

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FN 2009-002678

05/17/2010

HON. TERESA SANDERS

CLERK OF THE COURT

I. Ostrander

Deputy

IN RE THE MARRIAGE OF  
MICHAEL HALE

MICHAEL S BAKER

AND

LIUPING HALE

YURI KONDO

DOCKET-FAMILY COURT-SE  
FAMILY COURT SERVICES-CCC

DECREE OF ANNULMENT OF MARRIAGE

The Court took under advisement Petitioner/Husband's *Petition for Annulment or in the Alternative, Petition for Dissolution of Marriage* after an evidentiary hearing was conducted on April 14, 2010. The Court has considered the testimony of the witnesses and exhibits presented at trial.

JURISDICTION

THE COURT FINDS:

1. At the time this action was commenced at least one of the parties was domiciled in the state of Arizona and that said domicile had been maintained for at least 90 days prior to the filing of the Petition for Dissolution of Marriage.
2. The conciliation provisions of A.R.S. § 25-381.09 have either been met or do not apply.

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3. The marriage is irretrievably broken and there is no reasonable prospect for reconciliation.
4. The parties have no minor children.
5. Wife is not pregnant.
6. To the extent that it has jurisdiction to do so, the Court has considered, approved, and made provision for, when applicable, spousal maintenance and the division of property and debts.

ANNULMENT OR DISSOLUTION OF MARRIAGE

The first issue to be resolved is whether Husband has established grounds sufficient for an annulment of the marriage pursuant to A.R.S. § 25-301.

A.R.S. § 25-301 provides:

“Superior courts may dissolve a marriage and may adjudge a marriage to be null and void when the cause alleged constitutes an impediment rendering the marriage void.”

A marriage may be annulled when false representation or concealment is such that fundamental purpose of injured party in entering into marriage is defeated. *Means v. Industrial Commission*, 110 Ariz. 72, 515 P.2d 29 (1973).

False representations of love and affection coupled with fraudulent intent to deprive woman of her property were grounds sufficient to form the basis of an annulment. *Jackson v. Industrial Commission*, 121 Ariz. 602, 592 P.2d 1258 (1979).

Husband contends that he has demonstrated grounds for an annulment of the marriage due to Wife’s marrying him for the sole purpose of obtaining entry into the United States. Respondent/Wife denies this allegation.

Based upon the evidence presented, the Court finds the following facts:

1. Husband is 34 years old and a citizen of the United States; Wife is 28 years old and a citizen of China.

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2. The parties met on the internet in June 2006.
3. The parties physically met one another for the first time in February 2007. Husband spent 11 days in China with Wife. The parties did not physically see one another again until Wife's entry into the United States in June 2008.
4. In February 2007, the parties enlisted the services of Youjun "Roger" Lin to obtain a visa for Wife to come to the United States. Exhibit 7 sets forth Mr. Lin's recollections of his conversations with Wife. Specifically, between February and July 2007, Wife inquired as to (a) when and how she could bring her family to the United States; (b) whether immigration documents would advise her of Husband's financial status; (c) the comparative lengths of time it would take to obtain a visa to the United States, Germany, Greece, and Canada; (d) which Canadian visa was the "quickest;" (e) whether Mr. Lin could handle a German visa and asked whether a three-day marriage to a German national would affect a visa application of a subsequent marriage; and (f) provided Mr. Lin with copies of e-mail correspondence where she communicates to Husband that she does not love him and that he should stop the visa application process.
5. The parties were "broken up" during a period of time between March and July 2007. This time period coincides with the time period that Wife was inquiring about visas to other countries and which one was the most expedient.
6. Wife was issued a visa to enter the United States on May 15, 2008.
7. Wife came to the United States on or about June 15, 2008.
8. The parties were married in Chandler, Arizona, on July 9, 2008.
9. Husband entered into an agreement with the United States government to provide financial support for Wife on September 2, 2008 (Exhibit 4).
10. Wife obtained her temporary permanent residency in the United States in March 2009.
11. Wife began generating telephone calls to the Chandler police department in June 2009.

