

SUPREME COURT OF WYOMING

JS v. MB, 2010 WY 114

237 P.3d 974 (Wyo. 2010) · No. S-09-0200 · Decided August 10, 2010

SUMMARY

The Wyoming Supreme Court affirmed a district court order awarding the father primary legal and physical custody while providing for the parents to alternate weekly visitation beginning when the child reached age five. The court held that the district court did not abuse its discretion because it made detailed findings addressing the child's best interests, the parents' circumstances, and the proposed visitation arrangement. A special concurrence reiterated that divided or shared custody is generally disfavored absent exceptional circumstances.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Kite, Chief Justice; Golden, Justice; Voigt, Justice; Burke, Justice
JURISDICTION	Wyoming
DECIDED	August 10, 2010
DOCKET	S-09-0200
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed from a district court order establishing paternity, awarding him primary legal and physical custody, and granting Mother visitation that would change to alternating weeks when the child reached age five. He challenged only the future alternating-week visitation provision.
STANDARD OF REVIEW	Child-custody and visitation decisions are reviewed for abuse of discretion. The appellate court evaluates whether the district court acted beyond the bounds of reason, whether its findings are supported by the evidence, and whether it ignored a material factor deserving significant weight. The child's welfare and needs receive paramount consideration, and the child's best interests are primarily for the trier of fact.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	JS v. MB

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the district court abused its discretion by ordering the parents to alternate weeks of visitation when the child reached age five.
2. Whether the district court was required to hold a separate hearing at the time the future visitation modification took effect.
3. Whether the parents' communication difficulties made the alternating-week visitation arrangement contrary to the child's best interests.

HOLDINGS

1. The district court did not abuse its discretion by ordering the parents to alternate weeks with the child beginning at age five.
2. The district court was not required to hold a separate hearing in 2013 before the already-ordered visitation modification took effect.
3. Parental communication difficulties did not require reversal because the arrangement left Father with primary legal and physical custody and required only limited cooperation to exchange the child at court-ordered times.

KEY QUOTATIONS

“When a district court's exercise of discretion in custody matters involves splitting custody of children between parents or other unconventional custody approaches, such as liberal visitation that amounts to equally splitting the child's time, we have said that it must provide an explanation of its reasoning and place its findings on the record so that, upon review, this Court can be certain that a comprehensive evaluation of all relevant factors occurred prior to determining custody.” (237 P.3d at 976)

“The only thing the parents must agree upon is to exchange the child at the court-ordered times. Some degree of communication and cooperation will be necessary in that endeavor.” (237 P.3d at 978)

FACTUAL BACKGROUND

The parties conceived a son during a relationship that ended during Mother's pregnancy; the child was born in 2008. Father sought to establish paternity and obtain custody. The district court awarded Father primary legal and physical custody and Mother substantial visitation, with a schedule requiring the parents to alternate weeks when the child turned five. The record showed both parents were generally capable of caring for the child, but the parties had a strained relationship and communication difficulties; the court also considered the child's relationship with a maternal half-brother.

PROCEDURAL HISTORY

Father filed a paternity and custody action in 2008. Following a two-day trial in 2009, the district court established paternity, initially awarded Mother temporary custody, then awarded Father primary legal and physical custody while granting Mother structured visitation, including alternating weeks beginning when the child reached age five. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Resor v. Resor, 987 P.2d 146, 148 (Wyo. 1999)
- Reavis v. Reavis, 955 P.2d 428, 431-433 (Wyo. 1998)
- Testerman v. Testerman, 2008 WY 112, ¶ 8, 193 P.3d 1141, 1144 (Wyo. 2008)
- Eickbush v. Eickbush, 2007 WY 179, ¶ 9, 171 P.3d 509, 511 (Wyo. 2007)
- Buttle v. Buttle, 2008 WY 135, ¶¶ 31, 39, 196 P.3d 174, 181-184 (Wyo. 2008)
- Gurney v. Gurney, 899 P.2d 52, 55 (Wyo. 1995)
- Pace v. Pace, 2001 WY 43, ¶ 17, 22 P.3d 861, 867 (Wyo. 2001)
- Aragon v. Aragon, 2005 WY 5, ¶ 26, 104 P.3d 756, 764 (Wyo. 2005)
- Martin v. Martin, 798 P.2d 321, 322 (Wyo. 1990)
- Feaster v. Feaster, 721 P.2d 1095, 1098 (Wyo. 1986)
- Fink v. Fink, 685 P.2d 34, 36 n.1 (Wyo. 1984)
- Forbes v. Forbes, 672 P.2d 428, 430 (Wyo. 1983)
- Ayling v. Ayling, 661 P.2d 1054, 1055 n.3 (Wyo. 1983)