

2023 IL App (1st) 211465-U

No. 1-21-1465

Order filed on March 31, 2023

Sixth Division

**NOTICE:** This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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MAUREEN MARY YUNKAP KWANKAM and )  
CONRAD F. NJAMFA, Co-Special Administrators of the )  
Estate of Patrick Knamfa Njamfa, deceased, )  
 )  
Plaintiffs, ) Appeal from the Circuit Court  
 ) of Cook County, Illinois.  
v. )  
 ) No. 16 L 1950  
KENYA AIRWAYS, LTD.; ORIX AVIATION )  
SYSTEMS, LTD.; NISSEN KAIUN KABUSHIKI ) The Honorable  
KAISHA; ORIX CORPORATION; and BOC AVIATION ) Kathy M. Flanagan,  
PTE., LTD., ) Judge, Presiding.  
 )  
Defendants, )  
 )  
(Maureen Mary Yunkap Kwankam, Plaintiff-Appellant; )  
Conrad F. Njamfa, Plaintiff-Appellee). )

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JUSTICE C.A. WALKER delivered the judgment of the court.  
Justices Oden Johnson and Tailor concurred in the judgment.

**ORDER**

*Held:* The circuit court's order denying the 2-1401 petition to vacate the judgment is affirmed where petitioner failed to raise a meritorious defense and establish due diligence.

¶ 1 Plaintiff-Appellant Maureen Mary Yunkap Kwankam filed a petition pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2020)). The petition sought to vacate the court's February 25, 2020 final order of distribution of settlement proceeds. The circuit court denied the section 2-1401 petition, finding no meritorious defense, no due diligence in prosecuting the case, and no diligence in filing the section 2-1401 petition. Maureen appeals alleging the circuit court erred in: (1) denying her motion to reconsider and violated Illinois Supreme Court Rule 63; (2) determining that petitioner did not have a meritorious claim; (3) determining that there are no facts supporting a finding of due diligence in prosecuting the case; and (4) determining that there are no facts supporting a finding of due diligence in prosecuting the section 2-1401 petition. For the following reasons, we affirm the judgment of the circuit court.

¶ 2

#### I. BACKGROUND

¶ 3 On May 5, 2007, decedent Patrick Njamfa died in a plane crash on Kenya Airways flight 507 in the country of Cameroon. In June 2010, the circuit court of Cook County appointed Conrad F. Njamfa, decedent's brother, as a special co-administrator of the decedent's estate, as the guardian for children Tiara-Marie Shilleh Njamfa and Marcel Nkamga Njamfa. The court also appointed Maureen Mary Yunkap Kwankam, who alleged she is the wife of the decedent, as a special co-administrator of the estate, as the mother and next friend for children, Michael Njimeni Njamfa and Patrick Nkameni Njamfa, Jr. Maureen alleges Michael and Patrick, twin boys born over a year and two months after decedent's death, were decedent's posthumous children. Tiara and Marcel were decedent's children from two previous relationships.<sup>1</sup>

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<sup>1</sup> The record also listed another alleged child named Curtis Njamfa. Both Kwankam and Conrad stated they had no knowledge of any child of decedent with this name or any other child other than the ones acknowledged in the petition to approve wrongful death settlement.

¶ 4 Maureen and Conrad, as co-special administrators of the decedent's estate, through counsel, filed a wrongful death and survival action against Kenya Airways, Ltd, and several other defendants. The parties entered into a settlement agreement for \$2,250,000, and on June 16, 2016, Maureen and Conrad filed a petition in the circuit court of Cook County to approve the settlement. Maureen claimed that she was decedent's widow and the twins, born by means of artificial insemination to her and the decedent, are entitled to a share of the settlement proceeds. Conrad claimed that Maureen was not married to decedent at the time of his death because decedent was still married to Marie Pendar, and therefore, Maureen is not entitled to settlement proceeds. Conrad further alleged that the twin children were not lawful next of kin of the decedent because they were born more than 300 days after the decedent's death. Conrad contends that Tiara and Marcel are the only two lawful heirs and next of kin of the decedent.

