

COURT OF APPEALS

Diane M. Stumph,

Appellant,

Case No.: 20-AC-001

v.

Date: October 7, 2020

Terry R. Jordan,

Respondent.

RULING ON APPELLANT'S MOTION FOR RECONSIDERATION & RULING ON RESPONDENT'S MOTION TO DISMISS

This matter has come before Appellate Judges Chad Hendricks and Leland Wigg-Ninham, and Chief Appellate Judge, Patricia M. Garvey.

BACKGROUND

On October 1, 2020, the brief of Appellant, Diane Stumph (hereinafter "Stumph"), was due after receiving two (2) extensions on September 28, 2020 and September 30, 2020. No brief was filed, however, Stumph did file a third motion for an extension after the close of Judiciary business hours. The motion was denied by this Court on October 2, 2020. On October 5, 2020, Stumph's attorney, George Pappas, Jr., filed a Motion for Reconsideration of Court's October 2, 2020 Ruling to deny his request for an untimely extension. On that same date, the Respondent, Terry Jordan (hereinafter "Jordan"), filed a Motion to Dismiss.

ANALYSIS

According to the Rules of Appellate Procedure §805.10-4, a party adversely affected by the Court's action, may file a motion to reconsider within five (5) days of receipt. Stumph filed a

motion to reconsider on October 5, 2020. On the same day, pursuant to §805.11-1(e), Jordan filed a Motion to Dismiss the appeal as Stumph had failed to file an Appellant Brief after extensions were granted. Since no arguments were presented by Stumph for the Court to reconsider, the Court has no discretion to consider any alternative but a dismissal of the appeal.

ORDER

For the reasons set forth above, this Court DENIES Stumph's Motion for Reconsideration. This Court also GRANTS Jordan's Motion to Dismiss. The above-captioned case is hereby DISMISSED and REMANDED to the Trial Court for any further proceedings in Case No. 18-DI-014, in re the marriage of Jordan and Stumph.

By the authority vested in the Oneida Judiciary, Court of Appeals, the Motion for Reconsideration is DENIED. This case is DISMISSED and REMANDED to the Trial Court. Dated this 7th day of October 2020, in the matter of Case No. 20-AC-001, *Diane M. Stumph v. Terry R. Jordan*.

It is so ordered.