

SUPREME COURT OF THE STATE OF MONTANA

Glueckert v. Glueckert

2015 MT 107, 378 Mont. 507 (2015) · No. DA 14-0405 · Decided April 17, 2015

SUMMARY

The Montana Supreme Court affirmed the denial of George and Laura Glueckert’s petition for expanded, unsupervised contact with their grandson. The Court held that grandparents seeking contact under Montana’s grandparent-visitation statute must overcome the presumption favoring the wishes of a fit parent by clear and convincing evidence. Because the grandparents failed to meet that burden, the court concluded that a separate best-interest analysis and visitation schedule were unnecessary.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Mike McGrath; Justice Patricia Cotter; Justice Laurie McKinnon; Justice Michael E. Wheat; Justice Jim Rice
JURISDICTION	Montana
DECIDED	April 17, 2015
DOCKET	DA 14-0405
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from an order granting the respondent's motion for summary judgment and denying the grandparents' petition for extended grandparent-grandchild contact.
STANDARD OF REVIEW	Statutory interpretation is reviewed for correctness; factual findings are reviewed for clear error; and summary judgment is reviewed for correctness under the Rule 56 criteria.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	George Thayer Glueckert, Sr., Laura Jeanne Glueckert v. Kristin Glueckert

TOPICS

- grandparent rights
- family law procedure
- statutory interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the District Court properly applied § 40-9-102, MCA, in denying the grandparents' petition for extended contact with their grandson.
2. Whether the District Court was required to conduct a separate best-interest analysis after finding that the grandparents had not rebutted the presumption favoring the wishes of the fit parent.
3. Whether the Court needed to address the grandparents' request for a specific visitation schedule.

HOLDINGS

1. Grandparents seeking reasonable contact under § 40-9-102, MCA, must establish by clear and convincing evidence that the requested contact is in the child's best interest and must rebut the presumption favoring the wishes of a fit parent.
2. No separate best-interest analysis was required because the grandparents failed to overcome the presumption favoring the fit parent's wishes.
3. The District Court's findings were not clearly erroneous, and its denial of extended grandparent contact was proper.

KEY QUOTATIONS

“Contact may be granted over a fit parent’s objections if clear and convincing evidence establishes that the contact would be in the best interest of the child and the presumption in favor of the parent’s wishes has been rebutted.” (¶ 10)

“The District Court determined that they failed to overcome the presumption in favor of the fit parent, so no further analysis was required.” (¶ 15)

FACTUAL BACKGROUND

George and Laura Glueckert sought expanded, regular unsupervised contact with their grandson, M.T. The child's mother, Kristin, was found to be a fit parent and permitted some supervised contact, but objected to additional unsupervised visitation based on concerns about the grandparents' conduct, beliefs, and treatment of family members. The child's father was serving in the military, the parents were separated without a parenting plan, and the District Court denied the requested extended contact.

PROCEDURAL HISTORY

The Glueckerts petitioned the District Court under § 40-9-102, MCA, for regular unsupervised visitation with their grandson. After a merits hearing, the District Court granted Kristin Glueckert's motion for summary judgment, finding that the grandparents had not produced clear and convincing evidence sufficient to overcome the statutory presumption favoring the wishes of a fit parent. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Montana State Fund v. Simms, 2012 MT 22, ¶ 15, 364 Mont. 14, 270 P.3d 64
- Brimstone Mining, Inc. v. Glaus, 2003 MT 236, ¶ 20, 317 Mont. 236, 77 P.3d 175
- Pilgeram v. GreenPoint Mortgage, 2013 MT 354, ¶ 9, 373 Mont. 1, 313 P.3d 839
- In re Gardner v. Gardner, 2014 MT 290, ¶ 12, 376 Mont. 540, 337 P.3d 751
- Polasek v. Omura, 2006 MT 103, ¶ 15, 332 Mont. 157, 136 P.3d 519
- Thibodeau v. Bechtold, 2008 MT 412, ¶ 23, 347 Mont. 277, 198 P.3d 785
- Troxel v. Granville, 530 U.S. 57, 65, 120 S. Ct. 2054, 2060 (2000)
- In re Snyder v. Spalding, 2010 MT 151, ¶¶ 13, 17, 19, 357 Mont. 34, 235 P.3d 578

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