¶ 5 The circuit court approved the settlement agreement and ordered the settlement proceeds be placed in an interest-bearing account, pending the "final status of all proceedings in Cameroon as to the heirship of the decedent." The record reflects ongoing proceedings in the Cameroonian courts regarding whether the decedent was the father of Maureen's children, and the record does not reflect any further proceedings in the circuit court for the next three years.

¶ 6 In May 2019, Conrad informed the court that the Supreme Court of Cameroon ruled Marcel and Tiara were the sole beneficiaries of decedent's estate. Conrad attached two copies of the order, one in French and one in English, and each of the following documents: (1) a decision from the Littoral Court of Appeals in Cameroon; (2) Mary's appeal to the Supreme Court of Cameroon; and (3) a decision from the Supreme Court of Cameroon. In the Court of Appeals decision, it held the following:

“Declares minors Patrick Nkameni Nkamfa, and Michael Njimeni Njamfa lack capacity to be considered as beneficiaries of the estate of Njamfa Patrick as they were born 300 days after the death of late Patrick Njamfa.

Declares the minors Marcel Nkamga Njamfa [and] Tiara Marie Shillen Njamfa co-beneficiaries of their late father Patrick Njamfa.

Declares Conrad Njamfa brother of the deceased sole administrator of the estate of Patrick Njamfa on behalf of the beneficiaries (children of the deceased).”

In the Supreme Court of Cameroon’s decision, it held that Maureen’s “motion for stay of execution of the Court of Appeals judgment is hereby dismissed for being unreasonable, unfounded and bereft of legal backing.”

¶ 7 On June 28, 2019, Maureen filed, in the circuit court, a “Motion to be heard in Court *Ex Parte*: For the Settlement and Distribution of Estate Property.” In the motion, Maureen alleged she and decedent married on May 9, 1999. After decedent’s death, the Wouri High Court in Cameroon nullified Maureen’s marriage to decedent.<sup>2</sup> As noted in the prior appeal of this case, “the record does not contain a notice setting the motion for a hearing, and the circuit court did not enter any order on the motion.” *Kwankam v. Kenya Airways, Ltd.*, 2021 IL App (1st) 200514-U ¶ 4.

¶ 8 On July 10, 2019, Maureen appealed the June 16, 2016 order approving the settlement agreement. This court dismissed the appeal for lack of jurisdiction. *Kwankam v. Kenya Airways, Ltd.*, 2020 IL App (1st) 191430-U (hereinafter *Kenya Airways I*).

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<sup>2</sup> In Maureen’s section 2-1401 petition, she alleged her marriage to decedent was nullified because decedent was still married to Marie Pendar, whom he wed in the United States in 1995.

¶ 9 On February 25, 2020, the circuit court entered a final order of distribution of settlement proceeds based on the Cameroonian courts' adjudication of heirship. The court ordered that: (1) Tiara and Marcel were decedent's next of kin; (2) Michael and Patrick were not decedent's next of kin; and (3) Maureen was not decedent's surviving spouse. The court found Maureen and the twin children had been adjudicated as not being the spouse and heirs and next of kin of decedent. Hence, the circuit court ordered the net settlement proceeds shall be paid to the co-special administrator, Conrad F. Njamfa, as guardian of the two lawful heirs and next of kin of the decedent, Tiara and Marcel, minors, *instanter*. Maureen appealed the decision, and this court affirmed. *Kwankam Kenya Airways, Ltd.*, 2021 IL App (1st) 200514-U.

¶ 10 After this court issued its decision, Maureen filed, in the circuit court, a *pro se* motion to reconsider the circuit court's February 25, 2020 order on distribution of settlement proceeds.<sup>3</sup> Maureen subsequently filed a petition to vacate judgment pursuant to section 2-1401 of the Code. In the petition, Maureen raised the following challenges to the circuit court's final order of distribution of settlement proceeds: (1) the circuit court erred in denying her motion to reconsider and violated Illinois Supreme Court rule 63; (2) she has a meritorious claim; (3) she was diligent in presenting her claims to the court during the original action; and (4) she was diligent in filing the petition for relief from judgment.

