)(1).

¶10 In the present case, the District Court denied Javier’s motion for relief from the dissolution decree, finding it both “untimely” and “facially without merit.” Javier’s motion quoted from each subsection of Rule 60(b), with additional commentary under subsections

60(b)(2), (3), (5), and (6) asserting why those subsections applied to his case. The order Javier sought relief from, the District Court's Findings of Fact[,] Conclusions of Law[,] and Decree of Dissolution of Marriage, was issued on March 2, 2020. Javier's motion to set aside that order was not filed until March 9, 2021, which is more than a year after the order and therefore, to the extent Javier sought relief pursuant to Rule 60(b)(2) and/or (3), untimely pursuant to M. R. Civ. P. 60(c)(1).

¶11 This leaves only Javier's request for relief under either Rule 60(b)(5) or Rule 60(b)(6). We have long reiterated relief is only "available under M. R. Civ. P. 60(b)(6) 'for situations other than those enumerated in the first five subsections of the rule.'" *Mont. Profl Sports, LLC v. Nat'l Indoor Football League, LLC*, 2008 MT 98, ¶ 54, 342 Mont. 292, 180 P.3d 1142 (quoting *Matthews v. Don K Chevrolet*, 2005 MT 164, ¶ 17, 327 Mont. 456, 115 P.3d 201). "It is generally held that if a party seeks relief under any other subsection of Rule 60(b), it cannot also claim relief under 60(b)(6)." *Detienne v. Sandrock*, 2017 MT 181, ¶ 41, 388 Mont. 179, 400 P.3d 682 (quoting *Koch v. Billings Sch. Dist. No. 2*, 253 Mont. 261, 265, 833 P.2d 181, 183 (1992)). As such, we need only address whether the District Court abused its discretion by not granting Javier's motion for relief under M. R. Civ. P. 60(b)(5) because by moving for relief under Rule 60(b)(5) (as well as Rule 60(b)(2) and (3)), "[r]elief under Rule 60(b)(6) is not and was not available to him." *Detienne*, ¶ 41.

¶12 A motion under Rule 60(b)(5) does not have the same one-year time bar that motions made pursuant to Rule 60(b)(1), (2), and (3) do, but must be made within a "reasonable



time[.]” M. R. Civ. P. 60(c)(1). “What is a reasonable time will depend on the particular facts of the individual case. Questions of timeliness under the rule are addressed to the sound discretion of the court, and the court’s judgment will be overturned only upon a showing of abuse of discretion.” *In re Marriage of Waters*, 223 Mont. at 189, 724 P.2d at 730.

¶13 Here, the District Court found Javier’s motion for relief was untimely, and we agree. Javier contended, in his motion, that Rule 60(b)(5) was applicable because:

The Decree of Dissolution is not equitable nor reasonable[.] Respondent could not participate at the final hearing and the court elaborated the Decree of Dissolution with incomplete and or incorrect information[.]

To begin, we would note all the information regarding his finances, circumstances, and contentions regarding the marriage Javier claims the District Court did not have when it issued the dissolution decree could have been provided in his financial disclosures, which he was ordered by the court to serve on Alia but never did, or by appearing at the final hearing. This information was all known to him the day the District Court issued its dissolution decree as well, yet he waited over a year to file his motion for relief. Javier also claims he “could not” participate in the final hearing, but this contention is unavailing in light of the record in this case. Javier found time to email Alia personally the day before the final hearing, even though he had been told in open court she did not want to be contacted by him, but did not manage to get around to letting the District Court know he would not be personally appearing at the hearing until after the hearing had started. Javier was allowed to appear by phone at the status conference, and could have moved at any time

before the final hearing to appear by phone, but did not. Javier clearly knew he was not going to make it from New York to Missoula for the final hearing, but made no attempt to inform the District Court of that fact until after the final hearing had already started, which the court correctly rejected as untimely. In light of these facts, the District Court did not abuse its discretion by determining Javier's motion for relief, to the extent it was made under Rule 60(b)(5), was not made within a "reasonable time" or by denying the motion as untimely.

