

SUPREME COURT OF MISSISSIPPI

J.E.W. v. T.G.S.

935 So. 2d 954 (Miss. 2006) · Decided June 29, 2006

SUMMARY

The Mississippi Supreme Court reviewed an appeal concerning enforcement of two ex parte South Carolina child-custody orders and the denial of a stay pending appeal. The court affirmed the denial of an automatic stay under Mississippi Rule of Appellate Procedure 8(b)(5) and dismissed as moot the challenge to full faith and credit because a Mississippi county court had subsequently awarded permanent custody to the father.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Carlson, Justice; Smith, C.J.; Waller, P.J.; Diaz, J.; Easley, J.; Graves, J.; Dickinson, J.; Randolph, J.
JURISDICTION	Mississippi
DECIDED	June 29, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the Warren County Chancery Court's order granting full faith and credit to two ex parte South Carolina child-custody orders and denying the mother's request for an automatic stay pending appeal.
STANDARD OF REVIEW	Questions of law, including whether a sister state's judgment is entitled to full faith and credit, are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	J.E.W. v. T.G.S.

TOPICS

- child custody
- mootness
- full faith and credit
- appellate procedure
- standard of review

PRACTICE AREAS

- family law
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether the chancery court erred by denying the mother an automatic ten-day stay under Mississippi Rule of Appellate Procedure 8(b)(5).
2. Whether the appeal concerning full faith and credit for the South Carolina ex parte custody orders remained justiciable after the South Carolina proceedings were dismissed and the Mississippi county court entered a final custody judgment.

HOLDINGS

1. The mother was not entitled to relief from the denial of an automatic stay. The automatic-stay issue was not properly designated in the notice of appeal because the denial occurred after the notice was filed; in any event, assuming Rule 8 applied, the trial court committed no error in denying the stay.
2. The challenge to the chancery court's decision to give full faith and credit to the South Carolina custody orders was moot because the South Carolina proceedings had ended and the Warren County Court had entered a final judgment awarding permanent custody to the father.

KEY QUOTATIONS

“Jan is attempting to do the impossible— pursue on appeal an issue arising from events that had not yet taken place at the time she filed her notice of appeal.” (958)

“Based on the actions of the South Carolina and Mississippi courts, we find that this controversy has now expired at the time of review, making this appeal moot.” (960)

“For these reasons, the judgment of the Chancery Court of Warren County is affirmed in part and dismissed as moot in part.” (962)

FACTUAL BACKGROUND

The parties were the unmarried natural parents of a child born in Mississippi. After the parents separated, they informally shared custody, but the father took the child to South Carolina and obtained ex parte temporary injunction and custody orders after the mother removed the child from South Carolina and returned to Mississippi. The Mississippi chancery court ordered the South Carolina orders given full faith and credit and awarded immediate custody to the father. During the appeal, the Warren County Court independently awarded the father permanent custody in proceedings initiated by the mother.

PROCEDURAL HISTORY

The Warren County Chancery Court granted the father's petition for habeas corpus, gave full faith and credit to South Carolina temporary injunction and custody orders, and ordered the child delivered to the father. The mother appealed and sought an automatic stay and extraordinary relief; a three-justice panel denied her emergency petition. While the appeal was pending, the Warren County Court awarded permanent custody to the father in a separate proceeding initiated by the mother, rendering the full-faith-and-credit issue moot.

DISPOSITION

other

CASES CITED

- Tel-Com Management, Inc. v. Waveland Resort Inns, Inc., 782 So. 2d 149, 151 (Miss. 2001)
- Ellis v. Anderson Tully Co., 727 So. 2d 716, 718 (Miss. 1998)
- Owens ex rel. Mosley v. Huffman, 481 So. 2d 231, 238 (Miss. 1985)
- Tennessee Properties, Inc. v. Southern Pilot Ins. Co., 766 So. 2d 44 (Miss. Ct. App. 2000)
- Monaghan v. Blue Bell, Inc., 393 So. 2d 466, 466-67 (Miss. 1980)
- City of Madison v. Bryan, 763 So. 2d 162, 166 (Miss. 2000)
- Campbell v. Lovgren, 171 Miss. 385, 157 So. 901 (1934)
- Savell v. Savell, 206 Miss. 55, 56-57, 39 So. 2d 532, 533 (1949)
- Bradley v. State, 355 So. 2d 675 (Miss. 1978)
- McGarrh v. State, 243 Miss. 234, 138 So. 2d 284 (1962)
- Serton v. Sollie, 829 So. 2d 730 (Miss. Ct. App. 2002)
- Morrison v. Mississippi Dep't of Human Services, 863 So. 2d 948 (Miss. 2004)
- Allred v. Webb, 641 So. 2d 1218, 1220 (Miss. 1994)
- Weinstein v. Bradford, 423 U.S. 147 (1975)
- Strong v. Bostick, 420 So. 2d 1356, 1359 (Miss. 1982)
- Sartin v. Barlow, 196 Miss. 159, 16 So. 2d 372, 376 (1944)
- Board of Trustees of Pascagoula Mun. Separate School Dist. v. Doe, 508 So. 2d 1081, 1084 (Miss. 1987)