¶ 11 The circuit court denied Maureen's petition to vacate judgment on October 26, 2021. The court held that, even if Maureen presented a meritorious claim, she failed to satisfy the due diligence elements to warrant relief under section 2-1401. The court reasoned Maureen did not

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<sup>3</sup> In her appellate brief, Maureen alleges she presented her motion to reconsider to the circuit court on February 5, 2020. The record shows the motion was filed on March 16, 2021. There is no entry in the court docket that any motion was presented to the court on February 5, 2020, and no report of proceedings to show otherwise.

exercise due diligence in making the argument that she was entitled to a share of the settlement proceeds. For instance, Maureen raised the same argument several times before the circuit and appellate court and her argument was rejected as a result of procedural defects and insufficient record. This appeal follows.

¶ 12

## II. JURISDICTION

¶ 13 On June 16, 2016, Maureen and Conrad filed a petition to approve the settlement agreement. On February 25, 2020, the circuit court entered a final order of distribution of settlement proceeds. Maureen filed a petition to vacate judgment pursuant to section 2-1401 of the Code. The court denied Maureen's petition on October 26, 2021. On November 15, 2021, Maureen appealed the court's October 26 judgment. We have jurisdiction over this appeal pursuant to article VI, section 6 of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rule 303 (eff. July 1, 2017).

¶ 14

## III. ANALYSIS

¶ 15 On appeal of the section 2-1401 petition, Maureen argues that the circuit court erred in: (1) denying her motion to reconsider and violating Illinois Supreme Court rule 63 (adopted Aug. 6, 1993)<sup>4</sup>; (2) determining that petitioner did not have a meritorious claim; (3) determining that there are no facts supporting a finding of due diligence in prosecuting the case; and (4) determining that there are no facts supporting a finding of due diligence in prosecuting the section 2-1401 petition. Conrad asserts the circuit court properly denied the petition because the Supreme Court of Cameroon affirmed three times as to who are the beneficiaries of the decedent's entire estate,

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<sup>4</sup> Supreme Court Rule 63 derives from the former Code of Judicial Conduct. The former Code of Judicial Conduct was repealed on January 1, 2023, and recodified as the Illinois Code of Judicial Conduct of 2023.

and Maureen’s marriage to decedent was null and void. Conrad also asserts that the Supreme Court of Cameroon’s decision superseded the lower court decisions provided by Maureen, and Maureen falsified the contents of her version of the Supreme Court of Cameroon’s ruling.

¶ 16 A. Motion to Reconsider and Illinois Supreme Court Rule Violations

¶ 17 Maureen argues the circuit court erred in denying her motion to reconsider and violated Illinois Supreme Court Rule 63. Specifically, Maureen claims: (1) she provided newly discovered evidence that the Supreme Court of Cameroon held she was “eligible for recognition” as decedent’s common law wife and entitled to decedent’s estate and the court incorrectly applied Cameroonian law; (2) the court failed to provide Maureen with proper notice and an opportunity to be heard when the court did not conduct a hearing on the distribution of settlement proceeds; and (3) the court improperly participated in *ex parte* communications with Conrad.

¶ 18 We first clarify the procedural posture of Maureen’s motion to reconsider and violation of Supreme Court Rule 63 claims. In the notice of appeal, Maureen solely appeals the circuit court’s October 26, 2021, judgment on the petition to vacate pursuant to section 2-1401. The petition states, “[Maureen] presents a legal challenge to the Court’s final order. The Court misinterpreted Cameroonian law, denied [Maureen] her due process rights by failing to insure proper notice or to hold hearings, and accepted *ex parte* communications.” Because the issues here are raised as legal challenges to the circuit court’s final judgment under section 2-1401, we consider the issues under the section 2-1401 legal framework.