¶14 As this issue is dispositive, it is unnecessary to address Javier's other appealed issues, because Javier did not directly appeal the District Court's Findings of Fact[,] Conclusions of Law[,] and Decree of Dissolution of Marriage, and "a Rule 60(b) motion may not be used as a substitute for appeal." *Donovan v. Graff*, 248 Mont. 21, 25, 808 P.2d 491, 494 (1991) (citations omitted); *see also Koch*, 253 Mont. at 271, 833 P.2d at 187 ("Generally, failure to appeal for almost any reason is fatal to a motion to reopen judgment under Rule 60(b).").<sup>1</sup>

¶15 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the

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<sup>1</sup>In addition, on February 10, 2022, Javier filed a Motion for Clarification on Reasonable Disability, asserting his reply brief should be exempted from certain formatting requirements of M. R. App. P. 11 and 12 due to his disability. Javier's Reply Brief was filed on February 14, 2022, so his Motion for Clarification on Reasonable Disability is moot.

Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶16 Affirmed.

/S/ INGRID GUSTAFSON

We concur:

/S/ MIKE McGRATH  
/S/ JAMES JEREMIAH SHEA  
/S/ BETH BAKER  
/S/ DIRK M. SANDEFUR



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**APPENDIX B**

Montana 4<sup>th</sup> District Court's judgement **Dismissing Motion M.R.Civ.P. 60 Relief  
of Judgement**

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Montana 4<sup>th</sup> District Court's Judgement **Dismissing Motion M.R.Civ.P. 60 Relief  
Of Judgement**.....p. B-1

1 Jason Marks, District Judge  
2 Fourth Judicial District, Dept. 4  
3 Missoula County Courthouse  
4 200 West Broadway  
5 Missoula, MT 59802  
6 (406) 258-4774

## MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

7 IN RE THE MARRIAGE OF:	Dept. 4
8 ALIA D. FLOREN,	Cause No. DR-18-796
9 Petitioner,	ORDER
10 vs.	
11 JAVIER BAUTISTA-SCHEUBER,	
12 Respondent.	

13  
14 On March 9, 2021, over a year after the final hearing on the Petition for  
15 Dissolution of Marriage in this case, Respondent has filed a 48-page Motion with an  
16 additional 168 pages of attachments seeking to set aside the Decree of Dissolution  
17 issued by this Court. The Respondent's Motion is untimely and, having reviewed  
18 the Motion in its entirety, the Court also finds that it is facially without merit.  
19 Respondent's Motion is hereby DENIED.  
20

21  
22 DATED this 11<sup>th</sup> day of March, 2021.

23  
24 Jason Marks  
25 District Judge

26 cc: William J. Paul, III, Esq.  
Javier Bautista-Scheuber, pro se

Order

Electronically Signed By: Page 1  
Hon. Judge Jason Marks  
Thu, Mar 11 2021 11:55:43 AM

B 1

No. \_\_22A62\_\_

In The Supreme Court of The United States

Javier Bautista-Scheuber, Petitioner,

v.

Alia Day Floren, Respondent..

On Petition for Writ of Certiorari to the Montana Supreme Court

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**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

**APPENDIX C**

Montana 4<sup>th</sup> District Court's Judgement

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Montana 4<sup>th</sup> District Court's Judgement: Findings of Fact, Conclusions of Law.p. C-1

Montana 4<sup>th</sup> District Court's Judgement: Notice of Entry of Judgement.....p. C-7

1 JASON MARKS  
District Court Judge  
2 Department No. 4  
Missoula County Courthouse  
3 Missoula, Montana 59802  
(406) 258-4774  
4  
5  
6  
7

8 MONTANA FOURTH JUDICIAL DISTRICT, MISSOULA COUNTY

9 In re the Marriage of: ) Dept. No. 4  
10 ALIA D. FLOREN ) CAUSE No. DR-18-796  
11 Petitioner, )  
12 ) FINDINGS OF FACT  
13 and ) CONCLUSIONS OF LAW  
14 JAVIER BAUTISTA-SCHEUBER ) AND DECREE OF DISSOLUTION  
15 ) OF MARRIAGE  
16 Respondent. )  
17 \_\_\_\_\_ )

18 This matter came on for hearing in open Court on the 28<sup>TH</sup> day of  
19 February, 2020. Present in Court were Alia Floren, Petitioner herein, and  
20 her attorney, William J. Paul. Respondent, Javier Bautista-Scheuber did not  
21 appear. Petitioner was sworn and testified.

