

SUPREME COURT OF NEW HAMPSHIRE

Chabot v. Chabot

126 N.H. 793 (1985) · Decided July 24, 1985

SUMMARY

The New Hampshire Supreme Court held that the trial court abused its discretion by denying a plaintiff’s motion to amend her divorce libel to allege fault grounds without granting a hearing. The court reversed and remanded, explaining that the defendant’s failure to object waived a hearing under the applicable procedural rule and that the plaintiff reasonably believed the amendment had been allowed. The court also addressed when proven marital fault may be considered in awarding alimony or dividing property.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Batchelder, J.
JURISDICTION	New Hampshire
DECIDED	July 24, 1985
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff appealed from a divorce decree after the Superior Court denied her motion to amend her libel to add fault-based grounds for divorce and refused to hear evidence on those grounds at the final divorce hearing.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Chabot v. Chabot

TOPICS

- family law procedure
- divorce
- motion to amend
- appellate procedure
- standard of review

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion by denying the plaintiff's motion to amend her divorce libel without granting a hearing.
2. Whether the plaintiff could present evidence of the alleged fault grounds at the final divorce hearing.
3. What consequences follow on remand if the amendment is allowed or if fault is not proven.

HOLDINGS

1. The Superior Court abused its discretion by denying the plaintiff's motion to amend without affording her a hearing; because the defendant waived a hearing by failing to object within the ten-day period, the court could either grant the motion or provide a hearing.
2. If the amendment is allowed on remand, the trier of fact must exercise discretion in deciding which alleged ground for divorce caused the breakdown of the marriage.
3. Evidence of fault may be considered in an award of alimony or division of property if a fault ground is proven to be the primary cause of the marital breakdown; if fault is not proven and the divorce is granted for irreconcilable differences, fault may not be considered for those issues.

KEY QUOTATIONS

“Therefore, at the final hearing, the court’s denial of the motion to amend without affording a hearing was an abuse of discretion which requires us to reverse and remand the case.” (126 N.H. 795)

“On remand, if the amendment is allowed, the trier of fact must exercise discretion in deciding which of the alleged grounds for divorce has caused the breakdown of the marriage.” (126 N.H. 795)

FACTUAL BACKGROUND

The plaintiff filed a divorce libel alleging irreconcilable differences and later sought to amend it to allege extreme cruelty and treatment tending seriously to injure health or endanger reason. The court issued temporary relief restraining the defendant from interfering with the plaintiff's personal liberty, and the plaintiff later filed contempt motions alleging worsening conditions caused by the defendant's conduct. At the final divorce hearing, the plaintiff began presenting evidence on the fault grounds, but the court ruled that the amendment had not been allowed, denied it without a hearing, and excluded fault evidence.

PROCEDURAL HISTORY

The plaintiff initially sought a divorce based solely on irreconcilable differences, then filed an amendment alleging extreme cruelty and treatment tending seriously to injure health or endanger reason. The motion to amend was not formally acted upon before the final hearing, and the defendant did not request a hearing on it within the ten-day period under Superior Court Rule 58. The Superior Court denied the amendment without providing a hearing, proceeded on irreconcilable differences, and entered a divorce decree with property division and alimony. The Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

On remand, the Superior Court must address the motion to amend by either allowing it or affording the plaintiff a hearing. If allowed, the trier of fact must determine which alleged ground caused the marital breakdown and apply the rules governing consideration of fault in alimony and property division.

CASES CITED

- Yancey v. Yancey, 119 N.H. 197, 399 A.2d 975 (1979)
- Ebbert v. Ebbert, 123 N.H. 252, 254, 459 A.2d 282, 284 (1983)
- Ebbert v. Ebbert, 123 N.H. 252, 255, 459 A.2d 282, 284-85 (1983)
- Murphy v. Murphy, 116 N.H. 672, 673-74, 366 A.2d 479, 481 (1976)

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