¶ 19 The purpose of a section 2-1401 petition is to bring before the court, matters of fact not appearing in the record, which if known to the court at the time the judgment was entered, would have prevented its rendition. See *Brockmeyer v. Duncan*, 18 Ill. 2d 502, 505 (1960); *Glenn v.*

*People*, 9 Ill. 2d 335, 340 (1956); *Universal Outdoor, Inc. v. City of Des Plaines*, 236 Ill. App. 3d 75 (1992); *Anest v. Bailey*, 265 Ill. App. 3d 58 (1994). A section 2-1401 petition is not intended to provide for review an order from which a party could have taken a timely appeal, and such a petition is not to be invoked as a substitute for a party's right to appeal. *Universal Outdoor, Inc.*, 236 Ill. App. 3d at 68. "Thus, a petition under section 2-1401 is not appropriate for review of errors of law." *Universal Outdoor, Inc.*, 236 Ill. App. 3d at 81.

¶ 20 As it pertains to the aforementioned issues, Maureen merely alleges untimely errors of law. In her petition, Maureen acknowledged when she first discovered these alleged errors, stating "after learning of Conrad's *ex parte* communications with the Court, Maureen filed a *pro se* 'Motion to be heard in Court Ex Parte.'" Referencing her July 10, 2019, notice of appeal, she also stated "[a]fter the Court declined to hold a hearing, Maureen filed a *pro se* notice of appeal." Hence, Maureen had knowledge of the communication between the circuit judge and Conrad when she filed the *pro se* motion in June 2019, and knowledge of the trial court's decision not to hold a hearing when she filed the appeal in July 2019. Yet Maureen never raised these issues until she filed the petition to vacate in April 2021, over a year after the court entered its final order of distribution. Moreover, the motion to reconsider was filed after the 30-day statutory period and, consequently, the circuit court had no jurisdiction to rule on the motion. See 735 ILCS 5/2-1203(a) (West 2020) ("any party may, within 30 days after the entry of the judgment or within any further time the court may allow within the 30 days or any extensions thereof, file a motion for rehearing, or a retrial, or modification of the judgment or to vacate the judgment or for other relief"); *Longo v. Globe Auto Recycling, Inc.*, 318 Ill. App. 3d 1028, 1033 (2001) ("It is well established that a trial court loses jurisdiction over a case and the authority to vacate or modify its judgment 30 days



after the entry of judgment, unless a timely post-judgment motion is filed.”). “Section 2-1401 does not afford a remedy to relieve a litigant of the consequences of his own mistakes or his counsel’s negligence.” *Universal Outdoor, Inc.*, 236 Ill. App. 3d at 81.

¶ 21 Even if we reviewed the alleged errors, Maureen’s claims would fail on the merits. Although Maureen argues that she provided newly discovered evidence that the Supreme Court of Cameroon found she was entitled to decedent’s estate, the circuit court did not find the evidence persuasive. To justify setting aside a prior order based on newly discovered evidence: (1) the party seeking to overturn the order must show due diligence in discovering the evidence; (2) the party must also show that he could not have produced the evidence at the first trial by exercising due diligence; (3) the party must demonstrate that the evidence is so conclusive that it would probably change the trial result; (4) the evidence must be material and relate to the issues; and (5) the evidence cannot be merely cumulative or serve the sole purpose of impeachment. *In re Wolff*, 355 Ill. App. 3d 403 (2005). Here, the evidence Maureen provided had already been provided to the circuit court. As such, denial of the motion to reconsider based on newly discovered evidence was not an abuse of discretion.

¶ 22 Maureen also asserts that the circuit court violated Supreme Court Rule 63(A)(4) (adopted Aug. 4, 1993) by not allowing her to be heard. Here, on September 8, 2021, the circuit court granted Maureen’s motion to resubmit the 2-1401 petition and exhibits as the court continued the matter to October 8, 2021. The court acknowledged in its written order of October 26, 2021, that it considered the affidavit of Maureen’s expert, Dr. Irene Ngum Asanga, a Cameroonian law expert. In its ruling on the 2-1401 petition, the court stated that it considered all the materials before it and concluded that Maureen was not a beneficiary of the decedent’s estate and was not entitled to a

share of the settlement proceeds. Given that the circuit court considered Maureen's evidence, we find that the court allowed Maureen to be heard pursuant to supreme court rules.