22 FROM THE EVIDENCE AND TESTIMONY, THE COURT MAKES  
23 THE FOLLOWING:



**FINDINGS OF FACT**

1  
2 1. More than 21 days have passed since Respondent was served  
3 with a copy of the Summons and Petition in this matter.

4 2. Alia Floren was domiciled in Missoula County, Montana, for  
5 greater than 90 days prior to the filing of the Petition in this matter.

6 3. The parties were married on June 4, 2010, in the city of Missoula,  
7 Montana, and the marriage was registered in Missoula County, Montana.

8 4. The parties separated on February 25, 2016, and have remained  
9 separate and apart ever since that time.

10 5. Petitioner testified that there is serious marital discord that  
11 adversely affects her attitude toward the marriage, that she does not seek  
12 any reconciliation with Respondent. That through the time of the marriage  
13 she was subject to repeated beatings by Respondent. Some of these  
14 beatings were witnessed by Petitioner's mother who testified that she had  
15 to pull Respondent off her daughter while he was punching her daughter in  
16 the face.

17 6. Petitioner states that as a consequence of Respondent's domestic  
18 violence she has been diagnosed with PTSD by Sunburst Mental Health.  
19 That despite a prior restraining order, and notice to Respondent in this  
20 Court by her attorney that she does not want contact with him, Respondent  
21 continues to send her e-mails and flowers to her.

22 7. Petitioner believes that having lived separate and apart for greater  
23 than four years, and for the other reasons she gave, their marriage is  
24 irretrievably broken.

1           8. Petitioner testified that she executed and served her Preliminary  
2 Declarations of Disclosure, Asset and Income Statement to Respondent on  
3 January 31, 2020, in the manner ordered by the Court.

4           9. Petitioner testified that she has not been served with  
5 Respondent's Preliminary Declarations of Disclosure, Asset and Income  
6 Statement.

7           10. There are no children born or adopted during the parties'  
8 marriage or otherwise, and Petitioner is not pregnant.

9           11. The parties did not accumulate any real property that Petitioner  
10 is aware of.

11           12. The parties did accumulate certain items of personal property  
12 during the marriage. However, except for the parties' vehicles, that  
13 personal property is of negligible value and should be distributed as set  
14 forth in Petitioner's 02-27-2020 Proposed Marital Property Settlement.

15           13. Petitioner's division of the parties' vehicles pursuant to  
16 Petitioner's 02-27-2020 Proposed Marital Property Settlement is an  
17 equitable distribution of the property.

18           14. The parties do not have any retirement funds that Petitioner is  
19 aware of.

20           15. Petitioner has incurred certain debts during the marriage that  
21 are subject to division in this proceeding, but is unaware of any debts or  
22 liabilities of Respondent and believes there are none. Petitioner believes  
23 that an equitable division of debts is that the parties should be individually

1 responsible for the debts and liabilities held in their sole and separate  
2 names, which Petitioner believes encompasses all of their debts.

3 16. Petitioner testified that she does not believe that either party  
4 should have an obligation to pay maintenance to the other party because  
5 both parties are able to be self-supporting through appropriate employment  
6 and have sufficient property to provide for their reasonable needs. In  
7 particular, Petitioner notes that prior to the marriage Respondent obtained  
8 a Doctor of Computational Neuroscience from the University of Southern  
9 California and during the marriage was an independent contractor and  
10 consultant in his field. That during the marriage Respondent financed two  
11 trips across Europe and an extended trip around the African continent thru  
12 these earnings.

13 17. Petitioner believes that her Petitioner's 02-27-2020 Proposed  
14 Marital Property Settlement is fair and not unconscionable.

15 18. Petitioner testified that neither party is a member of the Armed  
16 Forces of the United States.

17  
18 FROM THE FOREGOING, THE COURT DRAWS THE FOLLOWING:  
19

20 **CONCLUSIONS OF LAW**

- 21 1. This Court has jurisdiction over the matter and over the parties.  
22 2. The parties' marriage is irretrievably broken.  
23 3. The Montana Conciliation Law and the provisions of Montana  
24 Code Annotated § 40-4-107, do not apply or have been met.

1           4. Pursuant to Montana Code Annotated § 40-4-203 neither party  
2 should be granted maintenance.

3           5. Petitioner's 02-27-2020 Proposed Marital Property Settlement is  
4 equitable and not unconscionable, and should be incorporated into the  
5 Decree of Dissolution of Marriage.

