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Bills v. Bills Appellant's Reply Brief Dckt. 42978

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IN THE SUPREME COURT OF THE STATE OF IDAHO

LINELL BILLS,

Plaintiff-Respondent

CV-2012-0000260

v.

JON LOREN BILLS,

Defendant-Appellant

Supreme Court No. 42978

APPELLANT'S REPLY

Appeal from the District Court of the Seventh Judicial District for Lemhi County.

(Honorable Alan C. Stephens, District Judge) presiding.

Jon Loren Bills

Residing at P.O. Box 154, Concho, AZ, 85924, Pro Se Appellant

Steven J. Wright
Andrew Wayment

Residing at P.O. Box 50578, Idaho Falls, ID 83405, for Respondent.

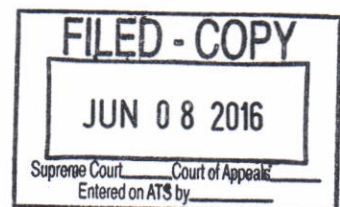


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TABLE OF CASES AND AUTHORITIES

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STATEMENT OF THE CASE

Linell Bills brought this action against Jon Loren Bills for a disposition of assets and recompense for farm expenses.

During the course of the trial the assets of the ranch operation were divided and the judge ordered that Jon Loren Bills recompense Linell Bills for expenses to not include any depreciation expense. The judgment issued included the depreciation expense in the expenses to be recompensed in contradiction to the judge's decision.

STATEMENT OF THE FACTS

- 1) In the judge's decision of December 31, 2014, Finding of Fact 31(a), the judge stated that "depreciation expenses must be disregarded on each tax return as these expenses are not cash expenses and there was no specific agreement between the parties to include depreciation expenses in the calculation of net profit of the ranch operation."
- 2) In the judge's decision of December 31, 2014, Finding of Fact 38(b), the court used as the farm expenses the total expenses from the tax return without deducting depreciation pursuant to the December 31, 2014 decision.
- 3) In the judge's judgment of December 31, 2014, the judge again used the total expenses from the tax returns without deducting depreciation pursuant to the December 31, 2014 decision.

ISSUES PRESENTED ON APPEAL

Jon Loren Bills, Appellant, brings only one issue on appeal. The issue is that the depreciation expenses should have been deducted from the total expenses before determining the amount to be recompensed and that the judgment should be lessened

by the amount of \$60,000.00 depreciation which was improperly included in the judgment.

ATTORNEY FEES ON APPEAL

Jon Loren Bills, Appellant, requests that each party pay their own attorney fees incurred in this appeal as the appeal arises from a arithmetical mistake by the district judge.

ARGUMENT

Now comes Appellant, Jon Loren Bills and replies to Respondent's Brief.

A. There are no disputes between Jon Loren Bills' Statement of the Case and that submitted by Linell Bills.

Nothing in Jon Loren Bills' Statement of the Case and Statement of Facts is contradicted by Linell Bills. And in fact, each Statement of Fact in Jon Loren Bills' Brief is supported by reference to the exhibits admitted at trial on which the judge based his decision and order, and the decision and order itself. All of which are part of the trial record.

B. Jon Loren Bills' has not waived the issue raised on appeal.

The issue raised by Jon Loren Bills' is not whether the court should have considered certain expenses in winding up the joint venture. The issue raised by Jon Loren Bills is the inconsistency within the Decision and Order issued in which the judge stated that depreciation expenses would not be included in the calculations and then the judge did indeed include said depreciation expenses in the calculations. This is an internal inconsistency within the Decision and Order and not a request to reconsider

which expenses should be included. It is simply a request to resolve the internal inconsistency in the Decision and Order.

Jon Loren Bills' has indeed presented his argument "with citations to the authorities, statutes, and parts of the transcript and record relied upon." I.A.R. Rule 35(6). All citations are to exhibits admitted at trial, primarily to those admitted by Petitioner from her own records and to the Decision and Order issued by the judge. All of these documents are a part of the trial record and copies were attached to Jon Loren Bills' brief as a courtesy to both the Petitioner and the Court. The page numbers from the trial record are marked on the attached documents as these were copied from the trial record as submitted to the court.

There is no need for the Court to search for "unspecified error." Jon Loren Bills has plainly laid out the inconsistency in the Decision and Order issued in this case and simply requests that the mathematical error in calculation be corrected.

C. Documents Attached to the Brief Are From the Record.

The documents attached to the Brief are indeed from the record. They are copies of exhibits admitted at trial, primarily by Linell Bills. The documents were in fact part of the trial record submitted to the court and the page numbers of the trial record are recorded on the documents. The fact that small notations may have been made while preparing Jon Loren Bills' brief does not alter the fact that these documents were part of the trial record and the brief does not reference any working notations that may have been made but only the information provided by Linell Bills as evidence during the course of the trial.

If the court examines the exhibits submitted during trial and made a part of the record, the court will find that each document is indeed included in the record and that the copies were included as a courtesy and convenience for Linell Bills and the Court.

Furthermore, it amazes me that Linell Bills would dispute that the Decision and Order are not part of the court record in this case.

D. This is not a "general attack on the findings and conclusions of the district court, without specific reference to evidentiary or legal errors."

Jon Loren Bills is not attacking the findings or conclusions of the district court, but simply requesting the court correct mathematical error made by the district court in drafting the Decision and Order.

As the issue raised involves only a mathematical error in the final Decision and Order it would have been very difficult to preserve this issue during the progression of the trial.

CONCLUSION

Linell Bills has failed to address the issue raised by Jon Loren Bills, that of the error in calculation in the drafting of the final Decision and Order by the trial court judge. The issues raised by Linell Bills obfuscate the issue raised by claiming that documents submitted at trial by Linell Bills are not part of the record and that the Decision and Order are not part of the record. Obviously, the trial exhibits and final Decision and Order are indeed part of the record.

Jon Loren Bills thereby requests that the Court order that the Decision and Order be modified as requested in his brief to correct the mathematical error based on the

record submitted to the court. Jon Loren Bills also requests that each party bear their own costs and fees in this appeal.

Respectfully submitted,

Jon Loren Bills, Appellant Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of June, 2016, I, Jon Loren Bills, caused two true and correct copies of this document to be mailed to the following:

Steven J. Wright
Andrew Wayment
P.O. Box 50578
Idaho Falls, ID 83405

Jon L. Bills