¶ 23 Maureen also alleges that the circuit court violated Supreme Court Rule 63(A)(5) (adopted Aug. 4, 1993) by improperly engaging in *ex parte* communication with Conrad. The record shows the correspondence reflected an administrative purpose appropriate under Rule 63(A)(5). In the court's order, granting the settlement agreement, the court stayed the issue of distribution pending the "final status of all proceedings in Cameroon as to the heirship of decedent." Three years later, Conrad sent a letter directly to the trial judge which included the order from the Supreme Court of Cameroon. The trial judge responded to the letter advising that the documents were filed with the circuit court clerk on May 28, 2019. The sole purpose of Conrad's correspondence was to provide the circuit judge with the final Cameroonian court decisions on decedent's heirship. Maureen also forwarded a letter directly to the trial judge, which was filed with the circuit court clerk on June 28, 2019. We find no violation of supreme court rules.

¶ 24 B. Factual Challenge to Final Judgment Under Section 2-1401

¶ 25 Section 2-1401 establishes a statutory procedure that allows for the vacatur of a judgment older than 30 days or a judgment that is void. 735 ILCS 5/2-1401 (West 2020). Section 2-1401(b) provides that the petition must be filed in the same proceeding in which the order or judgment was entered, but it is not a continuation of the original action (735 ILCS 5/2-1401(b) (West 2020)); it is a new cause of action. *Mills v. McDuffa*, 393 Ill. App. 3d 940, 946 (2009). The purpose of a section 2-1401 petition is to alert the circuit court to facts that, if they had been known at the time, would have precluded entry of the judgment. *Lofendo v. Ozog*, 118 Ill. App. 3d 237, 241 (1983). A petition seeking relief from a final judgment or order under this section is not intended to relieve

a party from the consequences of his or her own mistake or negligence. *Hirsch v. Optima, Inc.*, 397 Ill. App. 3d 102, 110, (2009). A 2-1401 petition is not “a substitute for appeal nor a vehicle to relitigate that which had already been validly adjudicated.” *Meudt v. Travelers Insurance Co.*, 57 Ill. App. 3d 286, 294 (1978).

¶ 26 Pursuant to the traditional analysis, “to be entitled to relief from a final judgment or order under section 2-1401, the petition must set forth specific factual allegations supporting each of the following elements: (1) the existence of a meritorious defense; (2) due diligence in presenting this defense or claim to the circuit court in the original action; and (3) due diligence in filing the section 2-1401 petition for relief.” *Warren County Soil & Water Conservation District v. Walters*, 2015 IL 117783, ¶ 37.

¶ 27 To prove the existence of a meritorious defense or claim, a petitioner must allege facts that would have prevented entry of the judgment if they had been known by the circuit court. *Physicians Insurance Exchange v. Jennings*, 316 Ill. App. 3d 443, 457 (2000). Due diligence requires the section 2-1401 petitioner to have a reasonable excuse for failing to act within the appropriate time. *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 222 (1986). The petitioner must show that his failure to defend against the lawsuit was the result of an excusable mistake and that under the circumstances he acted reasonably, and not negligently, when he failed to initially resist the judgment. *Id.* “No bright-line rule exists for judging whether a petitioner has acted diligently. Rather, due diligence is judged by the reasonableness of the petitioner’s conduct under all the circumstances.” *Paul v. Gerald Adelman & Associates, Ltd.*, 223 Ill. 2d 85, 99-100 (2006). In determining the reasonableness of the excuse offered by the petitioner, the court must consider all

the circumstances attendant upon entry of the judgment, including the conduct of the litigants and their attorneys. *Airoom*, 114 Ill. 2d at 222.

¶ 28 “[T]he quantum proof necessary to sustain a section 2-1401 petition is a preponderance of the evidence.” *Walters*, 2015 IL 117783, ¶ 37. A section 2-1401 petition can present either a factual or legal challenge to a final judgment or order. *Id.* ¶ 31. “The nature of the challenge presented in a section 2-1401 petition is critical because it dictates the proper standard of review on appeal.” *Id.* When reviewing traditional fact-dependent challenges to a final judgment or order, our supreme court in *Walters*, “declined to abandon the abuse of discretion standard” because a factual challenge “must be resolved by considering the particular facts, circumstances, and equities of the underlying case.” *Id.* ¶¶ 50, 52. The question of whether relief should be granted lies within the sound discretion of the trial court, and a reviewing court will reverse the trial court's ruling only if it constitutes an abuse of discretion. *Stolfo v. KinderCare Learning Centers, Inc.*, 2016 IL App (1st) 142396, ¶ 22. An abuse of discretion occurs only when the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court. *Seymour v. Collins*, 2015 IL 118432 ¶ 41.

