

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR
LEE COUNTY, FLORIDA** **CIVIL ACTION**

**M. L. C.,
Petitioner & former wife,**

**vs.
D. E. W.,
Respondent & former husband,**

Case No. 00 DR 0000 N

ORDER DENYING FORMER WIFE'S MOTION FOR REHEARING

This matter having come before the court at trial on 9/1/2011 and on 11/14/2011 on the former wife's motion for rehearing filed 9/21/2011, it is ordered:

1. Jurisdiction The court has jurisdiction to consider and rule on the motion. The former wife's motion for rehearing was filed on 9/21/2011 following the rendering of the judgment on 9/12/2011, that is, the date the judgment was filed with the clerk. So, the motion was filed within 10 days after the judgment was filed with the clerk. Rule 1.530(b).
2. Motion denied The court denies the former wife's motion for rehearing. The court ruled on the evidence before it, making a determination of what evidence was credible and what was not credible. This is the job of the finder of fact, to decide what evidence is credible and what evidence is not credible. The finder of fact is able to see, hear, observe and listen to the witnesses as they testify.

Having ruled on a critical factual question presented at trial, based on the evidence at trial, the court cannot now permit a reopening of the evidence on that point to receive some evidence believed by the former wife to be corroborating. The court ruled that the lack of corroborating evidence was the difficulty that made certain evidence from the former wife not credible. To now allow corroboration on the question would be unfair and a denial of due process. It would be a "second bite at the apple."

Trials are not conducted piecemeal. Due process gives a party a right to a trial where she has the opportunity to be heard. Due process does not give a party a right to a series of hearings in which the same evidence or evidence that was available can be repeated and reargued in an endless effort to have the court change the decision made at the trial. A party must choose the evidence she will bring to a trial. Necessarily, a party cannot bring all conceivable evidence to a trial. She must select the most relevant and probative evidence. The trial afforded the former wife the opportunity to present all of the evidence she considered relevant and probative. She did so, the court decided, and the matter is now over.

For the foregoing reasons, the motion is denied.

Done and ordered in Fort Myers, Lee County, Florida, this _____

R. Thomas Corbin, Circuit Judge

Copies provided to:
_____, Esq., and _____, Esq.