

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA
DIVISION II

KENDRA M GUIDO (NOW GRAY),

PLAINTIFF,

VS

CASE NO 94-D-404

JOHN S GUIDO,

DEFENDANT

RECEIVED & FILED
IN
CIRCUIT CLERKS OFFICE
2007 APR 12 AM 9 28
BARBARA A. CORE
CIRCUIT CLERK

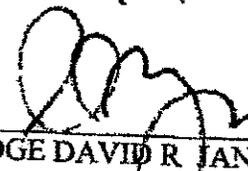
ORDER DENYING DEFENDANT'S MOTION FOR REINSTATEMENT OF
APPEAL AND IN THE ALTERNATIVE MOTION FOR RECONSIDERATION

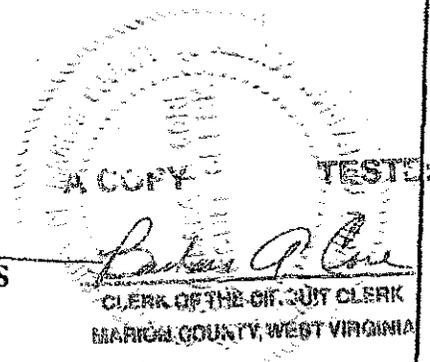
On February 5, 2007, Patrick F Roche, attorney for the defendant, John S Guido, filed "Defendant's Motion for Reinstatement of Appeal and [.] In The Alternative. Motion for Reconsideration " Having reviewed the written motion, and the entire court file, this Court is of the opinion that the defendant is not entitled to the relief sought and, further, that no hearing with regard thereto is warranted The hearing scheduled for Monday, April 23, 2007, at 1 30 p m is hereby canceled

Accordingly, it is ORDERED that defendant's motion should be, and the same is, hereby DENIED, without hearing

The Circuit Clerk of Marion County is hereby directed to provide a certified copy of this order to Patrick F Roche, Esquire, at his address 321 Fairmont Avenue, Suite 1, Fairmont, West Virginia 26554, to Joseph M Sellaro, Esquire, at his address Bureau of Child Support Enforcement, 107-109 Adams Street, Post Office Box 2590, Fairmont, West Virginia 26555-2590, and to Kendra M Gray at her address Post Office Box 116, Wardensville, West Virginia 26851

ENTER 4/11/07


JUDGE DAVID R. JONES


A COPY TESTE

CLERK OF THE CIR. CLERK
MARION COUNTY, WEST VIRGINIA

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA
DIVISION II

KENDRA M. GUIDO (NOW GRAY),

PLAINTIFF,

VS.

CIVIL ACTION NO. 94-D-404

JOHN S. GUIDO,

DEFENDANT.

ORDER DENYING "PETITION FOR APPEAL
FROM FAMILY COURT FINAL ORDER"

RECEIVED & FILED
IN
CIRCUIT COURT OF MARION COUNTY
2007 JAN 23 A 8:55
BARBARA A. CORSE
CLERK

On December 20, 2006, Family Court Judge David P. Born entered a "Decretal Judgment Order" herein. On January 2, 2007, defendant John S. Guido filed a "Petition for Appeal from Family Court Final Order" (hereinafter "Petition for Appeal"), in which he alleges that Judge Born erred in entering the Decretal Judgment Order.

West Virginia Code § 51-2A-11 provides, in subsection (b), that "[a] petition for appeal of a final order of the family court shall be filed in the office of the Clerk of the Circuit Court. At the time of filing the petition, a copy of the petition for appeal must be served on all parties to the proceeding in the same manner as pleadings subsequent to an original complaint are served under Rule 5 of the Rules of Civil Procedure." (Emphasis added.) Service of a copy of Petitioner's Petition for Appeal on plaintiff Kendra M. Gray and Joseph M. Sellaro, attorney for the Bureau of Child Support Enforcement, is, therefore, mandatory.

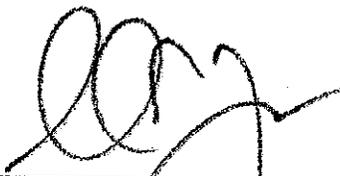
The Certificate of Service attached to Mr. Guido's Petition for Appeal is not completed and there is no other indication in the court file that Mr. Guido served either Ms. Gray or Mr. Sellaro with a copy of the Petition for Appeal as required by West Virginia Code § 51-2A-11(b).

Accordingly, since Mr. Guido has not complied with the mandatory requirements of the statute, his Petition for Appeal should be, and it is, hereby, **DENIED**, without hearing.

The parties are advised that this is a final order disposing of this appeal.

The Circuit Clerk is directed to provide a certified copy of this order to Family Court Judge David P. Born; to John S. Guido, 1800 Dixie Avenue, Fairmont, West Virginia 26554; to Kendra M. Gray, Post Office Box 116, Wardensville, West Virginia 26851; and to Joseph M. Sellaro, Esquire, Bureau of Child Support Enforcement, 107-109 Adams Street, Post Office Box 2590, Fairmont, West Virginia 26555-2590.

ENTER: 1/22/07



JUDGE DAVID R. JANES

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TESTE:



CLERK OF THE CIRCUIT CLERK
MARION COUNTY, WEST VIRGINIA