

SUPREME COURT OF NEVADA

Wesley v. Foster

119 Nev. 110 (2003) · Decided March 21, 2003

SUMMARY

The Nevada Supreme Court held that, in shared-custody child-support cases, the Wright income offset must be calculated before applying the statutory presumptive maximum. The court reversed and remanded because the district court applied the cap before performing the offset.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Per Curiam; Becker; Leavitt; Shearing
JURISDICTION	Nevada
DECIDED	March 21, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Wesley appealed the district court's order modifying and resetting Foster's child-support obligation after the district court concluded that the statutory presumptive maximum should be applied before the Wright shared-custody offset.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review; it reviewed the district court's child-support calculation and determined that the court applied the governing legal formula in the wrong sequence.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Cassandra Wesley v. Anthony Foster

TOPICS

- child support
- statutory interpretation
- appellate procedure
- family law procedure

PRACTICE AREAS

- family law
- child support
- appellate procedure
- statutory interpretation

QUESTIONS PRESENTED

1. In a shared-custody arrangement, should the Wright v. Osburn offset be calculated before or after applying the statutory presumptive maximum for child support under NRS 125B.070?
2. Whether the district court erred by applying the statutory cap before performing the Wright shared-custody offset.

HOLDINGS

1. In a shared-custody arrangement, the Wright offset must be applied before the statutory presumptive maximum under NRS 125B.070.
2. The district court erred by applying the statutory cap before performing the Wright offset.

KEY QUOTATIONS

“The Wright offset should take place before, not after, application of the cap.” (119 Nev. at 112-13)

“We hold that in shared custodial arrangements, the Wright offset should be applied prior to application of the statutory cap.” (119 Nev. at 114)

FACTUAL BACKGROUND

Cassandra Wesley and Anthony Foster had a child in 1995, and paternity and an initial child-support obligation were established. In a 2000 modification proceeding, Foster's gross monthly income was determined to be \$5,417 and Wesley's to be \$1,417. The hearing master applied the Wright shared-custody offset before the statutory presumptive maximum, but the district court reversed that sequence and reset Foster's support obligation.

PROCEDURAL HISTORY

After a three-year child-support review hearing, the hearing master calculated each parent's percentage obligation, applied the Wright offset, and then applied the statutory cap. Foster objected, and the district court agreed that the cap should precede the offset. Wesley appealed to the Nevada Supreme Court, which reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including calculation of the Wright offset before application of the statutory presumptive maximum.

CASES CITED

- Wright v. Osburn, 114 Nev. 1367, 970 P.2d 1071 (1998)
- Garrett v. Garrett, 111 Nev. 972, 976, 899 P.2d 1112, 1115 (1995)

- *Barbagallo v. Barbagallo*, 105 Nev. 546, 549, 779 P.2d 532, 535 (1989)

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