O'NEILCANNON
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O'NEIL CANNON WINS WISCONSIN SUPREME COURT CASE

Wisconsin Supreme Court Case

O'Neil Cannon recently secured a victory before the Wisconsin Supreme Court. On January 22, 2025, the court ruled in favor of O'Neil Cannon's client in *Morway v. Morway*. This case underscores the importance of understanding the finality of court orders and the associated timelines for filing appeals.

Case Background

David and Karen Morway finalized their divorce on March 25, 2019, in Ozaukee County, Wisconsin. As part of the divorce decree, David was obligated to pay monthly spousal maintenance to Karen. In May 2022, anticipating the expiration of his employment contract with the Utah Jazz, David filed a motion to modify or terminate his spousal maintenance obligations, citing a substantial change in his financial circumstances. The family court commissioner initially reduced David's maintenance payments, but Karen appealed this decision. Following a three-day trial, the circuit court issued an oral decision on April 19, 2023, denying David's motion. This decision was formalized in a written order on May 24, 2023.

Procedural Posture

On September 1, 2023, David sought to appeal the circuit court's May 24 order, along with two other subsequent orders dated June 27 and August 28. However, the court of appeals dismissed his appeal as untimely, determining that the May 24 order was final for purposes of appeal under Wisconsin Statute § 808.03(1), despite the entry of the subsequent orders. According to this statute, a party has 90 days to file a notice of appeal from a final order. David's notice of appeal as to the May 24 order was filed beyond this 90-day window, leading to the dismissal.

Supreme Court's Analysis

The central issue before the Wisconsin Supreme Court was whether the May 24 order constituted a "final order" under § 808.03(1). David contended that the order was not final

because it lacked explicit finality language and did not dispose of all matters in litigation. He also argued that the order's finality was ambiguous, suggesting that it should be liberally construed to preserve his right to appeal.

The Wisconsin Supreme Court disagreed with David's arguments. The court emphasized that an order is considered final if it disposes of the entire matter in litigation as to one or more of the parties. In this case, the May 24 order explicitly denied David's motion to modify or terminate maintenance, thereby resolving the substantive issue before the court. The absence of explicit finality language did not render the order ambiguous, nor did it affect its finality. Consequently, the Wisconsin Supreme Court held that the order was final and that David's appeal was untimely.

Implications

The *Morway v. Morway* decision serves as a crucial reminder for litigants and attorneys regarding the importance of understanding when a court order is deemed final. Even in the absence of explicit finality language, or incorrect language, an order that resolves all substantive issues is considered final for purposes of appeal. Failing to recognize this can result in missed deadlines and the forfeiture of the right to appeal.

In conclusion, *Morway v. Morway* reinforces the principle that the finality of a court order hinges on whether it disposes of all substantive matters in litigation. Litigants must remain vigilant in recognizing such finality to protect their appellate rights.

Greg Lyons argued the case before the Wisconsin Supreme Court. In addition to Lyons, the briefs were submitted by Jean Ansay and Ryan Riebe.