

SUPREME COURT OF GEORGIA

Simpkins v. Simpkins, 278 Ga. 523

603 S.E.2d 275 (2004) · No. S04F1433 · Decided September 27, 2004

SUMMARY

The Supreme Court of Georgia affirmed a contempt order and final divorce judgment arising from the disposition of marital funds. The court held that sufficient evidence supported the finding that the husband's guardian willfully violated court orders by using funds from a money market account awarded to the wife.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Fletcher, Chief Justice
JURISDICTION	Georgia
DECIDED	September 27, 2004
DOCKET	S04F1433
DISPOSITION	affirmed
PROCEDURAL POSTURE	John Simpkins, as executor of William Simpkins's estate, appealed the trial court's final judgment of divorce and its finding that he was in willful contempt for violating the court's orders concerning marital funds.
STANDARD OF REVIEW	A contempt decision will not be reversed if there is any evidence supporting it; the determination is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion
PARTIES	John Simpkins, as executor of the estate of William Simpkins v. Agnes Simpkins

TOPICS

- family law procedure
- dissolution of marriage
- equitable distribution
- appellate procedure
- remedies

PRACTICE AREAS

- family law
- remedies
- appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by holding John Simpkins in willful contempt for violating orders restricting disposition of the BB&T account.
2. Whether any of John Simpkins's other asserted errors warranted reversal of the final judgment of divorce.

HOLDINGS

1. The trial court did not abuse its discretion in finding that John Simpkins willfully violated the court's orders concerning the BB&T account and holding him in contempt.
2. The remaining arguments raised by John Simpkins did not establish reversible error, so the final judgment of divorce was affirmed.

KEY QUOTATIONS

“In order for one to be held in contempt, there must be a willful disobedience of the court's decree or judgment.” (276)

FACTUAL BACKGROUND

Agnes Simpkins filed for divorce from William Simpkins, who was represented at trial by his son and legal guardian, John Simpkins. During the proceedings, an injunction restricted the parties' ability to transfer or dispose of marital funds. John Simpkins filed an affidavit stating that a BB&T money market account contained more than \$99,000, but when he later submitted the account to the court registry, it contained less than \$6,000. The trial court found that John had used funds from the account for his own attorney fees and his father's living expenses despite the court's orders and the availability of alternative funds.

PROCEDURAL HISTORY

Agnes Simpkins filed for divorce in May 2001. During the divorce proceedings, the trial court entered orders restricting the transfer or disposition of marital funds. After John Simpkins filed an affidavit stating that a BB&T money market account contained more than \$99,000, the account was awarded to Agnes, but was later submitted to the court with less than \$6,000. The trial court held John Simpkins in willful contempt and entered the final divorce judgment; the Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Gallit v. Buckley, 240 Ga. 621, 626, 242 S.E.2d 89 (1978)
- Crowder v. Crowder, 236 Ga. 612, 225 S.E.2d 16 (1976)

OPINION

FLETCHER, J.

603 S.E.2d 275 (2004) 278 Ga. 523 SIMPKINS v. SIMPKINS. No. S04F1433. Supreme Court of Georgia. September 27, 2004. Reconsideration Denied October 25, 2004. James D. Patrick, Columbus, for Appellant. Lynn L. Grogan, Lee Roy Grogan Jr., Hirsch, Partin, Grogan & Grogan, P.C., Columbus, for Appellee. *276 FLETCHER, Chief Justice. Agnes Simpkins filed for divorce against William Simpkins in May 2001.

At the time of trial, William Simpkins was living in a nursing home in Virginia and was represented at trial by his son and legal guardian, John Simpkins. William Simpkins died in October 2002. As executor of William Simpkins' estate, John Simpkins appeals both the trial court's final order of divorce and its finding of willful contempt against him.

Because the trial court did not abuse its discretion in holding John Simpkins in contempt, and because we find no other error, we affirm. Two days before the end of the trial, John Simpkins signed and filed an affidavit stating that a certain BB & T money market account contained over \$99,000.

The jury equitably divided the parties' property on March 26, 2002, and awarded the BB & T account to Agnes Simpkins. When John Simpkins finally submitted that account into the court's registry on September 3, 2002, however, it contained less than \$6000. Agnes Simpkins filed a motion to hold John Simpkins in contempt for willfully violating the court's order with respect to the BB & T account, and the trial court held a hearing on the matter on September 11, 2002.

Although John Simpkins did not personally appear as ordered by the court, his attorney argued that the money had been spent in compliance with the court's prior orders pertaining to the use of marital funds. The trial court disagreed, and held Mr. Simpkins in contempt.

The trial court also entered the final judgment of divorce on that day. 1. "In order for one to be held in contempt, there must be a willful disobedience of the court's decree or judgment." [1] A trial court's decision regarding the issue of contempt will not be reversed on appeal if there is any evidence to support it. [2] Our review of the record shows that throughout the course of the divorce proceedings, an injunction was in place limiting the parties' rights to transfer or dispose of the marital funds in their possession.

In addition, statutory law in Georgia restricts a person's right to dispose of marital assets after a divorce action has been filed. [3] The trial court concluded that despite the existence of alternative funds, John Simpkins chose to allocate funds from the BB & T account to pay his own attorney fees and his father's living expenses.

Because we find that the trial court did not abuse its discretion in finding that John Simpkins willfully violated its orders, we affirm the trial court's order of contempt. 2. Because we are

satisfied upon a review of the record that none of John Simpkins' other arguments have any merit whatsoever, we affirm the trial court's entry of the final judgment of divorce.

Judgment affirmed. All the Justices concur. NOTES [1] Gallit v. Buckley, 240 Ga. 621, 626, 242 S.E.2d 89 (1978). [2] Crowder v. Crowder, 236 Ga. 612, 225 S.E.2d 16 (1976). [3] OCGA § 19-5-7.