

SUPREME COURT OF NEW HAMPSHIRE

In the Matter of Glenda J. Ball and Frank A. Ball

In re Ball, 168 N.H. 133 (N.H. 2015) · No. 2014-493 · Decided August 20, 2015

SUMMARY

The New Hampshire Supreme Court held that the New Hampshire family division had subject matter jurisdiction under the Uniform Interstate Family Support Act to modify the parties’ Massachusetts child support order. The court concluded that applying New Hampshire law to the duration of the support obligation was, at most, a legal error rather than a jurisdictional defect, and that the petitioner waived the error by agreeing to the 2008 stipulation and failing to raise the issue at that time. The court reversed and remanded.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Conboy, J.; Dalianis, C.J.; Hicks, J.; Lynn, J.; Bassett, J.
JURISDICTION	New Hampshire
DECIDED	August 20, 2015
DOCKET	2014-493
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Frank A. Ball appealed the Nashua Family Division's denial of his motion to terminate child-support obligations for the parties' eldest child, who had turned eighteen and graduated from high school.
STANDARD OF REVIEW	The Supreme Court reviewed de novo the trial court's interpretation of UIFSA and whether the trial court possessed subject matter jurisdiction.
PRECEDENTIAL VALUE	Published New Hampshire Supreme Court opinion; precedential.
PARTIES	Frank A. Ball v. Glenda J. Ball

TOPICS

- family law procedure
- child support
- subject matter jurisdiction
- statutory interpretation
- waiver

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the New Hampshire Family Division had subject matter jurisdiction under UIFSA to modify the Massachusetts child-support order when all individual parties resided in New Hampshire and the children no longer resided in Massachusetts.
2. Whether a New Hampshire court's failure to apply the issuing state's law to a nonmodifiable aspect of a child-support order under RSA 546-B:49, III is a jurisdictional defect that renders the modification order void.
3. Whether Glenda Ball waived any objection to the 2008 modification by entering into the stipulation and failing to raise the alleged choice-of-law error in the 2008 proceedings.
4. Whether the trial court therefore erred in refusing to terminate Frank Ball's support obligation for the eldest child under the 2008 order.

HOLDINGS

1. The New Hampshire Family Division had subject matter jurisdiction under RSA 546-B:51, I, because all individual parties resided in New Hampshire and the child did not reside in the issuing state.
2. RSA 546-B:49, III governs the law applicable to aspects of a child-support order that may not be modified under the issuing state's law; it does not limit the New Hampshire court's subject matter jurisdiction to adjudicate a modification request.
3. Glenda Ball waived any legal error arising from application of New Hampshire law to the duration of the support obligation by entering into the 2008 stipulation and failing to object during the 2008 proceedings.
4. The trial court erred by refusing to terminate the respondent's support obligation for the eldest child as required by the 2008 order.

KEY QUOTATIONS

“The petitioner, however, conflates subject matter jurisdiction with choice of law.” (at 135)

“Thus, RSA 546-B:49, III establishes when a New Hampshire court must follow the law of the issuing forum. It does not affect the jurisdiction of a New Hampshire court to adjudicate a request to modify a child support order issued by another state.” (at 138)

“Accordingly, even if, as the petitioner contends, the trial court violated RSA 546-B:49, III by applying New Hampshire law to the duration of the respondent’s child support obligation, such would constitute an error of law rather than a jurisdictional defect.” (at 138)

FACTUAL BACKGROUND

The parties married in 1994, separated in 2004, and had three children. Their 2005 Massachusetts separation agreement required support beyond age eighteen, potentially through age twenty-three, if a child attended qualifying post-secondary education and remained principally dependent on a parent. After relocating to New Hampshire, the parties stipulated in 2008 that the Massachusetts emancipation definition would be stricken and that New Hampshire law would govern support until the youngest child reached eighteen or graduated from high school, whichever was later.

PROCEDURAL HISTORY

The parties' 2005 Massachusetts separation agreement and divorce decree required child support to continue through age twenty-three under specified post-secondary-education conditions. After the parties and children relocated to New Hampshire, the parties entered a 2008 partial stipulation, approved by the New Hampshire court, striking the Massachusetts definition of emancipation and providing that New Hampshire law would govern support until the youngest child reached eighteen or graduated from high school, whichever was later. In 2013, Ball sought to modify support after the eldest child turned eighteen and graduated; the trial court denied the motion, denied reconsideration, and Ball appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for proceedings consistent with the opinion, including termination of the respondent's support obligation for the eldest child under the 2008 order.

CASES CITED

- In the Matter of Yaman & Yaman, 167 N.H. 82, 86 (2014)
- In the Matter of Scott & Pierce, 160 N.H. 354, 358-61 (2010)
- Hennepin County v. Hill, 777 N.W.2d 252, 256-57 (Minn. Ct. App. 2010)
- Wills v. Wills, 745 N.W.2d 924, 926-27 (Neb. Ct. App. 2008)
- LeTellier v. LeTellier, 40 S.W.3d 490, 493 (Tenn. 2001)
- Lunceford v. Lunceford, 204 S.W.3d 699, 702-04 (Mo. Ct. App. 2006)
- Hemenway v. Hemenway, 159 N.H. 680, 683-84 (2010)
- In the Matter of Muller & Muller, 164 N.H. 512, 516-17 (2013)