No.

In The
SUPREME COURT OF THE UNITED STATES

TRUDY STANFORD,

Petitioner,

v.

LINDA BROWNE; JULIE ANN STANFORD, and
JAMES STANFORD

Respondents.

MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE PETITION FOR WRIT OR CERTIOARI

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The petitioner is filing this motion pursuant to Supreme Court Rule 13(5) requesting a short extension of time within which to file the petition for a writ of certiorari. All that is needed is two days, until the close of business on Friday, Dec. 29, 2017.

The petitioner will be submitting a Petition for a Writ of Certiorari to this court to review a decision of the Nevada Supreme Court filed on September 28, 2017. A copy of the decision is attached as Exhibit 1. This court has jurisdiction under 29 USC Section 1257(a) to consider a final judgment from a state appellate court.

This counsel was not her attorney of record in either the trial or in the Nevada Supreme Court. After the decision was made, she desired to obtain an attorney with experience in U.S. Supreme Court cases. This counsel was retained approximately 40 days ago and has worked diligently to prepare the petition.

The petition is completed except for correction of formatting errors. This counsel is registered with this court for electronic filing and can that by Wednesday, December 28, 2017. However, the court also still requires paper filing as the official filing.

This counsel has retained the services of the Thiel Press, a long time printer of briefs and petitions with whom this counsel has worked before on another case.

The one main difficulty is that Monday is Christmas day and his office and the courts are closed. We have already worked through the initial corrections and will do a final correction on Tuesday morning.

Were it not for the Monday holiday, the petition would be filed on time. Although it is possible to get the petition filed, petitioner seeks a very short extension to make sure that it is done correctly.

Respectfully submitted,

/s/ Robert W. Lueck
Attorney for Petitioner

CERTIFICATE OF SERVICE OF MOTION

I hereby certify that a copy of the above and foregoing motion was served by mail on the 22d day of December, 2017 addressed as follows:

F. Dearmond Sharp Esq.
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Reno, NV 89503

Adam Paul Laxalt
Attorney General
100 North Carson Street
Carson City, NV 89701

/s/Nancy Hazim

December 22, 2017.

APPENDIX A

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRUDY STANFORD Appellant vs. LINDA BROWNE, INDIVIDUALLY JULIE ANN STANFORD INDIVIDUALLY, AND JAMES STANFORD, INDIVIDUALLY Respondents	No. 70021 Filed. Sept. 28, 2017
TRUDY STANFORD, INDIVIDUALLY, Appellant, vs. LINDA BROWNE, INDIVIDUALLY; JULIE ANN STANFORD, INDIVIDUALLY; AND JAMES STANFORD, INDIVIDUALLY Respondents	No. 70174

ORDER OF AFFIRMANCE

Consolidated appeals from a final judgment in a declaratory relief action and post-judgment order awarding attorney fees and costs. First Judicial District Court, Carson City; James Todd Russell, Judge

FACTS AND PROCEDURAL HISTORY

In the late 1980s, Mark Stanford, an employee of the State of Nevada, participated in the Public Employee's Deferred Compensation Plan (the Compensation Plan). Mark designated his then wife, Trudy Stanford, as the Compensation Plan's primary beneficiary. Mark and Trudy divorced in 1990. The divorce decree stated that Mark received "[t]he interest in . . . the deferred compensation account in his name." In the early 1990s, Mark began a relationship with Linda Browne. During Mark and Linda's relationship, Mark designated Linda as the primary beneficiary of several life insurance plans and retirement accounts. However, while Linda states that they mailed a change of beneficiary form to the Compensation Plan's administrator, the administrator has no record of processing it.

Mark died in 2013. Thereafter, both Trudy and Linda submitted claims for the Compensation Plan's funds. However, the Compensation Plan administrator could not conclusively establish the beneficiary of the account. Trudy filed suit against the account administrator, seeking a judicial declaration that she was the primary beneficiary. The administrator then filed a cross-complaint and first amended cross-complaint in interpleader, naming Mark's two children and Linda (the Texas Beneficiaries) as cross-defendants.

The district court then conducted a bench trial. The district court held in favor of the Texas Beneficiaries. In so holding, the district court stated, in part, that the divorce decree expressly terminated Trudy's beneficiary designation. The district court also awarded attorney fees and costs to the Texas Beneficiaries.

DISCUSSION

Trudy argues that the district court erred in finding that she waived her right to remain a designated beneficiary of the Compensation Plan in the 1990 divorce decree. We disagree.

This court reviews questions of law de novo. *Jackson* v. *Groenendyke*, 132 Nev., Adv. Op. 25, 369 P.3d 362, 365 (2015).

Prior to the 2011 enactment of NRS 111.781,[1] this court held that only "explicit language in a divorce decree . . . divest[ed] a former spouse of his or her rights as designated beneficiary." *Redd v. Brooke*, 96 Nev. 9, 12, 604 P.2d 360, 362 (1980) (evaluating whether a divorce decree divested a designated beneficiary of a life insurance policy). As such, "[g]eneral expressions or clauses in [the divorce decree] [were] not to be construed as including an assignment or renunciation of expectancies." Id. at 11, 604 P.2d at 361.

Applying *Redd* to Trudy and Mark's 1990 divorce, the divorce decree divested Trudy of her right to remain a designated beneficiary of the Compensation Plan. The divorce decree expressly stated that Mark received "the *interest* in . . . the deferred compensation account in his name." (emphasis added). Beneficiaries possess an expectancy interest in such plans, and, therefore, the divorce decree goes beyond mere general expression by clearly renouncing Trudy's expectancy under the Compensation Plan. Because the divorce decree divested Trudy of her rights as a designated beneficiary of the Compensation Plan, the district court did not err in this regard.[2]

CONCLUSION

The 1990 divorce decree divested Trudy of rights as a beneficiary of the Compensation Plan. Accordingly we,

ORDER the judgments of the district court AFFIRMED.

s/Hardesty, J
Hardesty

s/Parraguirre, J
Parraguirre

s/ Stiglich, J
Stiglich

cc: Hon. James Todd Russell, District Judge
Carl M. Hebert
Bowen Hall
Robison, Simons, Sharp & Brust
Barger & Nolen LLP
Dickinson Wright PLLC
Carson City Clerk

[1]See 2011 Nev. Stat. ch. 270, § 47, at 1426-28. NRS 111.781(1)(a)(1) provides that "the divorce or annulment of a marriage . . . [r]evokes any revocable . . . [d]isposition [ ] of property made by a divorced person to his or her former spouse in a governing instrument. The 2015 Legislature added subsection 10, which provides that NRS 111.781 "applies [ ] to nonprobate transfers which become effective because of the death of a person on or after October 1, 2011, regardless of when the divorce or annulment occurred." 2015 Nev. Stat., ch. 524, § 3, at 3523.

[2]Because Trudy waived her rights as a beneficiary of the Compensation Plan in 1990, we need not reach Trudy's other arguments, including her Contract Clause claim regarding NRS 111.781's application to this case. See Cortes v. State, 127 Nev. 505, 516, 260 P.3d 184, 192 (2011) ("Constitutional questions should not be decided except when absolutely necessary to properly dispose of the particular case."). Further, Trudy argues that the district court's order of attorney fees and costs should be reversed based on NRCP 60(b)(5) (relief from judgment based on reversed prior judgment). Because we affirm the district court's order granting declaratory relief, we conclude that this argument is without merit.