

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

NAHID JAHED,
Appellant,
vs.
RAMEN ABRAHAM,
Respondent.

No. 82749-COA

FILED

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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Nahid Jahed appeals from a district court order granting summary judgment in a domestic matter. Eighth Judicial District Court, Family Division, Clark County; Soonhee Bailey, Judge.

Facts and procedural history

After connecting on social media in July 2015, Jahed and respondent Ramen Abraham began dating and shortly thereafter Abraham proposed marriage to Jahed.¹ The couple initially broke off their engagement because Abraham claimed Jahed was also involved with someone else. Eventually, however, Abraham and Jahed resumed their relationship and decided to participate in a Nikah ceremony in Virginia in January 2016.² The record supports that substantial preparations were undertaken by the couple in advance of the ceremony which was attended by approximately 250 family members and friends. Imam Makhdoom Zia was hired to perform the ceremony. Before the ceremony, Abraham and Jahed attempted to obtain a marriage license but could not because the

¹We recount the facts only as necessary for our disposition.

²A Nikah is an Islamic marriage ceremony that is culturally and religiously accepted by Muslims and is performed by an imam.

courthouse was closed due to a winter storm. When they advised Imam Zia of the situation, he communicated to Abraham and Jahed the requirement of registering their marriage with the court. Although the couple would not have a marriage license at the time of the Nikah ceremony, the imam reluctantly agreed to perform the ceremony based on their assurances that they would register their marriage soon after the ceremony.³ Instead, Abraham and Jahed moved to Las Vegas, Nevada, shortly following the ceremony without obtaining the required marriage license and without registering their marriage with the court.⁴ However, according to Jahed, Abraham reassured her that he would obtain the necessary marriage license to solemnize their Nikah ceremony and legally validate their marriage.

During the approximately three years following their Nikah ceremony, Abraham and Jahed never obtained a marriage license and their actions suggested that they did not hold themselves out to the public as husband and wife. They filed income taxes as single individuals, and Jahed filed for Medicaid and completed an employment application listing her marital status as single.⁵ When their daughter was born in May 2017, the hospital required the parties to sign a Declaration of Paternity because

³In her deposition, Jahed was asked whether she applied for a marriage license prior to her ceremony, to which she replied, "The plan was to apply. The day that we went to court, so around our marriage, there was a huge snowstorm, it was Hurricane Jonas or something, and yeah, we drove to the court, the courts were closed that day."

⁴The parties returned to Virginia frequently after the Nikah ceremony, but they never obtained the required marriage license.

⁵We note that the parties shared one Bank of America checking account but otherwise held separate bank accounts and credit cards.

Abraham represented that he and Jahed were not married. Jahed claims that this is the first time she learned that Abraham had not obtained their marriage license, and therefore, realized they were not legally married.

Eventually, the parties' relationship deteriorated, and Jahed relocated to Virginia with their daughter. This prompted Abraham to file a complaint in Nevada to obtain primary physical custody of their minor child.⁶ In Jahed's answer, she included a counterclaim to declare herself a putative spouse for the purpose of distributing the parties' assets.⁷

After the parties completed certain discovery, Abraham moved for summary judgment on Jahed's putative spouse claim, arguing that Nevada's putative spouse doctrine did not apply as a matter of law. Abraham asserted that Jahed knew the law required the parties to obtain a marriage license in order for their marriage to be valid, and she knew they did not possess such license when participating in the Nikah ceremony, and therefore knew their marriage was not valid at the time they participated in the ceremony. Abraham also asserted that the facts did not support the application of the putative spouse doctrine; namely, that Abraham and Jahed did not hold themselves out to the public as husband and wife. In her opposition, Jahed argued that, at a minimum, she raised genuine disputes of material fact as to the intention of the parties to marry and her subjective belief that they had a valid marriage, until she learned otherwise at the birth of their daughter.

⁶This appeal only involves Jahed's putative spouse claim, not child custody, parenting time, or child support issues.

⁷Although Jahed's initial answer did not include a putative spouse counterclaim, the district court granted her motion to amend to add the claim.

On March 6, 2021, without an evidentiary hearing or trial, the district court entered its order granting Abraham's motion for summary judgment. The district court found that it was undisputed that "[t]he parties knew of the need for a marriage certificate, but failed to get one prior to the Nikah ceremony." The district court concluded that "[e]vidence that Nahid Jahed knew that she was not married from the ceremony forward also makes a claim for a putative spouse invalid as a matter of law." This appeal followed.

