

SUPREME COURT OF WYOMING

SL v. CAD

278 P.3d 242 (Wyo. 2012) · Decided June 4, 2012

SUMMARY

The Wyoming Supreme Court affirmed an adoption decree entered over the biological father's objection. The court held that the father's Colorado child-support obligation was not automatically reduced when children were emancipated or changed residence, although he was entitled to credit for Social Security payments made to the mother. Because the father remained more than 70% in arrears, his consent was unnecessary, and the district court did not abuse its discretion regarding the stepfather's fitness, investigation, pleadings, or visitation.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Burke, Justice; Burke; Golden; Hill; Kite; Voigt
JURISDICTION	Wyoming
DECIDED	June 4, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Father appealed from a Wyoming district court order granting Stepfather's petition to adopt Father's three youngest children without Father's consent.
STANDARD OF REVIEW	If all statutory elements for adoption are met, whether to grant or deny an adoption petition is within the district court's sound discretion. The Supreme Court will not disturb the decision absent a clear abuse of discretion and asks whether the district court could reasonably have concluded as it did. Without a transcript or statement of the evidence, the appellate court presumes that the district court had a reasonable evidentiary basis for its decision.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	SL v. CAD

TOPICS

- adoption
- child support
- termination of parental rights
- appellate procedure
- statutory interpretation

PRACTICE AREAS

family law

adoption

child support

termination of parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court correctly calculated Father's Colorado child-support obligation and arrearages.
2. Whether Father's child-support obligation was automatically reduced when children were emancipated or changed residence without a court order.
3. Whether Social Security payments received directly by Mother were properly credited against Father's child-support obligation.
4. Whether Father's consent to the adoption was unnecessary under Wyo. Stat. Ann. § 1-22-110(a)(ix).
5. Whether the district court abused its discretion in finding Stepfather fit and competent, declining to order an adoption investigation, rejecting Father's proposed findings, and granting the adoption.

HOLDINGS

1. Father's obligation to pay the court-ordered lump sum of \$686 per month was not automatically reduced when individual children became emancipated or changed residence because no court order had modified the obligation.
2. The district court properly credited Father with the \$376 per month in Social Security payments received by Mother on behalf of the children.
3. Father's consent was not required because, even after crediting the \$376 monthly Social Security payments, he had paid only approximately fifty-five percent of the \$686 monthly obligation and had failed to become current within sixty days after service of the adoption petition.
4. The district court did not abuse its discretion in finding Stepfather fit and competent to adopt.
5. The district court was not required to order an investigation because the adoption-investigation statute gives the court discretionary options, including entering a final decree when the child has resided in the petitioner's home for six months.
6. The district court did not abuse its discretion by rejecting Father's proposed findings or by failing to grant relief based on the pleadings and post-hearing letter.
7. The court declined to award Father custody or visitation and declined to consider the sibling-visitation issue because Father identified no legal basis for visitation by a biological father whose parental rights had been terminated, and the sibling issue was not before the court.

KEY QUOTATIONS

“Absent a transcript or a statement of the evidence, we must presume the district court had a reasonable evidentiary basis for its decision.” (245)

“We therefore reject Father's argument that his child support obligations were automatically reduced by the emancipation or change of custody of the three oldest children.” (246)

“Applying the plain language of this statute, it is apparent that ordering an investigation of the petitioner is only one of the options the district court may choose.” (247)

FACTUAL BACKGROUND

Father and Mother divorced in Colorado in 2008, and Father was ordered to pay \$686 per month in child support for their six children. Mother later married Stepfather and moved to Wyoming with the three youngest children. Stepfather petitioned to adopt those children, alleging that Father's consent was unnecessary because he had willfully failed to pay at least the statutory amount of child support; Father argued that his obligation had automatically decreased as older children became emancipated or changed residence and that Social Security payments received by Mother should be credited. The district court credited Father with \$376 per month in Social Security payments but found him more than seventy percent in arrears and granted the adoption without Father's consent.

PROCEDURAL HISTORY

After Father and Mother were divorced in Colorado, Mother married Stepfather and moved to Wyoming with the three youngest children. Stepfather petitioned the Wyoming district court for adoption, alleging that Father's consent was unnecessary because Father had willfully failed to pay child support. Following a hearing, the district court granted the adoption. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Adoption of RMS, 2011 WY 78, 253 P.3d 149 (Wyo. 2011)
- In re Adoption of KJD, 2002 WY 26, 41 P.3d 522 (Wyo. 2002)
- Montoya v. Navarette-Montoya, 2005 WY 161, 125 P.3d 265 (Wyo. 2005)
- Burt v. Burt, 2002 WY 127, 53 P.3d 101 (Wyo. 2002)
- Willowbrook Ranch, Inc. v. Nugget Exploration, Inc., 896 P.2d 769 (Wyo. 1995)
- BB v. RSR, 2007 WY 4, 149 P.3d 727 (Wyo. 2007)
- In re Adoption of RHA, 702 P.2d 1259 (Wyo. 1985)
- JLW v. CAB, 2010 WY 9, 224 P.3d 14 (Wyo. 2010)
- Witowski v. Roosevelt, 2009 WY 5, 199 P.3d 1072 (Wyo. 2009)
- Taylor v. Taylor, 147 Colo. 140, 362 P.2d 1027 (1961)
- Ferguson v. Ferguson, 32 Colo. App. 145, 507 P.2d 1110 (1973)
- In re Marriage of Schmedeman, 190 P.3d 788 (Colo. App. 2008)
- In re Marriage of White, 240 P.3d 534 (Colo. App. 2010)
- Zaloudek v. Zaloudek, 2009 WY 140, 220 P.3d 498 (Wyo. 2009)

