DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Sergio Alvarez v. Mariela Stochetti

Alvarez v. Stochetti, No. 3D23-1277 (Fla. 3d DCA Mar. 12, 2025) · No. No. 3D23-1277; Lower Tribunal No. 20-20725 · Decided March 12, 2025

SUMMARY

The Florida Third District Court of Appeal reviewed a dissolution-of-marriage judgment involving child support, life insurance securing child support, and classification of a promissory note related to an employment signing bonus. The court reversed and remanded for recalculation of child support based on the parties' actual timesharing schedule and for reconsideration of the life-insurance requirement with appropriate findings. It affirmed the trial court's treatment of the promissory note and the equitable distribution of marital assets and liabilities.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Logue, C.J.; Emas, J.; Miller, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	March 12, 2025
DOCKET	No. 3D23-1277; Lower Tribunal No. 20-20725
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Husband appealed the final judgment dissolving the parties' marriage, challenging the child-support calculation, the requirement that he maintain life insurance to secure child support, and the treatment of a promissory note associated with his employment signing bonus.
STANDARD OF REVIEW	The characterization of an asset or liability as marital or nonmarital is reviewed de novo; factual findings necessary to that legal conclusion are reviewed for competent, substantial evidence. The opinion does not state a separate standard of review for the child-support calculation or the life-insurance ruling.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Sergio Alvarez v. Mariela Stochetti

TOPICS

child support · dissolution of marriage · equitable distribution · life insurance litigation · appellate procedure

PRACTICE AREAS

family law · child support · equitable distribution · life insurance

QUESTIONS PRESENTED

1. Whether the trial court properly calculated child support using a 70/30 timesharing schedule when the parties' parenting plan reflected a different schedule.
2. Whether the trial court could require the husband to maintain life insurance to secure child support without making findings regarding necessity and special circumstances.
3. Whether the trial court erred in treating the Morgan Stanley promissory note as a contingent debt without assigning it a value or separately allocating it as a marital liability.

HOLDINGS

1. The child-support award must be reversed because the final judgment used a 70/30 timesharing schedule that was not reflected in the parties' parenting plan. On remand, the trial court must recalculate child support using the timesharing schedule in the parenting plan and must consider all overnight stays, including holidays and the children's summer schedule.
2. A trial court may order an obligor to purchase or maintain life insurance to protect a child-support award only when the circumstances establish the necessity for that protection and the court makes appropriate specific findings. The trial court erred by imposing the requirement without findings in the final judgment or at the final hearing.
3. The trial court did not err in classifying the promissory note as a contingent debt without separately assigning it a value under the circumstances presented, because the husband's future payment obligation was inseparable from the related future income stream that reimbursed those payments while he remained employed at Morgan Stanley.

KEY QUOTATIONS

> *"To the extent necessary to protect an award of child support, the court may order the obligor to purchase or maintain a life insurance policy . . . ."* (at 3)

> *"Absent special circumstances, . . . the trial court may not impose such requirement."* (at 3)

> *"Here, the trial court failed to make findings in the final judgment or at the final hearing relating to requiring life insurance to secure the child support award."* (at 4)

FACTUAL BACKGROUND

The parties were married for nine years and have two minor children. The final judgment calculated child support using a 70/30 timesharing schedule, although the parenting plan provided that the husband had five overnight stays and the wife had nine overnight stays every two weeks, with additional holiday and summer timesharing. The judgment also required the husband to maintain life insurance to secure child support and classified, but did not value, a promissory note connected to his Morgan Stanley signing bonus. The husband remained employed at Morgan Stanley, and payments due under the note were substantially reimbursed by larger annual bonus payments from Morgan Stanley.

PROCEDURAL HISTORY

The husband filed a petition for dissolution in December 2020, and the wife filed an answer and counter-petition. After a three-day final hearing in April 2023, the Circuit Court for Miami-Dade County entered a final judgment. The husband timely appealed. The Third District affirmed in part, reversed in part, and remanded with directions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Recalculate child support using the timesharing schedule set forth in the parenting plan, including all overnight stays, holidays, and the children's summer schedule. Reconsider the life-insurance requirement and, if insurance is found necessary to protect child support, enter appropriate written findings addressing the necessity and applicable circumstances. The equitable distribution of the marital assets and liabilities remains affirmed.

CASES CITED

- Gross v. Zimmerman, 197 So. 3d 1248, 1254 (Fla. 4th DCA 2016)
- Guerin v. DiRoma, 819 So. 2d 968, 970 (Fla. 4th DCA 2002)
- Child v. Child, 34 So. 3d 159, 162 (Fla. 3d DCA 2010)
- Plichta v. Plichta, 899 So. 2d 1283, 1287 (Fla. 2d DCA 2005)
- Kotlarz v. Kotlarz, 21 So. 3d 892, 893 (Fla. 1st DCA 2009)
- Melo v. Melo, 864 So. 2d 1268, 1269 (Fla. 3d DCA 2004)
- Rivera v. Rivera, 48 Fla. L. Weekly D1505, *2 (Fla. 3d DCA Aug. 2, 2023)
- McHugh v. McHugh, 397 So. 3d 1179, 1181 (Fla. 5th DCA 2024)
- Warwick v. Warwick, No. E2009-00635-COA-R3-CV, 2010 WL 323059 (Tenn. Ct. App. Jan. 28, 2010)
- Rand v. Rand, 366 P.3d 1085 (Haw. Ct. App. 2016)