IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

GINGER M. WILSON,

Appellant,

v.

GREGORY S. WILSON,

Respondent.

DOCKET NUMBER WD84191

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: January 25, 2022

APPEAL FROM

The Circuit Court of Randolph County, Missouri
The Honorable Mason R. Gebhardt, Judge

JUDGES

Division One: Thomson, P.J., and Ahuja and Mitchell, JJ. CONCURRING.

ATTORNEYS

David G. Brown, Columbia, MO, Attorney for Appellant.

Cassie J. Bugalski, Moberly, MO, Attorney for Respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

GINGER M. WILSON, Appellant,
v.
GREGORY S. WILSON, Respondent.

WD84191 **Randolph County**

Before Division One Judges: W. Douglas Thomson, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

Wife appeals the judgment finding Husband in contempt of court for failing to distribute half of Husband's American Funds retirement account (the account) to Wife as directed by the parties' judgment of dissolution. On appeal, Wife argues that the motion court abused its discretion when it determined that the phrase, "releases and quit-claims" as used in the dissolution judgment, is ambiguous and, therefore, the distribution method used by Husband was appropriate. Because the motion court misinterpreted the dissolution judgment as to distribution of the account, we remand this case for further proceedings consistent with this opinion.

REMANDED FOR FURTHER PROCEEDINGS.

Division One holds:

1. We judge a legal document by its contents and not by its title. Although denominated a motion for contempt, Wife's motion, in substance, was a motion to enforce the terms of the parties' dissolution judgment, and the court treated Wife's motion as such.

2. Where, as here, the motion court determined that there was no contumacious conduct and the amount awarded to Wife was intended to make her whole under the dissolution judgment, as interpreted by the court, rather than to purge Husband's contempt, we treat the judgment below as one entered to enforce the dissolution judgment.

3. We have an obligation, acting *sua sponte* if necessary, to determine our authority to hear appeals that come before us.

4. The right to appeal is purely statutory. Section 512.020(5) allows an aggrieved party to appeal a final judgment or a special order after final judgment. Orders, like the judgment below, that enforce provisions of dissolution decrees are special orders under

§ 512.020(5). Thus, Wife has a statutory right to appeal the judgment, and we have jurisdiction to hear her appeal.

5. We will affirm a judgment on a motion to enforce a dissolution agreement unless the judgment is not supported by substantial evidence, it is against the weight of the evidence, or it erroneously declares or applies the law.

6. When construing judgments, we apply the general rules of construction for written instruments. When the language of a judgment is plain and unambiguous, we construe the judgment according to the literal meaning of the language used and we do not consider extrinsic evidence.

7. The provision of the parties' dissolution agreement directing Husband to release and quitclaim "all his right, title and interest in and to . . . one-half (1/2) plus an additional $20,000 as of the date of Judgment entry" was unambiguous.

8. That provision clearly required Husband to transfer to Wife all right, title, and interest in one half of the assets of the account as of the date the dissolution judgment was entered (December 26, 2018); each spouse was to receive sole ownership and control of one half of the assets of the account as of that date.

9. Had Husband complied with the provision, Wife would have had not only the "value" of one half of the account but also all other rights and interests that derive from asset ownership, including the right to the resulting gains henceforth.

10. Instead, Husband transferred to Wife one half of the value of the account, effectively treating Wife's shares as if they had been liquidated and removed from the stock market when, in fact, Wife's shares remained invested in the market and the resulting gains, earned on her shares, were allocated to Husband.

11. To make Wife whole under the unambiguous terms of the dissolution judgment, the motion court should have required Husband to transfer to Wife that number of shares necessary to give her one half of the shares, plus $20,000, as of December 26, 2018.

12. Because the motion court misinterpreted the dissolution judgment as to distribution of the assets of the account, we remand this case for further proceedings consistent with this opinion. On remand, the trial court has discretion to order any relief necessary to make Wife whole.

Opinion by: Karen King Mitchell, Judge January 25, 2022

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THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.