

IN THE SUPREME COURT OF THE STATE OF NEVADA

LINDSEY SHARRON ANTEE, A/K/A
LINDSEY LICARI,

Appellant,

vs.

BOBBY DEE ANTEE, A/K/A BOBBY
LEE ANTEE,

Respondent.

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Oct 14 2021 10:22 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 81635-COA

RESPONDENT'S MOTION TO PARTIALLY LIFT STAY

Respondent Bobby Dee Antee a/k/a Bobby Lee Antee (“Mr. Antee”), by and through his attorney of record, the law firm of Shumway Van, hereby submits this Motion to lift the Stay of the Sale of Marital Home¹ issued by this court on December 23, 2020. This motion is made and based upon the points and authorities recited below, the Declaration of Mr. Antee attached hereto as Exhibit 1, the other exhibits attached hereto and referenced herein, and the pleadings and records before this Court.

Mr. Antee faces imminent damages and prejudice and can therefore offer a showing of good cause for the requested order to lift the previously entered stay, and under the circumstances, this Motion to lift the Stay should be granted. More

¹ The “Marital Home” shall refer to the property located at 9564 Scorpion Track Ct., Las Vegas, NV 89178.

specifically, maintaining the current stay risks foreclosure of the Marital Home which would cause substantial diminution of the potential equity available to Mr. Antee and Appellant Lindsey Licari (“Appellant”). Additionally, Mr. Antee continues to suffer serious harm the longer that the stay preventing the sale of the Marital Home remains in effect because Appellant continues to refuse to make the mortgage payments as required by the Decree of Divorce. Accordingly, and as set forth more particularly below, this Court should lift the stay as to the sale of the Marital Home.

1. Legal Standard

Nevada Rule 8 (c) of Appellate Procedure says, “In deciding whether to issue a stay or injunction, the Supreme Court or Court of Appeals will generally consider the following factors: (1) whether the object of the appeal or writ petition will be defeated if the stay or injunction is denied; (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay or injunction is denied; (3) whether respondent/real party in interest will suffer irreparable or serious injury if the stay or injunction is granted; and (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or writ petition. NRAP 8(c).

2. Brief Statement of Relevant Factual and Procedural History.

This appeal stems from divorce proceedings involving Mr. Antee and Appellant. The Decree of Divorce was filed in this case on August 20, 2021 (the

“Decree”), after a trial on the merits.² Pursuant to the Decree, the Marital Home was to be listed for sale, and Appellant was to be “solely responsible for the mortgage, HOA, utilities, and expenses associated with the martial [sic] residence” based on her retention of exclusive possession of the residence.³ Appellant filed her notice of appeal and this appeal was docketed as Supreme Court case no. 81635 on August 14, 2020, prior to the Decree being entered by the Court. On September 1, 2020, Appellant filed her Motion for Stay of Execution of Divorce Decree with this Court, which was initially denied on September 11, 2020.

After unsuccessfully seeking similar relief in the Family Court, Appellant filed a second Motion to Stay on November 3, 2020. This Motion was again denied on November 10, 2020 as the Family Court had not resolved Appellant’s pending motion to stay. Appellant then filed numerous motions requesting various relief including extraordinary writs and injunctive relief between November 17 and November 20, 2020. These motions were summarily denied on November 19, 2020, and November 30, 2020. On December 23, 2020, this Court granted Appellant’s second Motion to Stay “of the divorce decree and of any sale of the martial [sic]

² Decree of Divorce, August 5, 2020, attached hereto as Exhibit 2.

³ Ex. 2 at p. 15:14-18.

property pending resolution of this appeal.” This case was transferred to the Court of Appeals on March 16, 2021.

Mr. Antee applied for a forbearance of the mortgage in June of 2020, prior to the Decree, based on the dispute concerning title to the Marital Home and his inability to financially support the mortgage payments at that time.⁴ At no time did Appellant make any effort to pay the mortgage or other property expenses as required by the Decree.⁵ The forbearance expires on October 1, 2021, leaving a balance due of approximately \$22,500 for missed payments.⁶ Recently, Appellant has made public indications that she is no longer occupying the Marital Home, and has relocated to Georgia.⁷

3. Appellant’s Continued Failure to Pay Mortgage Risks Foreclosure and Diminution of its Value.

The primary reason that this Court should grant this Motion and allow Mr. Antee to sell the Marital Home is that Appellant’s continued failure to pay the

⁴ Ex. 1 at ¶ 4.

⁵ Id. at ¶ 5.

⁶ Id. at ¶¶ 5-7.

