

SUPREME COURT OF GEORGIA

Demmons v. Wilson-Demmons

293 Ga. 349 (2013) · Decided July 1, 2013

SUMMARY

The Georgia Supreme Court vacated and remanded a divorce judgment because the trial court failed to include written findings of the parties' gross monthly incomes in the final order as required by OCGA § 19-6-15(c)(2)(C). The missing income findings affected the child-support determination and prevented appellate review of the husband's remaining enumerations of error. The court directed the trial court to enter the required findings, reconsider child support, and amend the decree accordingly.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice
JURISDICTION	Georgia
DECIDED	July 1, 2013
DISPOSITION	vacated
PROCEDURAL POSTURE	Husband appealed after a bench-trial divorce judgment and the trial court's denial of Wife's attorney-fee motion. The Supreme Court of Georgia granted Husband's application to appeal under Supreme Court Rule 34 (4).
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Kenneth Demmons v. Dawn R. Wilson-Demmons

TOPICS

child support family law procedure appellate procedure preservation of error

PRACTICE AREAS

family law appellate procedure civil procedure

QUESTIONS PRESENTED

1. Whether the trial court was required to include in the final divorce order written findings of the parties' gross monthly incomes as determined by the court.

2. Whether the Supreme Court could address Husband's remaining enumerations of error when the final order lacked the required income findings.

HOLDINGS

1. The trial court erred by failing to include in the final order a written finding of each parent's gross income as determined by the court, as required by OCGA § 19-6-15 (c) (2) (C). A child-support worksheet containing the figures was insufficient because it was neither attached to nor incorporated into the final order.
2. The Court could not address Husband's remaining enumerations because they could be affected by the income findings that the trial court had not properly entered, leaving an insufficient record for review.

KEY QUOTATIONS

“It is necessary . . . that this case be remanded to the trial court with direction to make ... [proper] finding [s] of [the parties’ gross monthly] income [s], to reconsider the award of child support based on th[ose] finding[s], and to amend the decree accordingly.” (349)

FACTUAL BACKGROUND

Kenneth Demmons and Dawn R. Wilson-Demmons married in 2002 and had two children together. Husband also supported two minor children from a previous marriage, worked as a firefighter and at Lowe's, and Wife worked as a licensed physician. After the divorce trial, the trial court prepared a child-support worksheet containing income figures but did not attach or incorporate it into the final order.

PROCEDURAL HISTORY

Wife filed for divorce in February 2010. Following a bench trial, the trial court entered a final divorce order on April 21, 2011, reserving attorney fees, and later denied Wife's motion for attorney fees on February 7, 2012. The Supreme Court vacated the final order because it did not contain the required findings concerning the parties' gross monthly incomes and remanded for entry of those findings and reconsideration of child support.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remand the case to the trial court to include in the final order findings regarding each party's gross monthly income, reconsider the child-support award based on those findings, amend the decree accordingly, and then address any affected issues as appropriate.

CASES CITED

- Holloway v. Holloway, 288 Ga. 147 (1) (702 S.E.2d 132) (2010)
- Kuriatnyk v. Kuriatnyk, 286 Ga. 589 (2) (690 S.E.2d 397) (2010)

- Southerland v. Southerland, 278 Ga. 188, 189 (2) (598 S.E.2d 442) (2004)

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