

9-29-2016

Davidson v. Davidson, 132 Nev. Adv. Op. 71 (Sept. 29, 2016)

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Nevada Law Journal

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Recommended Citation

Davidson, Hunter, "Davidson v. Davidson, 132 Nev. Adv. Op. 71 (Sept. 29, 2016)" (2016). *Nevada Supreme Court Summaries*. Paper 1006.

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CIVIL PROCEDURE: STATUTE OF LIMITATIONS ON ENFORCING DIVORCE
DECREES

Summary

The Court determined that: (1) the six-year statute of limitations in NRS 11.190(1)(a) applies to claims for enforcement of a property distribution provision in a divorce decree; and (2) the statute of limitations period in an action on a divorce decree commences “from the last transaction or the last item charged or last credit given.”

Background

In 2006, Dawnette and Christopher Davidson divorced. Their divorce decree required Dawnette to release her rights in the marital residence via quitclaim deed. In return, Christopher would pay Dawnette one-half of the equity in the marital residence.

About two weeks after the divorce, Dawnette and Christopher reconciled. Though never remarrying, they lived together in the marital residence until 2011. Dawnette executed the quitclaim deed in 2006. Christopher claimed he paid Dawnette half of the equity, but she denied ever receiving it.

In 2014, Dawnette filed a motion to enforce the divorce decree. Christopher argued that the statute of limitations barred Dawnette’s claim. Dawnette responded that the statute of limitations had not yet begun to run because the decree did not provide a deadline by which Christopher needed to tender payment. The district court concluded Dawnette’s claim was untimely after holding that that an action to enforce a divorce decree must be commenced within six years pursuant to NRS 11.190(1)(a). Dawnette appealed.

Discussion

Whether the family division of the district court may enforce its decrees without time limitations

Except for child support orders, Nevada laws does not exclude the district court’s family division from the limitations period in NRS 11.190(1)(a). Dawnette argued that NRS 125.240 allows the family division of the district court to enforce its decrees and judgments without any time limitations. Under NRS 125.240, the family division can enforce its orders in separate maintenance actions without any time limitations. Dawnette reasoned that this absence of time limitations in separate maintenance actions applied because NRS 125.250 states that all the proceedings in a separate maintenance case must mirror divorce proceedings as much as possible.

The Court rejected Dawnette’s argument for two reasons: (1) even though separate maintenance proceedings generally must mirror divorce proceedings, divorce proceedings are not required to mirror maintenance proceedings; and (2) the Nevada Legislature did not intend to eliminate the statute of limitations for enforcement of all family division orders. If the Nevada Legislature really intended to eliminate the statute of limitations for enforcement of all family

¹ By Hunter Davidson.

division orders, then it would have granted specific authority like in NRS 125B.050, which specifically disregards time limits to enforce child support orders. Similarly, NRS 125.150(3) also sets a limitations period for post-judgment motions to adjudicate omitted assets in divorce, annulment, or separate maintenance cases. Thus, there is no reason to create a new rule that excludes property distribution provisions in divorce decrees from the six-year statute of limitations in NRS 11.190(1)(a).

Whether the statute of limitations has expired for Dawnette's action

Dawnette's action was time barred because the statute of limitations expired in 2012. Dawnette argued that because the decree did not include a deadline, and because it was not reasonable for her to demand payment while still living in the marital residence, that the statute of limitations did not begin to run until the parties' post-decree separation in 2011. The Court rejected this argument and held that the statute of limitations began to run once there was "evidence of indebtedness." Under NRS 11.200, and *Borden v. Clow*², "evidence of indebtedness" existed once Dawnette delivered the quitclaim deed to Christopher in 2006. Accordingly, NRS 11.190(1)(a)'s six-year statute of limitations period began running in 2006 and expired in 2012. Therefore, Dawnette's 2014 claim was untimely.

Conclusion

The six-year statute of limitations in NRS 11.190(1)(a) applied to Dawnette's motion to enforce the property distribution provision of her divorce decree. Furthermore, the statute of limitations began running when Dawnette delivered the quitclaim deed to Christopher in 2006.

² 21 Nev. 275, 278, 30 P. 821, 822 (1892).