

IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT, STATE OF FLORIDA

WILLIAM CABANA,
Appellant,

v.

CASE NO. 4D05-3906

SHARON ANN MAYO,
f/k/a **SHARON ANN CABANA,**
Appellee.

RESPONSE TO MOTION FOR REHEARING

Appellee, Sharon Ann Mayo, respectfully responds to the Appellant's motion for rehearing and would submit that the motion should be denied for the following reasons.

This court has previously determined that it does not have jurisdiction to review a non-final order previously entered in this case rejecting the Appellant's constitutional challenges to Florida's alimony statute. The former husband raised those challenges by way of a motion filed in the family court to declare the statutes unconstitutional, which was denied.

In his motion for rehearing, the Appellant does not dispute this court's determination that the non-final order denying Appellant's motion to declare the statutes unconstitutional is not immediately reviewable. Rather, the Appellant brings up a subsequent order entered by the trial court on January 13, 2006 (which

is after this court dismissed this appeal on January 12, 2006) finding the husband to be in civil contempt and ordering his commitment. The trial court found an arrearage of \$87,660.92 in alimony, the trial court found the Appellant to have the present ability to pay at least \$7,500 and that he may purge himself of the contempt by paying \$7,500 and paying off the balance of the arrearage at a minimum of \$200 a month. The Appellant has claimed the inability to even pay the \$7,500 purge amount, but he has just hired an appellate lawyer to represent him in filing his motion for rehearing to this court.

The entry of an order finding the Appellant to be in civil contempt does not make the interlocutory orders entered months ago suddenly reviewable by this court. Those orders were not and still are not reviewable, and this court made no mistake in dismissing the interlocutory appeal for lack of jurisdiction. Additionally, the motion for rehearing does not point out anything that this court "overlooked or misapprehended" since it relies upon an order entered by the trial court after this court already dismissed the non-final appeal.

Appellant has also requested this court to not only reinstate the previous appeal, but to allow Appellant to file a new brief on the merits which raises a new issue that was not previously raised. The Appellee would respectfully object to that request even if this court were inclined to reinstate the non-final appeal which was

properly dismissed.

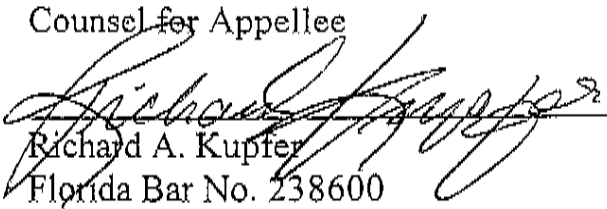
WHEREFORE, Appellee respectfully requests this court to deny the Appellant's motion for rehearing.

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a true and correct copy of the foregoing document has been furnished, by U.S. mail this 1st day of February 2006 to: **Cathy Kamber, Esq.**, 1675 Palm Beach Lakes Blvd., Tower A - Suite 700, West Palm Beach, FL 33401, counsel for Appellee; **David J. Glantz, Esq.**, 110 SE 6th Street, 10th Floor, Ft. Lauderdale, FL 33301, Assistant Attorney General; **Stephen N. Martyak, Esq.**, 2305 Fairway Drive South, Jupiter, FL 33477, counsel for Appellant.

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