

SUPREME COURT OF GEORGIA

Department of Human Resources v. Allison, 276 Ga. 175

575 S.E.2d 876 (2003) · No. No. S02A1446 · Decided January 13, 2003

SUMMARY

The Supreme Court of Georgia held that the Department of Human Resources may seek a downward modification of child support under OCGA § 19-11-12 only when it previously participated in obtaining or enforcing the support order under Title IV-D. The court rejected the trial court's broader conclusion that DHR categorically lacked standing because the child did not receive public assistance, but affirmed the denial of the petition because DHR failed to prove prior involvement in obtaining the order. Judgment affirmed.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Justice; All the Justices
JURISDICTION	Georgia
DECIDED	January 13, 2003
DOCKET	No. S02A1446
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Department of Human Resources appealed, pursuant to a grant of discretionary appeal, from the trial court's denial of its petition seeking a downward modification of a father's child-support obligation.
STANDARD OF REVIEW	The Supreme Court reviewed the statutory standing issue and the denial of the modification petition on appeal; the opinion also placed on DHR the burden of proving the facts necessary to establish its standing.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Georgia.
PARTIES	Department of Human Resources v. Allison et al.

TOPICS

- child support
- family law procedure
- statutory interpretation
- administrative law
- appellate procedure

PRACTICE AREAS

family law

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether OCGA § 19-11-12 authorizes DHR to seek a downward modification of a child-support order for a noncustodial parent when the child does not receive public assistance.
2. Whether DHR established standing by proving that it had previously participated in obtaining or enforcing the child-support order sought to be modified.
3. Whether the trial court's denial of DHR's modification petition should be affirmed.

HOLDINGS

1. OCGA § 19-11-12 does not give DHR plenary authority to represent all noncustodial parents in downward child-support modification actions. DHR's authority is limited to cases in which it previously participated in obtaining or enforcing the child-support order.
2. DHR failed to establish standing because it did not prove that it had participated in obtaining or enforcing the prior child-support order.
3. Allen did not directly support the trial court's conclusion that DHR categorically lacked standing, but its recognition that DHR and the represented parent do not have a complete identity of interest was applicable to the present case.

KEY QUOTATIONS

“Clearly then, DHR's review authority under the statute extends only to those cases which are already being enforced under Title IV-D.” (at 178)

“In the absence of an express statute comparable to OCGA §§ 19-11-6(c) and 19-11-8(b), DHR's authority to bring a downward modification action under OCGA § 19-11-12 is limited to cases in which there is a prior court order which establishes or enforces a child support obligation and which DHR participated in obtaining.” (at 179)

FACTUAL BACKGROUND

The case involved divorced parents of a minor child who lived with the mother and did not receive public assistance. The father was required by the divorce decree to pay the mother \$100 per week in child support. At the father's request, DHR determined that the amount should be reduced under the child-support guidelines and filed a petition for downward modification, but the record did not show that DHR had previously participated in obtaining or enforcing the support order.

PROCEDURAL HISTORY

The father was obligated under a divorce decree to pay \$100 per week in child support. At his request, the Department of Human Resources recommended a reduction under the statutory child-support guidelines and filed a petition under OCGA § 19-11-12. The mother objected, and the trial court denied the petition, ruling that

DHR lacked standing because the child did not receive public assistance and DHR had not shown a need for additional support. The Supreme Court of Georgia affirmed, although on the ground that DHR failed to prove prior agency involvement sufficient to establish standing.

DISPOSITION

affirmed

CASES CITED

- Allen v. Ga. Dept. of Human Resources, 262 Ga. 521, 423 S.E.2d 383 (1992)
- Kelley v. Dept. of Human Resources, 269 Ga. 384, 498 S.E.2d 741 (1998)
- Department of Human Resources v. Siggers, 219 Ga. App. 1, 463 S.E.2d 544 (1995)
- Doring v. Doring, 285 N.J. Super. 369, 666 A.2d 1388 (1995)
- In the Matter of Nash, 126 Or. App. 39, 867 P.2d 528 (1994)
- Ward v. Dept. of Human Resources, 273 Ga. 52, 537 S.E.2d 70 (2000)
- Butler v. Turner, 274 Ga. 566, 555 S.E.2d 427 (2001)
- In the Interest of M.H., 247 Ga. App. 84, 543 S.E.2d 390 (2001)
- State of Ga. v. Banks, 215 Ga. App. 828, 452 S.E.2d 533 (1994)
- Malcolm v. State, 263 Ga. 369, 434 S.E.2d 479 (1993)
- Department of Human Resources v. Corbin, 202 Ga. App. 10, 413 S.E.2d 484 (1991)