6  
7           FROM THE FOREGOING, THE COURT ENTERS THE  
8 FOLLOWING:

9  
10                   **DECREE OF DISSOLUTION OF MARRIAGE**

11           1. The parties' marriage is hereby dissolved.

12           2. The Petitioner's 02-27-2020 Proposed Marital Property Settlement  
13 is hereby approved and is incorporated into the Decree as if restated in its  
14 entirety.

15           3. The Court hereby orders the parties to perform the provisions  
16 contained in Petitioner's 02-27-2020 Proposed Marital Property Settlement.

17           4. Violation of any provision of this Decree, or the provisions of  
18 Petitioner's Proposed 02-27-2020 Proposed Marital Property Settlement,  
19 may be punishable by contempt of Court and may also be a criminal  
20 offense under Montana Code Annotated § 45-7-309.

21           5. Neither party owes the other party a duty to pay maintenance,  
22 either now or in the future.

23           6. Each party shall pay their own attorney fees and costs incident to  
24 the dissolution of their marriage.

7. The Temporary Restraining Order placed in effect by issuance of the Summons is hereby dissolved.

**DATED: This \_\_\_\_ day of February, 2020.**

Hon. Jason Marks, District Court Judge.

Cc: Petitioner  
Respondent (Pro Se)  
William J. Paul, Esq.

1 **Paul Law Office, PLLC**  
 William J. Paul, Attorney at Law  
 2 2809 Great Northern Loop, Ste. 210  
 Missoula, MT 59808  
 3 (406) 728-0007 / bcpaullaw@gmail.com  
 Attorney for Petitioner

4  
 5  
 6  
 7  
 8 MONTANA FOURTH JUDICIAL DISTRICT,  
 9 MISSOULA COUNTY

10 In re the Marriage of: ) Dept. No. 4  
 11 **ALIA D. FLOREN** ) CAUSE No. DR-18-796  
 12 Petitioner, )  
 13 ) **NOTICE OF ENTRY OF**  
 14 and ) **JUDGMENT**  
 15 **JAVIER BAUTISTA-SCHEUBER** )  
 16 )  
 17 Respondent. )  
 18 \_\_\_\_\_ )

19 Comes now, William Paul, Attorney for Petitioner, and serves Notice  
 20 to Respondent, **JAVIER BAUTISTA-SCHEUBER**, that on February 28,  
 21 2020, this Court entered Findings of Fact, Conclusions of Law and Decree  
 22 of Dissolution of Marriage and Permanent Order of Protection in this  
 23 matter. True and correct copies of which are included with this Notice of

1 Entry of Judgment and are served upon you as provided in the Certificate  
2 of Service set forth below.

3  
4 DATED: This 10th day of March, 2020.

5  
6  
7 s/ 

8 William J. Paul, Attorney for Petitioner.

9  
10 **CERTIFICATE OF SERVICE**

11 The undersigned hereby certifies that on the 10th day of March,  
12 2020, a true and correct copies of the foregoing Notice of Entry of  
13 Judgment, Findings of Fact Conclusions of Law and Decree of Dissolution  
14 of Marriage, and Permanent Order of Protection, were duly served on  
15 Respondent at his court filed contact information as set forth below:

16 **E-MAIL**

17 Respondent

18 Jbscheuber@gmail.com

19  
20  
21 s/ 

22 William J. Paul, Esq.

## **CERTIFICATE OF SERVICE**

I, William J. Paul, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice of Entry of Judgment to the following on 03-10-2020:

Pro Se - Self Help (Attorney)  
Representing: Javier Bautista Scheuber  
Service Method: Email

Electronically Signed By: William J. Paul  
Dated: 03-10-2020



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**APPENDIX D**

Statutory Provisions

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**Rule 60. Relief from a Judgment or Order**

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) Timing. A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(2) Effect on Finality. The motion does not affect the judgment's finality or suspend its operation.

(d) Other Powers to Grant Relief. This rule does not limit a court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief under 28 U.S.C. §1655 to a defendant who was not personally notified of the action; or

(3) set aside a judgment for fraud on the court.

(e) Bills and Writs Abolished. The following are abolished: bills of review, bills in the nature of bills of review, and writs of coram nobis, coram vobis, and audita querela.

