

SUPREME JUDICIAL COURT OF MAINE

Fitzgerald v. Bilodeau, 2006 ME 122

908 A.2d 1212 (Me. 2006) · Decided October 27, 2006

SUMMARY

The Maine Supreme Judicial Court dismissed Daniel R. Bilodeau’s appeal from the denial of his motion to dismiss a child-custody modification proceeding on forum non conveniens grounds. The court held that, absent extraordinary circumstances, such a denial under the Uniform Child Custody Jurisdiction and Enforcement Act is interlocutory and not immediately appealable.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Dana, J.; Saufley, C.J.; Clifford, J.; Alexander, J.; Calkins, J.; Levy, J.; Silver, J.
JURISDICTION	Maine
DECIDED	October 27, 2006
DISPOSITION	dismissed
PROCEDURAL POSTURE	Bilodeau appealed the District Court's denial of his motion to dismiss Fitzgerald's motion to modify child-custody arrangements on forum non conveniens grounds under 19-A M.R.S. § 1751.
STANDARD OF REVIEW	The court applied the final judgment rule to determine whether it had appellate jurisdiction over the interlocutory appeal.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine
PARTIES	Daniel R. Bilodeau v. Cindy L. Fitzgerald

TOPICS

- child custody
- forum non conveniens
- final judgment rule
- interlocutory appeal
- appellate jurisdiction

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the denial of a motion to dismiss for forum non conveniens under the Uniform Child Custody Jurisdiction and Enforcement Act is a final judgment immediately appealable under Maine's final judgment rule.
2. Whether any exception to the final judgment rule permitted immediate appellate review of the denial of Bilodeau's forum non conveniens motion.

HOLDINGS

1. Absent extraordinary circumstances, the denial of a motion to dismiss for forum non conveniens under the UCCJEA is interlocutory rather than a final judgment and is not immediately appealable.
2. None of Maine's recognized narrow exceptions to the final judgment rule—the judicial economy, collateral order, or death knell exceptions—applied to this appeal.

KEY QUOTATIONS

“absent extraordinary circumstances, the denial of a motion to dismiss for forum non conveniens under the UCCJEA is interlocutory, not a final judgment, and therefore not immediately appealable.” (¶ 5)

FACTUAL BACKGROUND

Bilodeau and Fitzgerald, who were never married, are the parents of twins born in Maine in 1992. The District Court initially awarded Fitzgerald sole parental rights and responsibilities, later amended the order to award shared parental rights and responsibilities and primary physical custody to Bilodeau after he relocated to Florida. Fitzgerald subsequently sought to regain primary physical custody, alleging interference with her contact rights and an emotionally abusive environment in Florida.

PROCEDURAL HISTORY

The Maine District Court previously entered and later amended orders concerning the parties' parental rights and physical custody of their twins. After Fitzgerald sought to regain primary physical custody, Bilodeau moved to dismiss on forum non conveniens grounds. The District Court denied the motion, and Bilodeau took an interlocutory appeal.

DISPOSITION

dismissed

CASES CITED

- In re Adoption of Matthew R., 2000 ME 86, ¶ 5, 750 A.2d 1262, 1264
- Barclay v. Eckert, 2000 ME 10, 743 A.2d 1259
- Duffy v. Reeves, 619 A.2d 1094, 1098 n. 1 (R.I. 1993)
- State v. Me. State Employees Ass'n, 482 A.2d 461, 464 (Me. 1984)