On appeal, Jahed argues that the district court erred in granting Abraham's motion for summary judgment on the issue of the putative spouse doctrine.⁸ Specifically, she contends that the district court incorrectly determined that a successful claim "requires that both [parties] would have believed that they were married" as opposed to just one party. Jahed asserts that she established that she subjectively believed that they were married, citing to *Levick v. MacDougall*, 805 S.E.2d 775 (Va. 2017), in which the Virginia Supreme Court upheld the validity of a marriage where the parties obtained their marriage license after the ceremony. Jahed argues that she and Abraham agreed that Imam Zia would perform the ceremony and then they would obtain their marriage license to validate the marriage. She also argues that Abraham agreed he would take the responsibility of obtaining their marriage license to solemnize their recent Nikah ceremony and validate their marriage under Virginia law. Jahed further argues that she had a good faith belief that Abraham had obtained

⁸We apply the putative spouse doctrine in accordance with Nevada law and not Virginia law as neither party raised the applicability of Virginia law on this issue below or on appeal and both parties analyzed the putative spouse doctrine under Nevada law in their respective briefs.

the marriage license, and therefore, believed they had a valid marriage until their daughter was born. Jahed also points out that there is a presumption in favor of her subjective, good faith belief in the validity of their marriage, and that Abraham failed to satisfy his burden in overcoming this presumption.

In turn, Abraham argues that the district court correctly determined that the putative spouse doctrine should not be applied as a matter of law. Abraham further argues that the district court's undisputed findings collectively establish that Jahed "did not have an honest and reasonable belief that the marriage was legally valid or free of any legal impediments at the time of the ceremony."

Standard of review and relevant jurisprudence

This court reviews a district court's order granting summary judgment de novo, "without deference to the findings of the lower court." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). In reviewing an order granting summary judgment, this court assesses all the evidence, and any reasonable inferences drawn from it, "in a light most favorable to the nonmoving party," which in this case is Jahed. *Id.* Summary judgment was appropriate if the pleadings and evidence show "that no genuine [dispute] as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Id.* (second alteration in original) (internal quotations omitted).

The Nevada Supreme Court adopted the putative spouse doctrine in *Williams v. Williams*, 120 Nev. 559, 97 P.3d 1124 (2004), which involved the annulment of a 27-year marriage and distribution of property. The doctrine allows for a party or parties to a legally void marriage, who contracted to marry in good faith, to enjoy the rights and benefits of an

actual spouse.⁹ *Id.* at 562, 97 P.3d at 1126. The purpose of the putative spouse doctrine is to “avoid depriving innocent parties who believe in good faith that they are married from being denied the economic and status-related benefits of marriage, such as property division, pension, and health benefits.” *Id.* at 565, 97 P.3d at 1128. “The doctrine has two elements: (1) a proper marriage ceremony was performed, and (2) one or both of the parties had a good-faith belief that there was no impediment to the marriage and the marriage was valid and proper.” *Id.* Importantly, both elements of *Williams* must be satisfied for the putative spouse doctrine to apply. *See id.*

In *Williams*, the supreme court defined “good faith” as encompassing “an honest and reasonable belief that the marriage was valid at the time of the ceremony.” *Id.* (citing *Hicklin v. Hicklin*, 509 N.W.2d 627, 631 (Neb. 1994)) (emphasis added); *see also Batey v. Batey*, 933 P.2d 551, 553 (Alaska 1997) (holding that Alaska’s putative marriage statute requires a party’s good faith belief in the marriage’s validity at the time of the putative marriage and that good faith must always be present and “must at the very least precede the removal of the impediment”).¹⁰ Good faith is presumed, and the party alleging a lack of good faith must carry the burden of proving bad faith. *Williams*, 120 Nev. at 565, 97 P.3d at 1128. And

⁹As the *Williams* court explained, the putative spouse doctrine does not conflict with Nevada’s policy of refusing to recognize common-law marriages and palimony suits because under the doctrine, “the parties have actually attempted to enter into a formal relationship with the solemnization of a marriage ceremony, a missing element in common-law marriages and palimony suits.” 120 Nev. at 566, 97 P.3d at 1128.

¹⁰In Alaska, the doctrine is referred to as the “putative marriage doctrine.” *Batey*, 933 P.2d at 553.

“[w]hether a party acted in good faith is a question of fact.” *Id.* As the supreme court emphasized, “[u]nconfirmed rumors or mere suspicions of a legal impediment do not vitiate good faith so long as no certain or authoritative knowledge of some legal impediment comes to him or her.” *Id.* (internal quotations omitted). “However, when a person receives reliable information that an impediment exists, the individual cannot ignore the information, but instead has a duty to investigate further.” *Id.* In addition, “[p]ersons cannot act blindly or without reasonable precaution . . . once a spouse learns of the impediment, the putative marriage ends.” *Id.* at 565-56, 97 P.3d at 1128 (internal quotations and footnote omitted).

