

SUPREME COURT OF SOUTH DAKOTA

In re Estate of Foss

637 N.W.2d 30 (S.D. 2001) · No. No. 21863 · Decided November 21, 2001

SUMMARY

The Supreme Court of South Dakota affirmed the denial of a claim against an estate for unpaid child support arrearages. The court held that the ten-year statute of limitations applied because the Minnesota support order had not been registered or otherwise converted into a judgment of a South Dakota court, which would have qualified for the state’s twenty-year limitations period.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Justice Amundson; Acting Chief Justice Sabers; Justice Konenkamp; Justice Gilbertson; Retired Chief Justice Miller
JURISDICTION	South Dakota
DECIDED	November 21, 2001
DOCKET	No. 21863
DISPOSITION	affirmed
PROCEDURAL POSTURE	Linda Vnuck filed a claim against the estate of her deceased former spouse for unpaid child-support arrearages. After the trial court denied the claim as barred by South Dakota's ten-year statute of limitations, she appealed.
STANDARD OF REVIEW	De novo review applies to statutory interpretation; the Supreme Court gives no deference to the circuit court's interpretation.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Linda Vnuck v. Estate of Allen R. Foss

TOPICS

- probate procedure
- child support
- statute of limitations
- statutory interpretation
- civil procedure

PRACTICE AREAS

- probate
- family law
- child support
- statutory interpretation
- civil procedure

QUESTIONS PRESENTED

1. Whether the ten-year statute of limitations in SDCL 15-2-8 or the twenty-year statute of limitations in SDCL 15-2-6 governed Vnuck's claim for child-support arrearages based on a Minnesota support order.

HOLDINGS

1. The ten-year statute of limitations in SDCL 15-2-8 applies because Vnuck's claim was not an action upon a judgment or decree of a South Dakota court within the meaning of SDCL 15-2-6.

KEY QUOTATIONS

“A support order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:” (¶ 11)

“Although Linda is correct in stating that an order for support from Minnesota becomes a judgment as a matter of law, it does not automatically become a judgment or decree of this state.” (¶ 12)

FACTUAL BACKGROUND

Allen Foss and Linda Vnuck were divorced in Minnesota in 1976, and the Minnesota decree ordered Foss to pay \$210 per month in support for their three minor children. Foss paid only part of the required support, later moved to South Dakota, and died there on June 30, 2000, with arrearages unpaid. Vnuck had not commenced an action to collect the arrearages or registered the Minnesota support order in either Minnesota or South Dakota before filing a claim against Foss's estate.

PROCEDURAL HISTORY

Allen Foss was ordered by a Minnesota dissolution judgment to pay child support. After Foss died, Vnuck filed a claim against his South Dakota estate for arrearages without first registering or docketing the Minnesota support order in South Dakota or Minnesota. The trial court applied SDCL 15-2-8's ten-year limitation period and denied the claim; the Supreme Court of South Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- Coble v. Hanson, 2001 SD 8, ¶ 5, 620 N.W.2d 772, 773
- In re Sales & Use Tax Refund Request of Media One, Inc., 1997 SD 17, ¶ 11, 559 N.W.2d 875, 878
- Taecker v. Taecker, 527 N.W.2d 295, 299 (S.D. 1995)

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