

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

June 13, 2001

Cornelia G. Clark  
Clerk, Court of Appeals  
of Wisconsin

**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.

**No. 00-2172**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**IN RE THE MARRIAGE OF:**

**SUSAN P. HUYCKE-SOSSAMAN,**

**PETITIONER-RESPONDENT,**

**v.**

**DEAN K. SOSSAMAN,**

**RESPONDENT-APPELLANT.**

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APPEAL from an order of the circuit court for Waukesha County:  
LEE S. DREYFUS, Judge. *Affirmed.*

Before Brown, P.J., Anderson and Snyder, JJ.

¶1 PER CURIAM. Dean K. Sossaman appeals from an order vacating a stipulation modifying a judgment of divorce. The issue presented is whether the circuit court erroneously exercised its discretion when it vacated a stipulation and

order. Because we conclude that the court properly exercised its discretion, we affirm.

¶2 Sossaman and Susan P. Huycke-Sossaman were divorced by a judgment entered on June 8, 1999. The judgment of divorce provided that a certificate of deposit in the Waukesha State Bank in the amount of \$45,000 would go to the parties' daughter. The judgment also provided that each party would contribute an additional \$2,500 to the CD to bring it to \$50,000. After the entry of the judgment, the parties negotiated a stipulation to modify the judgment. The stipulation and order was signed by the court in December 1999.

¶3 The stipulation addressed financial matters and changed the disposition of the \$45,000 CD. The stipulation provided that \$25,000 be placed in an interest-bearing account in their daughter's name. It further provided that the remainder of the balance would be given to Huycke-Sossaman. The stipulation also provided that Sossaman would keep monies from various accounts, all identified by account number, and said that he was to receive \$7,500 from the Waukesha State Bank CD. After the stipulation was entered, Huycke-Sossaman withdrew \$20,000 from the CD account and put the remaining \$25,000 in an account in her daughter's name.

¶4 In January 2000, Sossaman filed a motion of contempt asking the court to order Huycke-Sossaman to pay him \$7,500. Huycke-Sossaman filed a countermotion to vacate the stipulation. She argued that she did not understand the stipulation to require her to pay an additional \$7,500 to Sossaman. Rather, she understood that the \$7,500 was to come from a Waukesha State Bank account or CD that Sossaman had received under the original judgment of divorce.

¶5 The court held a hearing on the issue and both parties testified. The circuit court found that there was some confusion over where the money was supposed to come from. The court noted that the other accounts mentioned in the stipulation were identified by account number, while the CD was not. The court granted the motion to vacate the stipulation. The court noted that vacating the stipulation meant that the original judgment of divorce was back in effect. This required that a CD be established in their daughter's name in the amount of \$50,000, with Huycke-Sossaman replacing \$20,000 and each party contributing \$2,500.

¶6 An order granting a motion for relief from judgment under WIS. STAT. § 806.07 (1999-2000)<sup>1</sup> will not be reversed unless there has been a clear misuse of discretion. *Shuput v. Lauer*, 109 Wis. 2d 164, 177, 325 N.W.2d 321 (1982). We will sustain a discretionary act of the circuit court if that court examined the relevant facts, applied a proper standard of law, and used a

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<sup>1</sup> All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted. WISCONSIN STAT. § 806.07 provides:

(1) On motion and upon such terms as are just, the court, subject to subs. (2) and (3), may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:

- (a) Mistake, inadvertence, surprise, or excusable neglect;
- (b) Newly-discovered evidence which entitles a party to a new trial under s. 805.15 (3);
- (c) Fraud, misrepresentation, or other misconduct of an adverse party;
- (d) The judgment is void;
- (e) The judgment has been satisfied, released or discharged;
- (f) A prior judgment upon which the judgment is based has been reversed or otherwise vacated;
- (g) It is no longer equitable that the judgment should have prospective application; or
- (h) Any other reasons justifying relief from the operation of the judgment.

demonstrated rational process to reach a conclusion that a reasonable judge could reach. *Loy v. Bunderson*, 107 Wis. 2d 400, 414-15, 320 N.W.2d 175 (1982).

¶7 After hearing the testimony, the court found that Huycke-Sossaman was confused about where the \$7,500 would come from at the time she entered into the stipulation. The court further found that the confusion was supported by the fact that the stipulation identified the other accounts by account number, but not the CD. The record supports these findings. The circuit court, however, did not specifically identify the statutory basis for vacating the order. When the trial court does not explicitly indicate the section on which it relies, this court must search the record to determine if the decision is supported by the statutory factors. *Mullen v. Coolong*, 153 Wis. 2d 401, 406-07, 451 N.W.2d 412 (1990). A court may vacate a judgment on the grounds of mistake. WIS. STAT. § 806.07(1)(a). The record supports the circuit court's action on this basis. We conclude that the circuit court properly exercised its discretion when it vacated the stipulation and order. Therefore, we affirm the order of the circuit court.

*By the Court.*—Order affirmed.

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

