

**IN THE DISTRICT COURT OF APPEALS OF FLORIDA
FOURTH DISTRICT**

In Re Marriage of	:
WILLIAM A. CABANA	:
Petitioner, Former Husband, <i>pro se</i>	:
	: Case Number: 4D09-1386
and	:
	:
SHARON ANN MAYO f/k/a	:
SHARON ANN CABANA	:
Respondent, Former Wife.	:

**SUGGESTION FOR CERTIFICATION
TO THE FLORIDA SUPREME COURT**

Comes now the petitioner, *pro se*, with assistance of counsel, pursuant to Fl. R. App. Proc. Rule 9.125 (a) to suggest this Fourth District Court of Appeals certify a question of great public importance in this appeal to the Florida Supreme Court pursuant to Art. V § 3 (b) (5) Fla. Const.

The question presented is,

WHETHER § 61.14 permits an award of alimony to a former husband when he did not plead for it in the original dissolution complaint, but now, with the circuit court having continued jurisdiction over the matter and parties, he is age 71, in poverty and the former wife has a net worth of almost a million dollars?

The issues are offered by the former husband who was married for only eleven years, divorced in 1972, had an alimony award of \$25 a week levied against him forever—without any conditions to end payment. He did not plead for alimony in the original dissolution complaint.

The former husband has paid alimony for over thirty years, is two years in arrearages, receives public welfare in the form of HUD rental assistance, food stamps and Medicaid, has essentially no assets, lives with an income below the poverty level., and is now in court because his former spouse, with considerable assets and income amounting to approximately \$1 million dollars, through over thirty motions is pressing hard for contempt enforcement with incarceration.

REASON FOR IMMEDIATE RESOLUTION

The petitioner is in immediate peril of loss of personal liberty, right of privacy and property rights because the challenged alimony statutes are actively being applied and enforced against him.

The instant case concerns matters of equity and the scope of § 61.08, 61.08(2), and 61.14, Fla. Stats. i.e. whether they permit an award of alimony to the former husband thirty-seven years after a final order of judgment has been entered.

The trial court has retained jurisdiction over the parties and the subject matter, i.e. their marriage, for over thirty-seven years and continues to do so. Because the action is active, a petition for modification can be filed and the trial court acting in equity is obligated to adjust the final order of judgment to prevent a former spouse from slipping in to poverty e.g. Pimm v. Pimm, 601 So.2d 534 (Fla. 1992). All case law supports this--no case law is contrary.

While the statutes do not specifically address a situation whereby the roles of the obligor and obligee support paying positions can be reversed, there is no statute or legal case cite ruling that prohibits a support obligor from subsequently becoming a support obligee post-dissolution. There is a rule of law which states “That which is not prohibited is permitted.” Glazner v. Glazner, 347 F.3d 1212, 1230 footnote 11 (11th Cir. 2003).

§ 61.08, 61.08 (2), 61.14 Fla. Stats. permit the trial court to now award the Former Husband alimony because there has been a material, substantial, permanent, involuntary change of circumstances, not foreseen at the time of final judgment, such that he now has no assets, lives on social security income, and lives below the poverty line, i.e. he is not in peril of poverty but **IS** in poverty! Woolf v. Woolf, 901 So. 2d 905 (Fla. Dist. Ct. App. 4th Dist. 2005).

ISSUES OF GREAT IMPORTANCE

These questions are of great public importance and will have a great effect on the proper administration of justice throughout the state. In Florida over eighty thousand divorces occur annually. Dissolution proceedings consume over thirty percent of Florida court resources. Innumerable Floridians are jailed annually after alimony arrearage contempt proceedings. Present detrimental economic conditions are affecting the lives and ability of alimony payors to comply with court orders

throughout the country and are thereby imposing extreme financial hardships on them. The process of alimony litigation consumes vast amounts of limited family financial resources that could be better saved for family use. One-time alimony payers become a needy spouse while the former needy spouse has attained economic independence.

Because Florida circuit courts retain jurisdiction over the marriage dissolution and parties forever when the economic status of the parties becomes reversed § 61.14 permits a grant of reverse alimony. No statute or caselaw prevents it.

PRAYER FOR RELIEF

WHEREFORE, Appellant, *pro se*, prays this court certify to the Florida Supreme Court this question as of great importance, having a great effect on the proper administration of justice throughout the state and of need of immediate resolution.

Respectfully submitted,

April 21, 2009

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CERTIFICATION OF IMPORTANCE

I express a belief, based on a reasoned and studied professional judgment, that this appeal requires immediate resolution by the Florida Supreme Court, is of great public importance and will have a great effect on the administration of justice throughout the state.

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of April 2009, I caused a true and accurate copy of this Suggestion For Certification To The Florida Supreme Court to be sent by U.S. mail to:

Sharon Ann Mayo
220 Almeria Ave.
West Palm Beach, FL 33405

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