¶ 29 1. Meritorious Claim Under 2-1401

¶ 30 To establish the existence of a meritorious defense or claim, a petitioner must allege facts that would have prevented entry of the judgment if known by the circuit court. *Blutcher v. EHS Trinity Hospital*, 321 Ill. App. 3d 131, 136 (2001). Maureen argues she presented a meritorious claim that she is entitled to a share of decedent’s settlement proceeds. Specifically, Maureen claims the Cameroonian courts nullified her marriage to decedent but recognized her as decedent’s common law wife under Cameroonian law. As such, Maureen’s status as a common law wife

entitled her to a share of decedent's estate. Maureen contends, had the circuit court considered the Cameroonian court rulings in their entirety, it would have found that Maureen was entitled to a portion of the settlement proceeds. Maureen attached to the petition, *inter alia*, the decisions from the High Court, Court of Appeals, and Supreme Court of Cameroon, and an affidavit of Dr. Irene Assanga, a professor of family law and civil procedure at the University of Duola. In the affidavit, Dr. Assanga explained the equitable rights of spouses under Cameroonian law.

¶ 31 In the circuit court, Conrad responded to Maureen's 2-1401 petition, on August 27, 2021, by asking the court to deny Maureen's petition. Conrad asserted that: (1) over the past ten years, the circuit court has reviewed all information relating to this case "including three Supreme Court judgments from Cameroon confirming the beneficiaries of the estate as Tiara and Marcel"; (2) Maureen has used lower court cases from Cameroon courts as the basis of her petition to vacate judgment; (3) Maureen has falsified the translation from the French language to the English language to make it read as if the Supreme Court of Cameroon gave her rights to the decedent's estate; (4) Maureen knowingly and in bad faith entered into a bigamous marriage with the decedent, and she knew the decedent was in an existing marriage that had not been dissolved; and (5) the Cameroon Supreme Court supersedes all lower courts and awarded Maureen no rights to the decedent's estates.

¶ 32 Maureen must prove, by a preponderance of the evidence, that she has a meritorious claim. See *Walters*, 2015 IL 117783, ¶ 37. Maureen argues that she has demonstrated a meritorious claim by a preponderance of the evidence because the Cameroonian courts upheld her marital and property rights. Conrad asserted the Supreme Court of Cameroon ruled Maureen's marriage to decedent was null and void. Conrad also asserts that the Supreme Court of Cameroon's decision

superseded the lower court decisions provided by Maureen, and Maureen falsified the contents of her version of the Supreme Court of Cameroon's ruling.

¶ 33 The circuit court had access to the orders entered by Cameroonian courts, and Maureen does not offer any documents that were not previously presented to the court. In response to arguments, the circuit court noted that “[c]onsidering all the materials before it, this Court concluded that [Maureen] was not a beneficiary of the decedent’s estate and was not entitled to a share of the settlement proceeds.” Maureen has not proven any alleged facts that would have prevented entry of the judgment if known by the circuit court. See *Blutcher v. EHS Trinity Hospital*, 321 Ill. App. 3d 131, 136 (2001). As such, we find Maureen failed to establish a meritorious claim.

