

SUPREME COURT OF NORTH DAKOTA

Hoverson v. Hoverson

2013 ND 48 (N.D. 2013) · No. 20120281 · Decided April 4, 2013

SUMMARY

The document is a North Dakota Supreme Court opinion affirming a divorce judgment involving distribution of a substantial marital estate, spousal support, child support, and attorney's fees. The court held that the district court's property distribution and support determinations were not clearly erroneous and that the attorney's-fee award was not an abuse of discretion. The supplied document title and opening header reference State v. Bentz and 2013 ND 43, but the opinion text identifies the case as Hoverson v. Hoverson, 2013 ND 48.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Mary Muehlen Maring; Daniel J. Crothers; Carol Ronning Kapsner; Gerald W. VandeWalle, Chief Justice; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	April 4, 2013
DOCKET	20120281
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sandra Hoverson appealed, and Carl Hoverson cross-appealed, from a divorce judgment distributing the marital estate and awarding spousal support, child support, and attorney's fees.
STANDARD OF REVIEW	Marital-property distribution and spousal-support awards are reviewed as findings of fact under the clearly erroneous standard. Child-support determinations involve de novo review of legal questions, clearly erroneous review of factual findings, and abuse-of-discretion review in limited areas. Attorney's-fee awards are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Sandra Morten Hoverson v. Carl Michael Hoverson

TOPICS

dissolution of marriage

equitable distribution

spousal support

child support

appellate procedure

PRACTICE AREAS

family law

divorce

spousal support

child support

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QUESTIONS PRESENTED

1. Whether the district court clearly erred in distributing the marital estate under the Ruff-Fischer guidelines.
2. Whether the district court clearly erred in awarding Sandra Hoverson \$3,000 per month in rehabilitative spousal support for two years rather than permanent support or no support.
3. Whether the district court clearly erred in determining the amount of child support and limiting the upward deviation from the presumptive guideline amount.
4. Whether the district court abused its discretion by awarding Sandra Hoverson attorney's fees.
5. Whether Sandra Hoverson was entitled to attorney's fees and costs on appeal when the request was raised for the first time in her reply brief.

HOLDINGS

1. The district court's distribution of the marital estate was not clearly erroneous and was affirmed.
2. The award of \$3,000 per month in spousal support for two years was not clearly erroneous.
3. The district court did not clearly err in awarding \$3,002 per month in child support, including a \$900 upward deviation.
4. The district court did not abuse its discretion in awarding Sandra Hoverson attorney's fees.
5. Sandra Hoverson was not entitled to attorney's fees on appeal because her request was raised for the first time in her reply brief.

KEY QUOTATIONS

“Our review under the clearly erroneous standard “does not allow us to reweigh the evidence, reassess the credibility of witnesses, or substitute our judgment for a district court’s initial decision.”” (¶ 8)

“Our law does not require a set formula or method for dividing marital property; rather, the division is based on the particular circumstances of each case.” (¶ 10)

“Where there are sufficient resources, children of divorce are entitled to enjoy a standard of living post-divorce comparable to that enjoyed while the family was intact.” (¶ 21)

FACTUAL BACKGROUND

Carl and Sandra Hoverson married in May 2004 and had one child in 2005. The marriage was short and included substantial periods of living separately; Sandra had previously worked as a radiologic technician, while Carl operated highly successful farming businesses and had an average annual income exceeding \$1.6 million during the relevant period. The district court valued the marital estate at approximately \$14.5 million, awarded Sandra

approximately \$2.8 million, ordered Carl to pay temporary spousal support followed by \$3,000 monthly for two years, ordered \$3,002 monthly child support, and awarded attorney's fees.

PROCEDURAL HISTORY

Carl Hoverson filed a divorce action in August 2010. Following an interim order and a December 2011 trial, the District Court of Grand Forks County granted the divorce, awarded Sandra Hoverson approximately 20 percent of the marital estate, ordered Carl Hoverson to pay two years of spousal support and monthly child support, and awarded Sandra attorney's fees. Both parties appealed aspects of the judgment.

DISPOSITION

affirmed

CASES CITED

- Hoverson v. Hoverson, 2001 ND 124, 629 N.W.2d 573
- Wold v. Wold, 2008 ND 14, ¶¶ 6, 14, 744 N.W.2d 541
- Lynnes v. Lynnes, 2008 ND 71, ¶ 12, 747 N.W.2d 93
- Hitz v. Hitz, 2008 ND 58, ¶¶ 10, 16, 746 N.W.2d 732
- Martiré v. Martiré, 2012 ND 197, ¶ 6, 822 N.W.2d 450
- Ruff v. Ruff, 78 N.D. 775, 52 N.W.2d 107 (1952)
- Fischer v. Fischer, 139 N.W.2d 845 (N.D. 1966)
- Orgaard v. Orgaard, 1997 ND 34, ¶ 11, 559 N.W.2d 546
- Halvorson v. Halvorson, 482 N.W.2d 869, 871-72 (N.D. 1992)
- Duff v. Kearns-Duff, 2010 ND 247, ¶¶ 13-15, 792 N.W.2d 916
- Sack v. Sack, 2006 ND 57, ¶ 12, 711 N.W.2d 157
- Paulson v. Paulson, 2010 ND 100, ¶¶ 9, 11, 783 N.W.2d 262
- Pearson v. Pearson, 2009 ND 154, ¶ 7, 771 N.W.2d 288
- Wagner v. Wagner, 2007 ND 33, ¶ 8, 728 N.W.2d 318
- Moilan v. Moilan, 1999 ND 103, ¶ 11, 598 N.W.2d 81
- Buchholz v. Buchholz, 1999 ND 36, ¶ 11, 590 N.W.2d 215
- Schmale v. Schmale, 1998 ND 201, ¶ 15, 586 N.W.2d 677
- Montgomery v. Montgomery, 481 N.W.2d 234, 235-36 (N.D. 1992)
- Heggen v. Heggen, 452 N.W.2d 96, 102 (N.D. 1990)
- Wolf v. Wolf, 474 N.W.2d 257, 259 (N.D. 1991)
- Jondahl v. Jondahl, 344 N.W.2d 63, 73 (N.D. 1984)
- Heller v. Heller, 367 N.W.2d 179, 184 (N.D. 1985)
- MayPort Farmers Co-op v. St. Hilaire Seed Co., Inc., 2012 ND 257, ¶ 8
- McGhee v. Mergenthal, 2007 ND 120, ¶ 9, 735 N.W.2d 867

- Hendrickson v. Hendrickson, 2000 ND 1, ¶ 20, 603 N.W.2d 896

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