

SUPREME JUDICIAL COURT OF MAINE

Brown v. Habrle, 2006 ME 115

908 A.2d 640 (Me. 2006) · Decided September 26, 2006

SUMMARY

The Maine Supreme Judicial Court held that Maine Rule of Civil Procedure 53(e)(1) requires the clerk, rather than the referee or counsel, to mail parties notice of the filing of a referee’s report. Because the clerk failed to provide that notice, the ten-day period for filing objections did not begin to run, and the District Court abused its discretion by denying Habrle’s motion to vacate the divorce judgment. The judgment was vacated and the matter was remanded for further proceedings.

CASE DETAILS

|                       |                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Judicial Court of Maine                                                                                                               |
| WRITING FOR THE COURT | Clifford, J.; Calkins; Clifford; Dana; Levy; Saufley; Silver                                                                                  |
| JURISDICTION          | Maine                                                                                                                                         |
| DECIDED               | September 26, 2006                                                                                                                            |
| DISPOSITION           | vacated                                                                                                                                       |
| PROCEDURAL POSTURE    | Roger L. Habrle appealed from the District Court's denial of his motion to vacate a divorce judgment that incorporated a referee's report.    |
| STANDARD OF REVIEW    | Denial of relief from judgment is reviewed for abuse of discretion; interpretation of the Maine Rules of Civil Procedure is reviewed de novo. |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                |
| PARTIES               | Roger L. Habrle v. Brenda R. Brown                                                                                                            |

TOPICS

- family law procedure
- divorce
- civil procedure

PRACTICE AREAS

- Civil procedure
- Family law

QUESTIONS PRESENTED

1. Whether notice from a referee or counsel can satisfy Maine Rule of Civil Procedure 53(e)(1)'s requirement that the clerk mail the parties notice of the filing of a referee's report.
2. Whether the ten-day period for filing objections under Maine Rule of Civil Procedure 53(e)(2) begins to run when the clerk fails to provide the required notice of filing.
3. Whether the District Court abused its discretion by denying Habrle's motion to vacate the divorce judgment.

## HOLDINGS

1. Notice from a referee or counsel is not an adequate substitute for the clerk's mandatory obligation to mail the parties notice of the filing of a referee's report.
2. When the clerk fails to mail notice of the filing of the referee's report, the ten-day period for filing written objections under Rule 53(e)(2) does not begin to run.
3. The District Court exceeded the bounds of its discretion by denying Habrle's motion to vacate the divorce judgment because Habrle was entitled to the opportunity to file objections after receiving the Rule 53(e)(1) notice.

## KEY QUOTATIONS

*"The purpose of the rule is to provide the parties with notice of the exact date the referee's report was filed in order to allow them to calculate precisely when their relatively brief ten-day period for filing written objections to the report begins to run."* (908 A.2d at 642)

*"Although both parties were aware that the referee would be filing his report within a few days of August 15, 2005, that knowledge is an inadequate substitute for the rule's mandatory requirement that the clerk mail the parties notice of the filing of the report."* (908 A.2d at 642)

## FACTUAL BACKGROUND

Brown and Habrle married in 1988 and Brown filed for divorce in 2001. The parties submitted the divorce proceedings to a referee, who held a three-day hearing and later filed a final report with the court on August 17, 2005. Although the parties knew that the referee intended to file the report, the clerk did not mail either party notice of the filing date as required by Rule 53(e)(1). The court entered a divorce judgment incorporating the report, and Habrle moved to vacate it because he had not received the required notice and therefore had not filed objections within the ten-day period.

## PROCEDURAL HISTORY

The parties agreed to submit their divorce proceedings to a referee under Maine Rule of Civil Procedure 53. After the referee filed the final report, the clerk failed to mail the parties notice of the filing as required by Rule 53(e)(1). The court entered a divorce judgment incorporating the report, and Habrle moved to vacate the judgment so he could object to the report. The District Court denied the motion, concluding that correspondence from the referee and Brown's attorney provided sufficient notice. The Supreme Judicial Court of Maine vacated the judgment and remanded.

## DISPOSITION

vacated

## REMAND INSTRUCTIONS

The divorce judgment was vacated and the matter was remanded to the District Court for further proceedings consistent with the opinion, including allowing Habrle the opportunity to file written objections to the referee's report in accordance with Rule 53(e)(2).

## CASES CITED

- McKeen & Assocs. v. Dep't of Transp., 1997 ME 73, ¶ 4, 692 A.2d 924, 925
- Mondello v. Gen. Elec. Co., 650 A.2d 941, 943 (Me. 1994)
- Bourke v. City of South Portland, 2002 ME 155, 806 A.2d 1255

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