¶ 34 2. Due Diligence

¶ 35 Maureen claims she established the due diligence elements to warrant relief under section 2-1401. Maureen asserts she was diligent in presenting her claim before the circuit court because she made attempts to raise the claim in her “motion to be heard and motion to reconsider”. As we noted in our prior decision of this matter, “On June 28, 2019, Maureen filed a pro se ‘Motion To [B]e [H]eard in Court Ex Parte: [sic] For the Settlement and Distribution of Estate Property.’ The record does not contain a notice setting the motion for a hearing, and the circuit court did not enter any order on the motion.” *Kwankam v. Kenya Airways, Ltd.*, 2021 IL App (1st) 200514-U ¶ 4. The motion was filed in response to the letter filed by Conrad advising the circuit court that the Supreme Court of Cameroon had confirmed and upheld “the nullity of the marriage contracted between” the decedent and Maureen. On February 25, 2020, the circuit court entered the final order distributing the net proceeds of the settlement and found that Maureen had been adjudicated not to

be decedent's spouse, and Maureen's children were adjudicated not to be the decedent's heirs or next of kin. Maureen appealed the order on March 13, 2020, and this court entered its order affirming the trial court on February 16, 2021.

¶ 36 Maureen also argues she was diligent in filing her section 2-1401 petition because she filed and sought a hearing on the petition a week after the denial of her petition for rehearing in this court. The circuit court held Maureen failed to establish "due diligence in prosecuting this case or in prosecuting this § 2-1401 petition." The court reasoned Maureen "filed untimely and unsubstantiated appeals in her attempts to litigate this Court's allocation and distribution of settlement proceeds" and had unsuccessfully made the same argument that she was entitled to a share of the settlement proceeds based on the Cameroonian court decisions. We agree with the circuit court's finding that Maureen's due diligence arguments fail, given her multiple attempts to relitigate the issue.

¶ 37 Indeed, it is well-established that 2-1401 petition "is not to relitigate matters that were or could have been raised on direct appeal." *People v. Burrows*, 172 Ill. 2d 169, 187 (1996); *In re Marriage of Halas*, 173 Ill. App. 3d 218, 223 (1988); *In re Marriage of Baumgartner*, 226 Ill. App. 3d 790, 794-95 (1992) ("Issues which could have been raised in a motion for rehearing or on direct appeal are *res judicata* and may not be relitigated in the section 2-1401 proceeding").

¶ 38 Furthermore, Maureen also lagged in presenting the claim throughout the circuit court proceedings and in filing the section 2-1401 petition. The record reveals the circuit court granted the motion to approve the settlement but stayed its decision on distribution of the proceeds "until such time as the Court is provided with the final status of all proceedings in Cameroon as to the heirship of the Decedent." In May 2019, Conrad sent the circuit judge a letter, informing her that

the Supreme Court of Cameroon ruled on the issue of heirship of the decedent's estate. Conrad attached the pertinent rulings from the Court of Appeals and Supreme Court of Cameroon. According to the case docket, Maureen filed a motion to be heard in June 2019. However, there is no notice setting the motion for a hearing, and the circuit court did not enter any order on the motion.

¶ 39 In February 2020, the circuit court entered a final order of distribution of settlement proceeds. Maureen did not file a motion to reconsider within 30 days from the court's judgment. Instead, Maureen appealed the court's judgment to this court. On appeal, Maureen raised the issue that she was entitled to a share of the settlement proceeds as decedent's common law wife under Cameroonian law. A month after this court issued its decision, Maureen filed a motion to reconsider in the circuit court. Less than a month later, Maureen filed a section 2-1401 petition raising the same issues.

¶ 40 Maureen was aware of the court's final order of distribution of settlement proceeds. Yet, Maureen did not present her issue on the distribution of settlement proceeds until she filed the motion to reconsider, and subsequently, the section 2-1401 petition over a year after the circuit court issued its final order. Given Maureen's considerable delay in raising her claim before the circuit court and in filing her section 2-1401 petition, we find that Maureen failed to satisfy the requisite due diligence elements to warrant relief under section 2-1401. Because Maureen failed to meet the requisite elements to obtain relief under section 2-1401, we find the circuit court did not abuse its discretion when it denied the motion to vacate judgment.

¶ 41

#### IV. CONCLUSION



¶ 42 We find the circuit court lacked jurisdiction to consider Maureen's motion to reconsider. We also find Maureen failed to satisfy the requisite elements to obtain relief under section 2-1401 of the Code, and therefore, the circuit court did not abuse its discretion in denying Maureen's 2-1401 petition to vacate judgment. Accordingly, we affirm the circuit court's judgment.

¶ 43 Affirmed.