

FIFTH DISTRICT COURT OF APPEAL OF FLORIDA

Karl Tucker v. Jammie Tucker n/k/a Jammie Renae Lancaster

Tucker · No. 5D2024-2111 · Decided April 11, 2025

SUMMARY

The Florida Fifth District Court of Appeal held that a trial court improperly used Florida Family Law Rule of Procedure 12.540(a) to make a substantive change to a Qualified Domestic Relations Order by restoring the former wife's entitlement to a share of the former husband's DROP benefits. Because the requested relief potentially fell under Rule 12.540(b), but was sought more than one year after entry of the QDRO, the court concluded that the trial court lacked authority to enter the corrective order. The appellate court quashed the corrective order and remanded with instructions to restore the parties' rights under the original 2021 QDRO.

CASE DETAILS

COURT	Fifth District Court of Appeal of Florida
WRITING FOR THE COURT	Edwards, C.J.; Lambert, J.; Jay, J.
JURISDICTION	Florida Fifth District Court of Appeal
DECIDED	April 11, 2025
DOCKET	5D2024-2111
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Former Husband appealed the trial court's 2024 Corrective Order modifying a 2021 Qualified Domestic Relations Order under Florida Family Law Rule of Procedure 12.540(a).
PRECEDENTIAL VALUE	published
PARTIES	Karl Tucker v. Jammie Tucker n/k/a Jammie Renae Lancaster

TOPICS

- qdro
- family law procedure
- appellate procedure
- remedies

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure
- remedies

QUESTIONS PRESENTED

1. Whether the trial court could use Florida Family Law Rule of Procedure 12.540(a) to strike a QDRO provision excluding Former Wife from DROP benefits when doing so substantively changed the parties' financial rights.
2. Whether relief from the 2021 QDRO was available under Florida Family Law Rule of Procedure 12.540(b) despite Former Wife's motion being filed more than one year after entry of the QDRO.

HOLDINGS

1. Florida Family Law Rule of Procedure 12.540(a) authorizes correction of clerical mistakes, accidental slips, omissions, and similar nonsubstantive errors, but does not authorize a trial court to make a substantive change to the parties' rights under a judgment or QDRO. Striking the provision excluding Former Wife from DROP benefits and awarding her a share of those benefits was a substantive change.
2. Relief under Florida Family Law Rule of Procedure 12.540(b)(1) or (3) was unavailable because Former Wife filed her motion more than one year after entry of the 2021 QDRO.

KEY QUOTATIONS

“The Corrective Order changed the substantive financial rights of the parties.” (at 5)

“Thus, we hold that the trial court’s Corrective Order improperly made a substantive change in erroneous reliance upon Rule 12.540(a).” (at 6)

“Thus, the trial court lacked authority to enter the Corrective Order under Rule 12.540(b).” (at 7)

FACTUAL BACKGROUND

The parties' 2021 Marital Settlement Agreement and final judgment awarded Former Wife one-half of the marital portion of Former Husband's Florida Retirement System pension benefits, but neither document mentioned DROP benefits. The parties reviewed and signed the proposed QDRO as agreed to its form and content, and the trial court entered it on October 11, 2021, with paragraph 6 stating that Former Wife was not entitled to DROP benefits. In 2024, after an evidentiary hearing, the trial court found that the exclusion was added in error and entered a corrective order granting Former Wife one-half of the marital portion of the DROP benefits.

PROCEDURAL HISTORY

The parties' marriage was dissolved by a May 28, 2021 final judgment incorporating their Marital Settlement Agreement. The trial court entered a QDRO on October 11, 2021, excluding Former Wife from Former Husband's DROP benefits. Former Wife filed a motion to correct the QDRO on April 11, 2024, and the trial court entered an order striking the exclusion and awarding her a share of the DROP benefits. The Fifth District Court of Appeal quashed the corrective order and remanded with instructions to restore the parties' rights under the 2021 QDRO.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Quash the July 15, 2024 Corrective Order and conduct further proceedings, including issuance of an amended QDRO if required by FRS, to restore the parties' status and rights to those set forth in the October 11, 2021 QDRO.

CASES CITED

- Ganzel v. Ganzel, 770 So. 2d 304, 305 (Fla. 4th DCA 2000)
- Byers v. Callahan, 848 So. 2d 1180, 1184 (Fla. 2d DCA 2003)
- Town of Hialeah Gardens v. Hendry, 376 So. 2d 1162, 1164 (Fla. 1979)
- Lorant v. Whitney Nat'l Bank, 162 So. 3d 244, 245 (Fla. 1st DCA 2015)
- Freeman v. Sanders, 562 So. 2d 834, 835 (Fla. 1st DCA 1990)
- Purdue v. R.J. Reynolds Tobacco Co., 259 So. 3d 918, 921 (Fla. 2d DCA 2018)
- Steele v. Brown, 197 So. 3d 106, 109 (Fla. 1st DCA 2016)
- Gulfstream Micro Sys., Inc. v. Kingsbridge Boca Ass'n, 564 So. 2d 554, 555 (Fla. 4th DCA 1990)