

SUPREME COURT OF APPEALS OF WEST VIRGINIA

M.F. v. C.F.

No. 13-0356 (Upshur County 11-D-215) · No. No. 13-0356 (Upshur County 11-D-215) · Decided November 12, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a circuit court order upholding a family court judgment of \$2,121.83, plus interest, for the petitioner's share of the parties' children's medical and automobile-related expenses. The court held that the petitioner was not prejudiced by limited telephone participation in the circuit court appeal and waived his challenge to the admission of expense calculations by failing to object. The court also declined to reweigh the family court's evidence and credibility determinations.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Brent D. Benjamin; Justice Robin Jean Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 12, 2013
DOCKET	No. 13-0356 (Upshur County 11-D-215)
DISPOSITION	affirmed
PROCEDURAL POSTURE	M.F. appealed the Circuit Court of Upshur County's order denying his appeal from a family court order that declined to hold him in contempt but entered a \$2,121.83 judgment, plus interest, for medical and automobile-related expenses owed under prior domestic-relations orders.
STANDARD OF REVIEW	On review of a circuit court order reviewing, or refusing to review, a final family court order, factual findings are reviewed under the clearly erroneous standard, application of law to facts under an abuse-of-discretion standard, and questions of law de novo.
PRECEDENTIAL VALUE	Published memorandum decision; the opinion states that disposition by memorandum decision is appropriate under Rule 21.
PARTIES	M.F. v. C.F.

TOPICS

family law procedure

appellate procedure

evidence

standard of review

child support

PRACTICE AREAS

family law

appellate procedure

evidence

QUESTIONS PRESENTED

1. Whether the circuit court prejudiced M.F. by allowing only limited telephonic participation in the appeal hearing when M.F. had not moved in advance to appear by telephone.
2. Whether M.F. waived his challenge to the family court's consideration and admission of expenses incurred after the contempt petition was filed by failing to object to C.F.'s exhibits.
3. Whether the family court erred in awarding C.F. \$2,121.83 plus interest for expenses owed under prior orders.
4. Whether the appellate court could revisit the family court's weighing of evidence and credibility determinations.

HOLDINGS

1. The circuit court's decision to permit only limited telephonic participation did not prejudice M.F., particularly because he had not filed a motion to appear telephonically in advance of the hearing.
2. M.F. waived his challenge to the admission and consideration of C.F.'s expense calculations because he did not object when the exhibits were admitted.
3. An appellate court may not decide witness credibility or reweigh evidence because those functions belong exclusively to the trier of fact.
4. The family court did not err in awarding C.F. a judgment of \$2,121.83 plus interest for expenses owed under the parties' prior orders.

KEY QUOTATIONS

“Given the lack of a motion, this Court agrees with respondent that the circuit court’s decision to allow petitioner only limited participation in the appeal hearing did not prejudice him and finds that this issue is without merit.” (at 3)

“An appellate court may not decide the credibility of witnesses or weigh evidence as that is the exclusive function and task of the trier of fact.” (at 4)

FACTUAL BACKGROUND

The parties were divorced and had two children. Prior orders allocated uncovered medical expenses and required the parties to share the children's vehicle-use and automobile-insurance costs. C.F. submitted calculations of expenses through the January 2013 contempt hearing, and the family court awarded her \$313.20 in medical

expenses and \$1,808.63 in automobile-related expenses, while disallowing the claimed vehicle-purchase expense. M.F. did not object when the family court admitted C.F.'s calculations into evidence.

PROCEDURAL HISTORY

C.F. filed a contempt petition in family court seeking reimbursement for the children's medical, vehicle-use, and automobile-insurance expenses. The Family Court of Upshur County declined to find M.F. in contempt because his noncompliance was not willful, but entered judgment for \$2,121.83 plus interest. The circuit court denied M.F.'s appeal, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State ex rel. West Virginia Department of Human Services v. Cheryl M., 177 W. Va. 688, 689 n.1, 356 S.E.2d 181, 182 n.1 (1987)
- Carr v. Hancock, 216 W. Va. 474, 607 S.E.2d 803 (2004)
- State ex rel. Cooper v. Caperton, 196 W. Va. 208, 216, 470 S.E.2d 162, 170 (1996)
- Czaja v. Czaja, 208 W. Va. 62, 72-73, 537 S.E.2d 908, 918-19 (2000)
- State v. Guthrie, 194 W. Va. 657, 669 n.9, 461 S.E.2d 163, 175 n.9 (1995)

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