FILED
MAR 3 1 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF ROCHELLE A. STOYKE AND DAVID W. STOYKE

Upon the Petition of	)	417
ROCHELLE A. STOYKE,	)	Filed March 31, 1987
Petitioner-Appellee,	)	
And Concerning	)	6-541 86-759
DAVID W. STOYKE,	)	
Respondent-Appellant.	)	

Appeal from the Iowa District Court for Clay County (DM 681) - Tom Hamilton, Judge.

Respondent appeals from the trial court's denial of his motion to vacate the child support provisions of a default dissolution of marriage decree. **REVERSED AND REMANDED.**

Harold W. White, Estherville, Iowa, for appellant.

Richard J. Barry of Greer, Nelson, Montgomery, Barry & Bovee, Spencer, Iowa; Thomas J. Miller, Attorney General of Iowa; Gordon E. Allen, Special Assistant Attorney General; and Robert R. Huibregtse, Assistant Attorney General; for appellee.

Considered by Oxberger, C.J., and Donielson and Hayden, JJ.

HAYDEN, J.

Petitioner, Rochelle A. Stoyke, filed her petition for dissolution of marriage on August 31, 1977, alleging respondent, David W. Stoyke, lived in Spencer, Iowa. Respondent was personally served with an original notice and a copy of the petition in Minnesota. Respondent failed to appear and petitioner then filed a motion for default judgment on February 21, 1978. On the same day the district court entered a default decree, which dissolved the parties' marriage, awarded petitioner custody of the parties' children, and ordered respondent to pay child support.

On May 1, 1986, respondent filed a motion to vacate judgment in which he asserted he was a resident of Minnesota when the petition was filed and therefore the district court lacked personal jurisdiction. Specifically he argues the judgment for child support is void since the district court lacked personal jurisdiction over him. The district court dismissed respondent's motion without a resistance by petitioner or a hearing. The court ruled respondent's motion was not timely filed under Iowa Rules of Civil Procedure 236, 252, and 253. From the order respondent has appealed.

On appeal, respondent contends: the decretal court lacked personal jurisdiction; a motion to vacate a judgment void for lack of jurisdiction may be filed at any time; and the district court erred in dismissing his motion to vacate. We agree.

In this decision we do not consider the propriety of respondent's motion to vacate, rather we only consider the district court's dismissal of respondent's motion. The motion to vacate raises jurisdictional questions which if rendered in respondent's favor would make the original judgment void. A void judgment may be attacked at any time; it is not limited by the time constraints of Rules

252, 253, or 236. Rosenberg v. Jackson, 247 N.W.2d 216, 218 (Iowa 1976), and In re Marriage of Ivins, 308 N.W.2d 75, 77 (Iowa 1981).

We conclude it was error for the district court to dismiss the respondent's motion prior to a hearing on the motion. We therefore reverse the trial court's ruling and remand for a hearing on the merits on the motion to vacate.

REVERSED AND REMANDED.