We point out that legal impediments typically not known by one or both of the parties include a previously undissolved marriage of one of the parties. *See Vallera v. Vallera*, 134 P.2d 761, 762 (Cal. 1943) (explaining that “in the majority of [putative spouse] cases, the defacto wife attempted to meet the requisites of a valid marriage, and the marriage proved invalid only because of some essential fact of which she was unaware, such as the earlier undissolved marriage of one of the parties”); *Williams*, 120 Nev. at 567, 97 P.3d at 1129 (concluding that a party who obtained a marriage license and participated in a marriage ceremony believing that she was divorced from her previous husband was a putative spouse); *see also Ceja v. Rudolph & Sletten, Inc.*, 302 P.3d 211, 221 (Cal. 2013) (concluding that a party who obtained a marriage license and participated in a wedding ceremony believing in good faith that the other participant had obtained a divorce from his previous marriage was a putative spouse). Here, Jahed conceded at oral argument that there was nothing at the time of the ceremony that was “uncurable.” In other words, there was no unknown, preexisting legal impediment at the time of the Nikah ceremony and Jahed

and Abraham knew that they could have been legally married under Virginia law on the day of their ceremony had they obtained a marriage license. Thus, the lack of a marriage license was the only legal impediment to a valid marriage at the time the ceremony was performed.

The district court did not err in granting Abraham's motion for summary judgment on Jahed's putative spouse claim under Nevada law

In determining if the district court erred in failing to apply the putative spouse doctrine in this case, we briefly address whether a proper marriage ceremony was performed under the first element of *Williams*. In doing so, we necessarily apply Virginia law as the parties participated in the Nikah ceremony in Virginia. See *In re Estate of Brown*, 846 S.E.2d 342, 349-50 n.10 (S.C. 2020) (stating that the law of the jurisdiction where the marriage is contracted generally determines the validity of the marriage). Pursuant to Code of Virginia § 20-13, “[e]very marriage in this Commonwealth shall be under a license and solemnized in the manner herein provided.” The Virginia Supreme Court narrowly interpreted this statute as applied to the facts in *Levick*, 805 S.E.2d at 782, which Jahed relies on to support the validity of the couple’s marriage ceremony without having a marriage license at the time of the ceremony.

In *Levick*, a couple and their rabbi agreed that the wedding ceremony could proceed without a marriage license as long as the couple obtained one “as soon as possible.” *Id.* at 777. The couple obtained their marriage license approximately two weeks after the ceremony, and the couple and the officiant rabbi signed the license, and it was filed with the court. *Id.* After nearly ten years of marriage, the couple filed for divorce. *Id.* Because the license was obtained after the ceremony, the husband attempted to argue that the marriage was void under Virginia law. *Id.* at 777-78. On appeal, the *Levick* court determined that it was not necessary

for the parties to have obtained their marriage license before the ceremony because the parties obtained one afterwards, thereby validating their commitment to marry. *Id.* at 782. The court explained that “[a]s long as this consent to be married is presently expressed to and, at the same time, received by the officiant when the celebrants possess a marriage license, a valid marriage is created.” *Id.* (alteration in original).

Here, unlike the parties in *Levick* who obtained a marriage license approximately two weeks after the ceremony and subsequently validated their marriage, Abraham and Jahed never obtained a marriage license and, as a result, neither they nor Imam Zia signed such license. *Cf. Levick*, 805 S.E.2d at 783. Thus, Abraham and Jahed never reasserted their mutual, present intent to be married and, therefore, pursuant to *Levick* they did not have a valid marriage following their Nikah ceremony. *See id.* (stating that “[t]he Levick-MacDougall marriage [only] began after the ceremony, after the issuance of the marriage license, and *after* they reasserted their mutual, unconditional, unqualified, present intent to be married” (emphasis added)). Because the record supports that Jahed and Abraham never obtained a marriage license and ensured that it was properly signed and registered, the parties failed to legally validate their marriage following their Nikah ceremony. We are not persuaded by Jahed’s argument that she had a good faith belief that Abraham would obtain the marriage license and register it following the ceremony as both parties and the officiant are required to sign the license. *See* VA. CODE ANN. § 20-16 (West 2015). And at the time of the ceremony, Jahed undisputedly knew that the additional step of obtaining a marriage license was required in order to have a valid marriage under Virginia law.

Notwithstanding the foregoing, we acknowledge that the first element of *Williams* only requires that a proper marriage ceremony be performed. Pursuant to Virginia jurisprudence, “no particular form of marriage ceremony is required.” *Levick*, 805 S.E.2d at 779 (citing *Alexander v. Kuykendall*, 63 S.E.2d 746, 748 (Va. 1951)) (internal quotations omitted); see also *Cramer v. Commonwealth*, 202 S.E.2d 911, 914 (Va. 1974) (explaining that Virginia has no official interest in the details of a marriage ceremony). Here—in Virginia—the parties participated in a formal religious marriage ceremony, a Nikah, which included the signing of a religious certificate. A Nikah is undisputedly a recognized religious ceremony in the Islamic faith. Indeed, in *Levick*, involving a religious Jewish ceremony, the Virginia Supreme Court assumed that the couple had participated in a proper religious marriage ceremony, and determined only that the marriage was not solemnized until the marriage license was signed and the rabbi executed the marriage certificate. Under Virginia law, we recognize that a religious Nikah ceremony may constitute a proper marriage ceremony because the marriage could have been solemnized *after* the ceremony was performed. Thus, for purposes of this appeal only, we determine that element one of *Williams* has been satisfied without deciding a universal definition of “proper ceremony” as this will necessarily depend on the applicable state law.

