

NEBRASKA SUPREME COURT

Shawn E. on behalf of Grace E. v. Diane S.

300 Neb. 289 (2018) · No. No. S-17-074 · Decided June 22, 2018

SUMMARY

The Nebraska Supreme Court held that an order overruling a judgment debtor's objection to a garnishment and allowing the garnishment to proceed was not a final, appealable order because it did not affect a substantial right. The court affirmed the dismissal of the premature appeal for lack of jurisdiction, while reviewing the otherwise moot issue under the public interest exception.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Cassel, J.; Heavican, C.J.; Miller-Lerman, J.; Stacy, J.; Funke, J.; Papik, J.; Hall, District Judge
JURISDICTION	Nebraska
DECIDED	June 22, 2018
DOCKET	No. S-17-074
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for further review of the Nebraska Court of Appeals' dismissal of an appeal from an order overruling a judgment debtor's objection to garnishment.
STANDARD OF REVIEW	A jurisdictional question that does not involve a factual dispute is determined as a matter of law.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Shawn E. on behalf of Grace E., a minor child v. Diane S., State of Nebraska

TOPICS

[appellate jurisdiction](#) [final judgment rule](#) [mootness](#) [appellate procedure](#) [civil procedure](#)

PRACTICE AREAS

[appellate procedure](#) [civil procedure](#) [family law](#) [child support](#) [remedies](#)

QUESTIONS PRESENTED

1. Whether the district court's order overruling a judgment debtor's objection to garnishment and stating that the garnishment could proceed was a final, appealable order affecting a substantial right.
2. Whether the Nebraska Supreme Court should review the appeal under the public interest exception despite the State's assertion that the matter had become moot.

HOLDINGS

1. The court exercised its discretion to review the otherwise moot appeal under the public interest exception because the finality of orders overruling judgment debtors' objections to garnishment presented a matter of public interest, warranted authoritative guidance for public officials, and was likely to recur.
2. An order overruling a judgment debtor's objection to garnishment and stating that the garnishment may proceed is not a final, appealable order when it neither authorizes execution of the garnishment nor determines that the judgment creditor is entitled to the garnished funds.
3. Because the order overruling Shawn's garnishment objection was not final and appealable, the Nebraska Court of Appeals correctly dismissed the appeal for lack of jurisdiction.

KEY QUOTATIONS

“Because the finality of orders overruling judgment debtors’ objections under § 25-1011 is a public matter deserving authoritative adjudication for future guidance of public officials and is likely to recur, we choose to review the matter.” (292)

“Because the order overruling Shawn’s challenge to the garnishment did not affect a substantial right, it was not a final, appealable order.” (295)

FACTUAL BACKGROUND

The State sought to garnish funds allegedly belonging to Shawn E. to collect \$3,097.67 in child-support arrearages and \$2,499.54 in medical-support arrearages. Shawn requested a hearing, disputed the amount owed, and argued that the medical-support obligation had been suspended. The district court determined that the medical-support obligation had not been suspended, overruled his objection, denied his request for a continuance, and ordered that the garnishment could proceed. During further review, the State stated that it was abandoning the garnishment after the garnishee reported that it held only \$0.07 belonging to Shawn.

PROCEDURAL HISTORY

The Nebraska Department of Health and Human Services initiated garnishment proceedings against Shawn E. to collect alleged child-support and medical-support arrearages. After a hearing, the Buffalo County District Court overruled Shawn's objection and ordered that the garnishment could proceed. The Nebraska Court of Appeals dismissed Shawn's appeal for lack of jurisdiction because the order was not final. The Nebraska Supreme Court granted further review and affirmed.

DISPOSITION

affirmed

CASES CITED

- Deleon v. Reinke Mfg. Co., 287 Neb. 419, 843 N.W.2d 601 (2014)
- Nesbitt v. Frakes, ante p. 1, ___ N.W.2d ___ (2018)
- ML Manager v. Jensen, 287 Neb. 171, 842 N.W.2d 566 (2014)
- NC+ Hybrids v. Growers Seed Assn., 219 Neb. 296, 363 N.W.2d 362 (1985)
- Barnett v. Peters, 254 Neb. 74, 574 N.W.2d 487 (1998)
- Western Smelting & Refining Co. v. First Nat. Bank, 150 Neb. 477, 35 N.W.2d 116 (1948)
- Cattle Nat. Bank & Trust Co. v. Watson, 293 Neb. 943, 880 N.W.2d 906 (2016)
- Connelly v. City of Omaha, 278 Neb. 311, 769 N.W.2d 394 (2009)
- Early v. Belgrade-Hord Co., 133 Neb. 884, 277 N.W. 596 (1938)

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