

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 2, 2006

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2006AP1136-FT

Cir. Ct. No. 2000FA71

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

IN RE THE MARRIAGE OF:

GLEN C. HONG,

PETITIONER-APPELLANT,

V.

ANNETTE R. HONG N/K/A ANNETTE R. CHRISTOPHER,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Jackson County:
GERALD W. LAABS, Judge. *Affirmed.*

Before Lundsten, P.J., Vergeront and Deininger, JJ.

¶1 PER CURIAM. Glen Hong appeals an order denying his motion to reopen a post-divorce decision awarding his former wife Annette Christopher maintenance. *See* WIS. STAT. § 806.07(1)(a) and (h) (2003-04).¹ We affirm.

¶2 Hong and Christopher were divorced on March 16, 2001. Four years later, Christopher moved for an award of maintenance and to enforce Hong's child support obligation. On July 13, 2005, the circuit court awarded Christopher \$1000 per month in maintenance for ten years. On September 23, 2005, Hong moved the circuit court to reopen the decision under WIS. STAT. § 806.07(1)(a) and (h). On February 8, 2006, the court denied the motion to reopen.

¶3 WISCONSIN STAT. § 806.07 “enhances fairness in the administration of justice by authorizing a circuit court to vacate judgments on various equitable grounds.” *Franke v. Franke*, 2004 WI 8, ¶20, 268 Wis. 2d 360, 674 N.W.2d 832 (footnote omitted). Among other things, a circuit court may relieve a party from an order or judgment on the grounds of “[m]istake, inadvertence, surprise, or excusable neglect,” or for “[a]ny other reasons justifying relief from the operation of the judgment.” Section 806.07(1)(a) and (h). The statute “attempts to achieve a balance between the competing values of finality and fairness in the resolution of a dispute.” *State ex rel. M.L.B. v. D.G.H.*, 122 Wis. 2d 536, 542, 363 N.W.2d 419 (1985). We will affirm a circuit court's order denying a motion to reopen under § 806.07 unless the circuit court misuses its discretion. *Id.* at 541.

¶4 Hong contends that the judgment should be reopened because he was not represented by an attorney, so he did not persuasively present his case and

¹ All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

did not present mitigating evidence. He also contends that the circuit court did not consider all of the evidence on the merits because it had a preconceived bias to award maintenance.

¶5 Hong has not provided any factual or legal support for his claim that the maintenance award was the result of a mistake, inadvertence, surprise, or excusable neglect. Hong's decision to proceed without an attorney, while perhaps imprudent, does not fall within the statutory criteria. To the extent Hong is arguing that the circuit court made a "mistake" by improperly analyzing the facts and reaching the decision it did, he is attributing an incorrect meaning to "mistake" in WIS. STAT. § 806.07(1)(a). "Mistake" does not mean trial court error. The way to challenge the court's decision was to file an appeal or a motion to reconsider that decision, which Hong did not do. Hong also has alleged nothing that suggests that extraordinary circumstances exist. The circumstances are that Hong proceeded without an attorney and did not like the result. The circuit court did not misuse its discretion in denying Hong's motion to reopen the judgment.

¶6 Hong next argues that the circuit court erroneously exercised its discretion in awarding maintenance. This appeal is taken from the order denying the motion to reopen entered February 8, 2006, not from the decision awarding maintenance entered July 13, 2005. Because the maintenance decision is not properly before us, we will not address this issue.

By the Court.—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

