

SUPREME COURT OF UTAH

Gardiner v. Vanderwerff

2014 UT 56 · No. 20120554 · Decided December 9, 2014

SUMMARY

The Utah Supreme Court considered a challenge to a posthumous declaration of unsolemnized marriage. It held that the district court improperly granted intervention, set aside the marriage declaration without allowing adequate briefing, and dismissed the action sua sponte for insufficient service without first providing notice and an opportunity to respond. The court reversed and reinstated the declaration of marriage.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Associate Chief Justice Nehring; Chief Justice Durrant; Justice Durham; Justice Parrish; Justice Lee
JURISDICTION	Utah
DECIDED	December 9, 2014
DOCKET	20120554
DISPOSITION	reversed
PROCEDURAL POSTURE	Gardiner appealed from the district court's orders granting the deceased's cousins limited intervention, setting aside a declaration of unsolemnized marriage under Utah Rule of Civil Procedure 60(b), and dismissing the marriage action sua sponte for allegedly untimely service under Utah Rule of Civil Procedure 4(b)(i). The Utah Supreme Court accepted certification from the court of appeals and reviewed the appeal.
STANDARD OF REVIEW	Appellate jurisdiction is reviewed as a question of law. Interpretation of a procedural rule is reviewed for correctness. Rule 60(b) rulings are generally reviewed for abuse of discretion, but legal conclusions underlying such rulings are reviewed for correctness. Intervention rulings receive clearly erroneous review for factual findings and correctness review for legal conclusions and interpretation of Utah Rule of Civil Procedure 24(a).
PRECEDENTIAL VALUE	Published Utah Supreme Court opinion; binding precedent in Utah.

PARTIES

Janetta J. Gardiner v. Nedra V. Taufer, Janice V. Dobbins, Connie V. Morgan, John M. Vanderwerff

TOPICS

service of process

intervention

probate procedure

appellate jurisdiction

family law procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Probate

Family law

QUESTIONS PRESENTED

1. Whether the Utah Supreme Court had appellate jurisdiction when the district court granted Gardiner additional time to appeal under Utah Rule of Appellate Procedure 4(e).
2. Whether the district court properly granted the cousins' motion to intervene under Utah Rule of Civil Procedure 24(a), particularly without addressing timeliness and the other required elements.
3. Whether the district court properly set aside the declaration of unsolemnized marriage under Utah Rule of Civil Procedure 60(b) when the motion was not submitted for decision and the court relied on an erroneous conclusion concerning service.
4. Whether the district court could sua sponte dismiss the marriage action for untimely service under Utah Rule of Civil Procedure 4(b)(i) without first giving Gardiner notice and an opportunity to respond.
5. Whether service was valid where Gardiner, acting as the estate's personal representative, waived service on behalf of the estate within 120 days after the petition was filed.

HOLDINGS

1. The district court acted within its broad, equitable discretion in finding good cause and extending Gardiner's time to appeal; the appeal was timely and the Utah Supreme Court had jurisdiction.
2. The district court improperly granted the cousins' intervention motion without analyzing the rule 24(a) elements, especially timeliness. The grant of intervention was reversed without prejudice, and any renewed motion had to be evaluated under all Supernova Media factors.
3. The district court improperly set aside the declaration of unsolemnized marriage because it ruled on the cousins' Rule 60(b) motion before the motion was submitted for decision, without allowing Gardiner to brief the merits, and because the court's service ruling was legally erroneous.
4. A court may raise the sufficiency of service of process on its own initiative under Utah Rule of Civil Procedure 4(b)(i), but it may not dismiss an action on that basis without first giving the plaintiff notice and an opportunity to present defenses.
5. When a petitioner seeks a posthumous declaration of unsolemnized marriage, process must be served on the deceased person's estate through its personal representative. Here, Gardiner validly waived service on the estate in her capacity as personal representative within 120 days after filing the petition, so service was proper.

KEY QUOTATIONS

“We interpret rule 4(b)(i) to allow a court to raise the issue of sufficiency of service of process upon its own initiative, but it may not dismiss an action on that basis without first giving the plaintiff notice and an opportunity to raise defenses.” (¶ 27)

“Where a petitioner seeks a posthumous determination of an unsolemnized marriage, he or she must serve process upon the estate of the deceased.” (¶ 34)

FACTUAL BACKGROUND

Janetta Gardiner and Kenneth Vanderwerff were in a romantic relationship from approximately November 2007 until Vanderwerff's death on April 22, 2010, but they never solemnized a marriage. Gardiner petitioned for a judicial declaration of unsolemnized marriage under Utah Code section 30-1-4.5 shortly after Vanderwerff's death. William Francis was appointed special administrator of Vanderwerff's estate, later stipulated to Gardiner's appointment as personal representative, and had actual knowledge of the marriage petition. After the district court granted the marriage declaration, four of Vanderwerff's cousins sought intervention and rule 60(b) relief more than a year later.

PROCEDURAL HISTORY

Gardiner petitioned for a judicial declaration of unsolemnized marriage after Vanderwerff's death. The district court granted the declaration, later allowed four cousins to intervene, set aside the declaration, and dismissed the action without prejudice for lack of timely service. The Utah Supreme Court held that the appeal was timely, reversed the intervention, rule 60(b), and dismissal decisions, and reinstated the marriage declaration.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The intervention order was reversed without prejudice. If the cousins seek intervention again, the district court must conduct a full analysis of the Supernova Media Rule 24(a) factors, including timeliness. The September 13, 2010 declaration of unsolemnized marriage was reinstated.

CASES CITED

- Utah Down Syndrome Found., Inc. v. Utah Down Syndrome Ass'n, 2012 UT 86, 293 P.3d 241
- State v. Rodrigues, 2009 UT 62, 218 P.3d 610
- Cedar Surgery Ctr., L.L.C. v. Bonelli, 2004 UT 58, 96 P.3d 911
- Supernova Media, Inc. v. Pia Anderson Dorius Reynard & Moss, LLC, 2013 UT 7, 297 P.3d 599
- State v. Bosh, 2011 UT 60, 266 P.3d 788
- Pruett v. Anderson, 2013 UT App 33, 296 P.3d 797
- Reisbeck v. HCA Health Servs. of Utah, Inc., 2000 UT 48, 2 P.3d 447

- Parke-Chapley Constr. Co. v. Cherrington, 865 F.2d 907 (7th Cir. 1989)
- Jenner v. Real Estate Servs., 659 P.2d 1072 (Utah 1983)
- Republic Ins. Grp. v. Doman, 774 P.2d 1130 (Utah 1989)
- In re Marriage of Gonzalez, 2000 UT 28, 1 P.3d 1074
- Uhrhahn Constr. & Design, Inc. v. Hopkins, 2008 UT App 41, 179 P.3d 808
- Fisher v. Bybee, 2004 UT 92, 104 P.3d 1198
- Crookston v. Fire Ins. Exch., 817 P.2d 789 (Utah 1991)
- Berneau v. Martino, 2009 UT 87, 223 P.3d 1128
- Farnsworth v. Hatch, 151 P. 537 (Utah 1915)
- In re Bogert's Estate, 290 P. 947 (Utah 1930)
- Norman v. Arnold, 2002 UT 81, 57 P.3d 997
- Garcia v. Garcia, 712 P.2d 288 (Utah 1986)