

<input type="checkbox"/> Small Claims <input type="checkbox"/> County Court <input checked="" type="checkbox"/> District Court <input type="checkbox"/> Probate Court <input type="checkbox"/> Juvenile Court <input type="checkbox"/> Water Court Jefferson County, State of Colorado 100 Jefferson County Parkway Golden, Colorado 80401	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number: 99 DR 3717
<hr/> In re the Marriage of Christy Harrington, n/k/a/ Christy Ryan, Petitioner, and Sean Harrington Respondent.	
ORDER	

This matter comes before the Court on Respondent's Motion for Stay of Execution and Respondent's Amended Motion for Reconsideration of May 4th Order in Light of Newly Discovered Evidence and for Disqualification of Bill Fyfe as Special Advocate. Having reviewed the Motions, the court file and the applicable legal authority. the Court enters the following Order.

Application for a Stay of Execution must be made first at the trial court level. C.A.R. § 8(a). Although the filing of an appeal normally divests the trial court of jurisdiction, the trial court can decide certain issues, such as a Motion for Stay. *Odd Fellows Bldg. & Inv. Co. v. City of Englewood*, 667 P.2d 1358, 1360 (Colo. 1983). Here, Defendant has not shown he is entitled to a stay of execution. *See Muck v. Arapahoe County Dist. Ct.*, 814 P.2d 869, 872 (Colo. 1991).

Further, Respondent's Motion under C.R.C.P. 60(b) in light of newly discovered evidence must still conform with C.R.C.P. 59(d)(4) and thus as the Motion is not supported by an affidavit, it cannot be considered. *See Southeastern Colo. Water Conservancy Dist. v. O'Niell*, 817 P.2d 500, 505-06 (Colo. 1991) (holding C.R.C.P. 60(b) motion as to newly discovered evidence must be resolved under standards set by C.R.C.P. 59(d)(4)). Further, even if the facts were supported by an affidavit, Respondent has not shown how the evidence is material or how it might change the outcome of the Court's May 2004 Order. *Id* at 505. Thus, the Motion is without merit.

THEREFORE, Respondent's Motion for Stay of Execution is DENIED. Further, Respondent's Amended Motion for Reconsideration of May 4th Order in Light of Newly Discovered Evidence and for Disqualification of Bill Fyfe as Special Advocate is also DENIED.

Dated this 16th day of August, 2004.

BY THE COURT:



Jane A. Tidball
District Court Judge

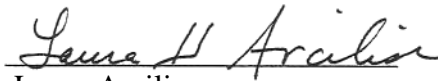
Certificate of Mailing

I hereby certify that a true and correct copy of the above Order was mailed postage prepaid this 16th day of February, 2005 to the following:

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