OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS
110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688
Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

DISTRICT IV

July 16, 2018

To:

Hon. Frank D. Remington
Circuit Court Judge
215 S. Hamilton St., Br. 8, Rm 4103
Madison, WI 53703

Carlo Esqueda
Clerk of Circuit Court
215 S. Hamilton St., Rm. 1000
Madison, WI 53703

Ruth N. Westmont
Westmont Law Offices S.C.
1837 Aberg Avenue
Madison, WI 53704

Dontrell Bluford
41855 Baja Ct.
Palmdale, CA 93551

David S. Kowalski
Kowalski Family Law LLC
725 Heartland Trl., Ste. 100
Madison, WI 53717

You are hereby notified that the Court has entered the following opinion and order:

2017AP1010 In re the marriage of: Sassalee L. Bluford v. Dontrell Bluford (L.C. # 2014FA670)

Before Lundsten, P.J., Blanchard and Fitzpatrick, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Dontrell Bluford appeals pro se from a judgment divorcing him from Sassalee Bluford. He maintains that the circuit court erred in denying his motion for summary judgment requesting an order "annulling, or declaring null and void, the marriage between [the parties]." Based upon

our review of the briefs[1] and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).[2] We affirm.

The following facts are undisputed. Prior to their marriage, Sassalee and Dontrell resided in Georgia. They met during 2002 or 2003. Sassalee was divorced from a man by a Georgia court on April 6, 2005. Sassalee and Dontrell married each other in Georgia on April 22, 2005. Georgia law does not have a waiting period between the time an individual divorces and the time that same individual is permitted to remarry. After their marriage, Sassalee and Dontrell moved to a home in Atlanta, and their daughter was born in Atlanta. Dontrell soon relocated to Wisconsin for an employment position. Sassalee and the daughter joined him several months later, and the parties set up domicile in Wisconsin.

In April 2014, Sassalee filed this divorce action. Two years after Sassalee's divorce petition and the day before the scheduled divorce trial, Dontrell filed a motion for summary judgment[3] alleging that, as a matter of law, the parties' Georgia marriage was void because Wisconsin law requires a divorced party to wait "6 months after judgment of divorce is granted" to marry again. *See* WIS. STAT. § 765.03(2). The circuit court acknowledged the obvious – that Dontrell's motion was untimely and would not normally justify a hearing – but addressed the merits of the motion on the morning of trial and denied the motion. After the noon recess,

[1] The guardian ad litem for the minor child submitted a letter stating that he joins in Sassalee's respondent's brief.

[2] All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

[3] A year earlier, when Dontrell was represented by counsel, he filed a counterclaim requesting a judgment of divorce, and there was no suggestion that Dontrell might seek to invalidate the marriage. Along with his last-minute summary judgment motion, Dontrell filed a Verified Response, Counter-Petition, and Affirmative Defense asserting that, because the parties' marriage occurred within six months of the date Sassalee's Georgia divorce was finalized, it should be declared null and void or annulled.

Dontrell asked the court "for a new hearing on the summary judgment" and started reading his motion verbatim. The court again denied the motion on its merits:

> The Court: Mr. Bluford, you undoubtedly are a whiz in computers or electronic data. This is an example where you're entirely off the mark. There are no genuine disputes as to any of the material fact[s]; when you got married, when she got divorced, so you don't have to read [the motion] to me. And I'm familiar with the summary judgment methodology.
>
> Mr. Bluford: Okay.
>
> The Court: The question is whether you're entitled based on those undisputed facts for judgment as a matter of law. Now judgment would be the motion to dismiss the divorce action claiming that the action was illegal. But I've got to tell you, that's not – you just don't—you can't just say let's negate it. That would be a motion or an action for annulment and the burden would be on you to prove that Ms. Bluford did not have the capacity to enter into a contract of marriage on your wedding day.
>
> Mr. Bluford: And I did actually do a counterpetition for action of annulment, Your Honor.
>
> The Court: Okay. So the legal basis that you want me to apply to the undisputed facts is your assertion that the waiting period in Wisconsin applies to the Georgia marriage, right?
>
> Mr. Bluford: Yes.
>
> The Court: That's wrong. I reject that. I don't agree with that at all. The waiting period would apply to the residency of the married parties by at least where the divorce was, Georgia, where the marriage was, Georgia. … You would apply Georgia law.
>
> Mr. Bluford: So if I'm understanding, your reason for rejecting is because you're saying we're not subject to Wisconsin law?
>
> The Court: You were living in Georgia at the time, right?
>
> Mr. Bluford: Yes.
>
> The Court: And Ms. Bluford was divorced to her first husband in Georgia?
>
> Mr. Bluford: Yes.
>
> The Court: And you got married in Georgia?

> Mr. Bluford: Yes.
>
> The Court: Then Georgia law applies and there is no waiting period in Georgia.

