ALASKA SUPREME COURT

Robertson v. Riplett

194 P.3d 382 (Alaska 2008) · Decided October 24, 2008

SUMMARY

The Alaska Supreme Court held that an Alaska superior court lacked subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act to modify Ohio custody and visitation orders because Ohio retained exclusive, continuing jurisdiction and the father continued to reside there. The court also upheld the superior court's order requiring the father to produce his income tax returns for purposes of enforcing child support obligations.

CASE DETAILS

COURT	Alaska Supreme Court
WRITING FOR THE COURT	Eastaugh, Justice; Carpeneti; Eastaugh; Fabe; Winfree
JURISDICTION	Alaska
DECIDED	October 24, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Douglas Robertson appealed the Alaska superior court's denial of his motion to modify Ohio custody and visitation orders and its order requiring him to serve and file his 2006 federal and Ohio state income tax returns for child-support enforcement purposes.
STANDARD OF REVIEW	Subject matter jurisdiction was reviewed de novo. Child-support decisions were reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Alaska Supreme Court opinion; precedential
PARTIES	Douglas Robertson v. Cher Riplett

TOPICS

child custody · subject matter jurisdiction · child support · appellate procedure · family law procedure

PRACTICE AREAS

family law · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether the Alaska superior court had subject matter jurisdiction under the UCCJEA to modify the Ohio custody and visitation orders.
2. Whether the Alaska superior court properly required Robertson to produce his 2006 federal and Ohio state income tax returns to aid enforcement of the Ohio child-support orders.
3. Whether Riplett was required to produce her income information under Alaska Civil Rule 90.3(e)(2).

HOLDINGS

1. The Alaska superior court lacked jurisdiction to modify the Ohio custody and visitation orders because the Ohio court had not declined exclusive, continuing jurisdiction or determined that Alaska was a more convenient forum, and Robertson still resided in Ohio.
2. The superior court properly required Robertson to submit his 2006 federal and Ohio state income tax returns because the Ohio support order was registered for enforcement and the returns were relevant to enforcing the child-support obligation.
3. Riplett was not required to provide her income tax information under Civil Rule 90.3(e)(2) because Robertson's request arose in an enforcement proceeding, not in a proceeding seeking modification of child support.

KEY QUOTATIONS

> *"The Ohio court therefore had exclusive continuing jurisdiction over the child custody determinations in this case at all times relevant to this appeal."* (386)

> *"As a court which does not have subject matter jurisdiction is without power to decide a case, this issue cannot be waived."* (386)

> *"The superior court did not modify the Ohio support orders. It was authorized to enforce the Ohio support orders, and it did not abuse its discretion in requiring Robertson to provide his tax return as an aid to enforcing his child support obligation."* (387)

FACTUAL BACKGROUND

Robertson and Riplett divorced in Ohio and entered a shared-parenting plan designating Riplett's residence as the children's primary residence. The Ohio court later suspended Robertson's visitation after evidentiary proceedings and required psychological assessment, counseling if recommended, and anger-management treatment before he could seek reinstatement. Riplett and the children subsequently moved to Alaska, but Robertson continued to reside in Ohio. After registering the Ohio decrees in Alaska, Robertson sought modification of the Ohio custody and visitation orders and opposed production of his tax returns for child-support enforcement.

PROCEDURAL HISTORY

Robertson and Riplett divorced in Ohio, where the Ohio court entered and later modified custody and visitation orders suspending Robertson's visitation rights. After Riplett and the children moved to Alaska, Robertson registered the Ohio divorce and parenting decrees in Alaska and moved to modify custody, support, and visitation. The Alaska superior court summarily denied his modification-related motions, ordered him to comply with specified Ohio conditions before filing further visitation pleadings, and required production of his tax returns. The Alaska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- B.B.v. D.D., 18 P.3d 1210, 1212 (Alaska 2001)
- Vannatta v. Boulds, 318 Mont. 472, 81 P.3d 480, 483 (2003)
- Wanamaker v. Scott, 788 P.2d 712, 714 n. 2 (Alaska 1990)
- Mundy & Mundy, Inc. v. Adams, 93 N.M. 534, 602 P.2d 1021, 1024 (1979)
- Snyder v. Am. Legion Spenard Post No. 28, 119 P.3d 996, 1001 (Alaska 2005)
- Hoffman Constr. Co. of Alaska v. U.S. Fabrication & Erection, Inc., 32 P.3d 346, 351 (Alaska 2001)
- Stone v. Stone, 647 P.2d 582, 584 n. 1 (Alaska 1982)
- O'Link v. O'Link, 632 P.2d 225, 226 n. 2 (Alaska 1981)
- Bennett v. Bennett, 6 P.3d 724, 726 (Alaska 2000)
- Rice v. Rice Found., 610 F.2d 471, 474 (7th Cir. 1979)
- State, Dep't of Fin. & Admin. v. Tedder, 326 Ark. 495, 932 S.W.2d 755, 756 (1996)