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12. Husband offered to finance Wife's return to China; Wife declined this offer and indicated that she had no intention of returning to China.
13. On August 3, 2009, Husband filed a Petition for Dissolution of Marriage. Wife was served with the petition on August 7, 2009.
14. On August 10, 2009, Wife went to a Chandler hospital facility and Chandler police were subsequently contacted. Wife reported to police that Husband sexually assaulted her in July. Hospital personnel did not find any evidence of sexual assault, both Husband and Wife were interviewed by police, and no further action was taken regarding Wife's allegations. The Chandler police officer who testified at trial in this matter made it very clear that she did not believe Wife's allegations.
15. Wife obtained an ex-parte order of protection against Husband on November 17, 2009. The order was dismissed pursuant to her request on January 27, 2010.
16. At trial in this matter, Husband presented the testimony of John Sampson, a retired deportation agent with the Department of Homeland Security, who now operates "CSI Consulting and Investigations" in Aurora, Colorado. Mr. Sampson has extensive experience in investigating marriage fraud in immigration proceedings and the fraudulent misuse of the "Violence Against Women Act." Mr. Sampson's report regarding this matter is Exhibit 6. At the conclusion of his testimony, Mr. Sampson opined that Wife fraudulently induced Husband to marry her for the sole purpose of obtaining entry into the United States. He based his opinion on several factors, including the website that the parties utilized to meet one another; and Wife's "visa shopping;" false allegations of domestic violence within days of being served with the Petition for Dissolution of Marriage; the timing of the request for, and subsequent dismissal of, the order of protection; and her contacts with Mr. Lin. It is Mr. Sampson's belief that Wife was "looking for the first available husband to get her out of China," and that the subsequent allegations of domestic violence and the obtaining of the order of protection were calculated to protect her from subsequent removal from the United States pursuant to the "Violence Against Women Act."
17. From the parties' perspective, Husband testified that he loved Wife at the time that he married her and believed the marriage was legitimate. He testified that he did not begin to have suspicions that he had been used by Wife to gain entry into the United States until approximately March 2009, shortly after Wife obtained her temporary permanent residency. He had no knowledge that Wife had researched

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the possibility of obtaining visas from other countries. Wife testified that she loved Husband at one time and denies marrying him for the sole purpose of gaining entry to the United States.

18. The circumstances surrounding this marriage are unusual. Other than spending eleven days together in China in February 2007, the parties' contact with one another was limited to the internet and other correspondence until Wife's entry into the United States on a "fiancé visa" on June 15, 2008. The parties were then married 24 days later. Prior to the day of the marriage, the parties could not have spent more than 35 days together. Wife's conversations with Mr. Lin regarding the visa application process indicate that she was considering entry into countries other than the United States.
19. After the marriage, the parties lived together for slightly more than a year, and Husband filed for divorce on August 3, 2009. During the period that the parties lived together, Wife obtained a driver's license, applied for an expedited "Advance Parole Document," and obtained her temporary permanent residency. It was shortly after this temporary permanent residency was obtained that the marriage took a definite turn downhill. Wife began contacting law enforcement officials for various reasons and made claims that she "didn't feel safe" at home. No criminal charges were filed against anyone as a result of Wife's reports. The Court has not been made aware of any documentation which supports any claim of physical abuse by Husband. Wife did not allege that Husband had sexually assaulted her until after she was served with his petition to end the marriage.

The Court is mindful that this was a marriage of thirteen months' duration, as opposed to a few days' duration, and considered whether an annulment was appropriate based upon the length of the marriage. However, based upon the evidence presented at the evidentiary hearing, the Court found the testimony of Mr. Sampson to be very persuasive. Based upon all of the matters presented, the Court finds that Husband has established grounds sufficient to annul his marriage to Wife.

IT IS THEREFORE ORDERED granting the Petition for Annulment.

IT IS FURTHER ORDERED adjudging the marriage between the parties to be null and void, dissolving the parties' void or voidable marriage, and restoring each party to the legal status of a single person.

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In light of the Court's orders regarding the Petition for Annulment,

IT IS ORDERED vacating all temporary orders issued by this Court on February 4, 2010.

With respect to the 1999 Monte Carlo vehicle,

IT IS ORDERED awarding to Wife as her sole and separate property the 1999 Monte Carlo, subject to her refinancing the vehicle in her name only and her being responsible for the payments. Wife must refinance the vehicle by no later than June 30, 2010, and Husband must cooperate with signing any documents necessary to effectuate the refinance process. If Wife does not comply with the above-referenced order, she must return the vehicle to Husband by no later than June 30, 2010.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/s/ HONORABLE TERESA A. SANDERS

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HONORABLE TERESA A. SANDERS  
JUDGE OF THE SUPERIOR COURT

FILED: Exhibit Worksheet  
Exhibit Release Form (2)

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.