Because both elements of *Williams* must be satisfied to apply Nevada’s putative spouse doctrine, we turn now to the second element. As noted, the second element of *Williams* requires that “one or both of the parties had a good-faith belief that there was no impediment to the marriage and the marriage was valid and proper” *at the time of the ceremony*. *Williams*, 120 Nev. at 565, 97 P.3d at 1128 (defining “[g]ood

faith” as an “honest and reasonable belief that the marriage was valid at the time of the ceremony”). We recognize that the district court’s order indicates, incorrectly, that both parties must have a good faith belief in the validity of the marriage, while elsewhere the order recites the legally correct standard. Reading the order as a whole, however, we agree with Abraham that the district court understood that *one or both* of the parties must have the requisite good faith belief in the validity of the marriage at the time the ceremony was performed. And we conclude that the district court did not err in finding that neither party had a good faith believe in the validity of the marriage at the time of the ceremony.

Because Abraham obviously acknowledged he did not have such a belief, the district court primarily focused on Jahed’s good faith belief that “the marriage was valid and proper” at the time of the ceremony. The district court ultimately determined that Jahed lacked the requisite good faith belief because she knew when she and Abraham participated in the Nikah ceremony they did not have a marriage license. Further, as confirmed at oral argument, there is no genuine dispute that Jahed understood, at the time of the ceremony, that a marriage license would be required to have a valid marriage under Virginia law. Therefore, Jahed could not have honestly and reasonably believed that there was no legal impediment to the marriage that was unknown to either herself or Abraham at the time of the ceremony. Both undisputedly knew that at the time of the Nikah marriage ceremony they required a marriage license to form a legally valid marriage under Virginia law. In other words, there was no *unknown* legal impediment to their marriage, as the legal impediment of the lack of a marriage license was known to both. Further, following their Nikah ceremony, the record does not show Jahed attempted to obtain the

marriage license herself or make any effort to ensure that Abraham obtained one.¹¹

We acknowledge that the record supports that following the Nikah ceremony, the couple also did not hold themselves out as husband and wife in public filings and as required by certain legal documents. We caution the district court, however, that the subjective intent of a party and related factual determinations regarding that party's intent are best determined by conducting an evidentiary hearing.¹²

Therefore, we conclude that for the putative spouse doctrine to apply, at least one party must have a good faith belief that there was no legal impediment to the marriage at the time of the ceremony. Here, it is undisputed that neither Jahed nor Abraham had such a belief because both knew that there was a legal impediment at the time of the Nikah


¹¹While we are not unsympathetic to Jahed's position that her cultural and religious beliefs dictated that she defer to Abraham's efforts to obtain the marriage license after the ceremony, this does not change the undisputed fact that Jahed knew she did not possess the required marriage license at the time of their Nikah ceremony and, therefore, she could not have had a good faith belief *at the time the ceremony was performed* that it would be legally recognized as a valid ceremony under Virginia law.

¹²Typically, the resolution of future putative spouse claims would benefit from an evidentiary hearing, as a party's good faith belief is a question of fact under Nevada law and adjudged using a subjective standard focusing on the alleged putative spouse's actual state of mind. *See Ceja*, 302 P.3d at 221 (explaining that "[w]hile there is no requirement that the claimed belief be objectively reasonable, good faith is a relative quality and depends on all the relevant circumstances, including objective circumstances"). However, in this case, Jahed's subjective belief as to the validity of her marriage at the time of the ceremony is not in dispute—she knew at the time of the Nikah ceremony her marriage would not be valid until a marriage license was obtained and their marriage was registered with the court.

ceremony—lack of a marriage license—which was required to solemnize their religious marriage ceremony and form a valid marriage under Virginia law. As a result, the district court did not err in finding that Jahed failed to satisfy the requirements of Nevada's putative spouse doctrine as established in *Williams*—a good faith belief that she entered into a valid marriage under Virginia law at the time of the Nikah ceremony—thereby precluding the application of the doctrine as a matter of law.¹³ See 120 Nev. at 565, 97 P.3d at 1128.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Bulla


_____, J.
Westbrook

cc: Hon. Soonhee Bailey, District Judge, Family Division
Marquis Aurbach Chtd.
Jones & LoBello
Eighth District Court Clerk

¹³Insofar as the parties have raised arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.