⁷ See Instagram posts dated July 24, 2021 through August 27, 2021 available at: https://www.instagram.com/tv/CRuGsDTgl5w/?utm_medium=copy_link; https://www.instagram.com/tv/CS2b0znAMxM/?utm_medium=copy_link; and https://www.instagram.com/tv/CTF8amPgR3w/?utm_medium=copy_link.

mortgage, in violation of the terms of the original Decree of Divorce,⁸ result in ongoing harm to Mr. Antee and have created the risk of a foreclosure of the Marital Home that would diminish the potential equity that the parties to this litigation and the underlying divorce proceedings are litigating over. Under the circumstances, relief from this Court's stay to allow Mr. Antee to sell the home would preserve the Marital Home's value. Additionally, Mr. Antee could lodge the funds resulting from the sale with the Court or maintain them in counsel's IOLTA account until the remainder of this appeal and the underlying divorce matter were resolved, and then distribute them according to a relevant order from the Court. This requested relief would preserve the position of the parties, maximize the available equity in the Marital Home, and avoid diminution of that equity by a nonjudicial foreclosure sale which is looming in the near future.⁹

In both the original Decree of Divorce, as well as the Order from the hearing on October 19, 2018, the Family Court required Appellant to make mortgage payments for the Marital Home based on her retaining possession of the Marital Home. Despite Mr. Antee regularly describing to the Family Court how Appellant has shirked this responsibility, nothing has been done to address the contempt based

⁸ Ex. 2.

⁹ Ex. 1 at ¶ 6.

partially on her numerous appeals.¹⁰ As of the filing of this Motion, the total amount due on the mortgage is approximately \$22,500.00.¹¹ This amount demonstrates, and is based on, the fact that payments have not been made towards the mortgage since June 2020. While Mr. Antee was able to obtain a temporary forbearance for the relevant mortgage through COVID-19 relief programs, the forbearance has expired. Without the forbearance and based on the substantial balance created by Appellant's refusal to make mortgage payments in violation of the Decree of Divorce, the Marital Home is facing the threat of imminent foreclosure. A nonjudicial foreclosure sale will dramatically reduce the amount that could otherwise be obtained for the Marital Home through a traditional sale. Additionally, and as described further below, Appellant is no longer residing in the Marital Home. Thus, maintaining the stay creates the potential to cause substantial harm to both parties in the event the Marital Home is foreclosed on.

Furthermore, because Mr. Antee is the only party listed on the mortgage, he is also being harmed by Appellant's refusal to make the court-ordered mortgage payments, in the form of ongoing damage to his credit score. In addition to maximizing the equity funds in the Marital Home, granting this Motion and lifting

¹⁰ In addition to this appeal, Lindsey filed various other appeals including case numbers 81292, 82166, 82521, 82887.

¹¹ Ex. 1.

the stay would prevent Mr. Antee from incurring further damage to his credit as a result of Appellant's willful noncompliance with the Decree of Divorce. Therefore, this Court should grant this Motion and lift the stay previously entered as it pertains to the Marital Home.

3. Appellant No Longer Lives in the Marital Home.

As briefly noted above, Appellant has made numerous representations on social media that she is no longer living in the Marital Home. For example, Appellant shared a video on July 24, 2021 that begins with her saying, "Alright Aiden's Army of Angels, so, I am back in Georgia, we are looking for a new office."¹² More recently, in a post shared on August 27, 2021, Appellant reiterates, "Alright Aiden's Army of Angels, alright so we are getting a great start here in Georgia and we are proud to announce some new things for Aiden's Army of Angels."¹³ Appellant has even planned the next "Angel Gala" in 2022 to be located in Atlanta Georgia.¹⁴ These statements support that Appellant has permanently moved and now resides in

¹² Instagram post dated July 24, 2021 available at:
https://www.instagram.com/tv/CRuGsDTgl5w/?utm_medium=copy_link.

¹³ Instagram post dated August 27, 2021 available at:
https://www.instagram.com/tv/CTF8amPgR3w/?utm_medium=copy_link.

¹⁴ Instagram post dated August 21, 2021 available at:
https://www.instagram.com/tv/CS2b0znAMxM/?utm_medium=copy_link.

Georgia. With the Marital Home vacant, there is no reason to delay its sale or risk foreclosure, and this Court should grant this Motion and lift its stay accordingly.

4. Conclusion

Therefore, and for the foregoing reasons, Respondent Mr. Antee respectfully requests that this Court lift its stay with regard to the Marital Home and explicitly allow Mr. Antee to list and prepare the Marital Home for sale. While this Motion is not made on an emergency basis under NRAP 27(e), Mr. Antee notes that the looming threat of foreclosure may warrant expedited relief in the near future and reserves the right to supplement this Motion as necessary and appropriate based on the status of any noticed foreclosure.

DATED this 14th day of October, 2021.

SHUMWAY VAN

By: /s/ Michael C. Van
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Attorneys for Respondent
Bobby Antee

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On September 29, 2021, I caused to be served a true and correct copy of the foregoing RESPONDENT'S MOTION TO PARTIALLY LIFT STAY upon the following by the method indicated:

BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

BY U.S. MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

/s/ Marina Scott
An Employee of Shumway Van