We review a summary judgment decision de novo, employing the same methodology as the circuit court. ***Society Ins. v. Linenan***, 2000 WI App 163, ¶5, 238 Wis. 2d 359, 616 N.W.2d 918. The summary judgment methodology is well established and need not be repeated here. *See, e.g.*, ***Lambrecht v. Estate of Kaczmarczyk***, 2001 WI 25, ¶¶20-23, 241 Wis. 2d 804, 623 N.W.2d 751. The legal standard is whether there are any material facts in dispute and whether the movant is entitled to a judgment as a matter of law. ***Id.***, ¶24. We view the materials in the light most favorable to the party opposing the motion. ***Id.***, ¶23.

The circuit court properly determined that, as a matter of law, Dontrell was not entitled to summary judgment dismissing the divorce action. There is no dispute that the Blufords resided in Georgia when they married and that their marriage was valid under Georgia law. In general, the validity of a marriage is controlled by the law of the place where the marriage was contracted. ***Xiong ex rel. Edmondson v. Xiong***, 2002 WI App 110, ¶14, 255 Wis. 2d 693, 648 N.W.2d 900. "Marriages valid where celebrated are valid everywhere, except those contrary to the law of nature and those which the law has declared invalid upon the ground of public policy." ***Id.*** (quoting ***Campbell v. Blumberg***, 260 Wis. 625, 631, 51 N.W.2d 709 (1952)). Nothing in the record suggests that the parties' lawful marriage runs afoul of public policy by, for instance, allowing bigamy or a nonconsensual or fraudulently induced union.

Dontrell maintains that, because WIS. STAT. § 765.03(2) provides that persons cannot get married in Wisconsin "until six months after [a prior] judgment of divorce is granted," his marriage to Sassalee is null and void. In other words, the fact that the parties ended up living and divorcing in Wisconsin somehow retroactively invalidates their lawful Georgia marriage.

This proposition is unsupported by law and common sense. As the circuit court recognized, Dontrell's argument fails because the parties married in Georgia, where they then resided. Section 765.03(2) has no bearing on marriages between non-residents performed outside of Wisconsin. This is not a case where Dontrell and Sassalee married outside of Wisconsin to avoid its six-month waiting period. *Cf.* WIS. STAT. § 765.04 (governing marriages "abroad to circumvent the laws," including marriages of Wisconsin residents in other states as well as marriages of non-residents performed in Wisconsin). Nor is it the sort of circumstance envisioned in the annulment statute, WIS. STAT. § 767.313, which lists grounds such as fraud, lack of capacity to consent, and bigamy.

Dontrell's partially coherent appellate arguments rely on inapt cases taken out of context. For example, in his summary judgment motion and on appeal, Dontrell relies on ***Ellis v. Estate of Toutant***, 2001 WI App 181, 247 Wis. 2d 400, 633 N.W.2d 692, for the proposition that an extraterritorial marriage performed within six months of a prior divorce is invalid in Wisconsin. In ***Toutant***, Ellis divorced his wife in Scotland and resided in Wisconsin with Ms. Toutant. ***Toutant***, 247 Wis. 2d 400, ¶6. Before the six-month waiting period expired, Ellis and Toutant got married in Texas and returned to live in Wisconsin. ***Id.*** The ***Toutant*** court declined to recognize the Texas marriage of its Wisconsin residents:

> When persons domiciled in this state and who are subject to the provisions of the law leave the state for the purpose of evading those provisions, and go through the ceremony of marriage in another state and return to their domicile, such pretended marriage is within the provisions of the law and will not be recognized by the courts of this state.

Id., ¶32 (citation omitted). Dontrell fails to recognize the essential distinction between his marriage and that in ***Toutant***, namely that Ellis and Toutant were domiciled in Wisconsin and married in Texas specifically to avoid their home state's legal impediment to marriage.

We reject the remainder of Dontrell's arguments as incoherent and undeveloped. *See* ***Libertarian Party of Wisconsin v. State***, 199 Wis. 2d 790, 801, 546 N.W.2d 424 (1996) (An appellate court need not discuss arguments that lack "sufficient merit to warrant individual attention."). The cases cited by Dontrell are vastly off point and do not support the proposition that he was entitled to summary judgment dismissing the divorce action.[4] Any of Dontrell's arguments not specifically addressed in this decision have been considered and are deemed denied. *See* ***State v. Waste Mgmt. of Wis., Inc.***, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978) ("An appellate court is not a performing bear, required to dance to each and every tune played on an appeal.").

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals

[4] For example, Dontrell cites ***Magnolia Petroleum Co. v. Hunt***, 320 U.S. 430 (1943), a case addressing the interplay between a Texas worker's compensation statute and the full faith and credit clause of the United States Constitution, and ***Johnson v. Muelberger***, 340 U.S. 581 (1951), holding that the full faith and credit clause barred a decedent's daughter from collaterally attacking the validity of the decedent's divorce decree.