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**APPENDIX E**

Montana 4<sup>th</sup> District Court's Permanent Order of Protection

---

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Montana 4<sup>th</sup> District Court's Permanent Order of Protection.....p. E-1

1 HON. JASON MARKS  
District Court Judge  
2 Department No. 4  
Missoula County Courthouse  
3 Missoula, Montana 59802  
(406) 258-4774

FILED MAR 09 2020

By SHIRLEY E. FAUST, CLERK  
Deputy

8 MONTANA FOURTH JUDICIAL DISTRICT, MISSOULA COUNTY

9 In re the Marriage of: ) Dept. No. 4  
10 ALIA D. FLOREN ) CAUSE No. DR-18-796  
11 Petitioner, )  
12 ) PERMANENT ORDER  
13 and ) OF PROTECTION  
14 JAVIER BAUTISTA-SCHEUBER )  
15 )  
16 Respondent. )  
17 )

18 This Permanent Order of Protection is issued after hearing  
19 in open Court:

20 Date of Issue: February 28, 2020.

21 Date of Expiration: Permanent.

22  
23 DESCRIPTION OF THE PARTIES

24 1. Petitioner / Protected Person:

25 a. Alia D. Floren.

26 b. Born - 1989.

c. Petitioner's relationship to Respondent – Former Spouse.

**2. Respondent / Restrained Person:**

a. Javier Bautista-Scheuber

b. Description - see picture, Attachment A to Order

c. Male

d. Caucasian

e. Born - 1970

f. Height – 5' 7"

g. Weight – 135lbs

h. Eyes – Blue - Grey

i. Hair – Brown, grey at temples

j. Driver's License – None

3. Respondent's Address: c/ ana de Austria 34 portal L atico A Madrid,  
Spain, 28050.

**FINDINGS OF FACT**

1. Petitioner appeared in open court on February 28, 2020 and was represented by William J. Paul. Respondent did not appear.

2. This Court has Jurisdiction over the parties and over the subject matter.

3. Respondent was provided reasonable notice and the opportunity to be heard.

4. The Court finds that on December 31, 2019, Respondent was given actual notice in open court that Petitioner did not want to be contacted in any manner by Respondent.

1 **WARNINGS:** This Order shall be enforced without registration,  
2 by the courts of any state, the District of Columbia, and U.S.  
3 Territory, and may be enforced on Tribal Lands (18 U.S.C. Section  
4 2265). Crossing state, territorial, or tribal boundaries to violate this  
5 Order may result in federal imprisonment (18 U.S.C. Section 2262).  
6 Federal law provides penalties for possessing. Transporting.  
7 Shipping, or receiving (18 U.S.C. Section 922(g)(8)(9)).

8 Violation of this Order may be a criminal offence under applicable  
9 Federal or Tribal Law and is a criminal offence under Mont. Code  
10 Ann. § 45-5-220 or § 45-5-626 and may carry penalties of up to  
11 \$10,000.00 in fines and up to a 5 year jail sentence. It is a  
12 misdemeanor under Mont. Code Ann. § 45-5-220 and / or 45-5-626  
13 for the Respondent. Even if invited and after notice of this Order, to  
14 violate the provisions of this Order. Further, under Montana Code  
15 Annotated §§ 45-2-301 and 302(3), it is a crime for and person to aid  
16 and abet a crime, or not being present. To advise or encourage a  
17 crime. Under Mont. Code Ann, § 45-2-303, and person who  
18 counsels, aids, solicits or incites another to commit a misdemeanor  
19 is guilty of a misdemeanor. Therefore, it may be a crime for and  
20 person to encourage or in invite contact between the Respondent  
21 and the Petitioner, except such contact as is expressly permitted by  
22 the above Order.

23 **ATTENTION: KEEP A COPY OF THIS ORDER IN YOUR**  
24 **POSSESSION AT ALL TIMES IN ORDER TO ASSIST PEACE**  
25 **OFFICERS. IMMEDIATELY REPORT ANY VIOLATION OF THIS**  
26 **ORDER TO LAW ENFORCEMENT. Petitioners Are Eligible To Apply**  
27 **For A Hope Card At: <https://doj.mt.ovlvictims/hope-cards/>**

**ATTACHMENT A – PICTURE JAVIER BAUTISTA SCHEUBER**



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