

CONNECTICUT APPELLATE COURT

Mayor v. Mayor

17 Conn. App. 627 (1989) · Decided March 14, 1989

SUMMARY

The Connecticut Appellate Court held that the Superior Court lacked jurisdiction to change the surname of a nonparty minor child in a marriage-dissolution proceeding. The court ruled that a parent seeking the change must proceed under the statutory change-of-name process and applicable procedures for minor children, and it set aside the name-change order.

CASE DETAILS

COURT	Connecticut Appellate Court
WRITING FOR THE COURT	Spallone, J.
JURISDICTION	Connecticut
DECIDED	March 14, 1989
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendant appealed from the portion of a judgment dissolving the parties' marriage that changed the surname of their nonparty minor child.
STANDARD OF REVIEW	Subject matter jurisdiction is a legal issue that may be raised at any time, including for the first time on appeal, and is reviewed by the appellate court.
PRECEDENTIAL VALUE	Published Connecticut Appellate Court opinion
PARTIES	Mariaelana Sparano Mayor v. Norman C. Mayor

TOPICS

- family law procedure
- dissolution of marriage
- subject matter jurisdiction
- statutory interpretation
- appellate procedure

PRACTICE AREAS

- family law
- civil procedure
- statutory interpretation
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Superior Court had subject matter jurisdiction, in an action for dissolution of marriage, to change the name of a nonparty minor child at the request of one parent.

HOLDINGS

1. The Superior Court lacked subject matter jurisdiction to change the name of a nonparty minor child incident to the dissolution of the parents' marriage. A name change for a minor child must be pursued through a complaint under General Statutes § 52-11 and the procedures in Practice Book § 105.
2. The defendant's subject matter jurisdiction claim was reviewable for the first time on appeal because lack of subject matter jurisdiction cannot be waived.

KEY QUOTATIONS

“We conclude, on the basis of our review of these statutes, that the Superior Court did not have jurisdiction to effect a change of name of a nonparty minor child incident to the dissolution of a marriage.” (17 Conn. App. at 631)

“A parent who wishes to effect a change of name for a minor child in the Superior Court must invoke the court’s jurisdiction by proceeding under § 52-11 and must comply with the procedures established by Practice Book § 105.” (17 Conn. App. at 632)

FACTUAL BACKGROUND

The parties' minor son was born on September 29, 1986, and the defendant gave him the surname Sparano, her maiden name, on the birth certificate. During the uncontested dissolution hearing, the plaintiff requested that the child's surname be changed to Mayor, although the child was not a party to the dissolution action. The trial court granted the request and ordered that the child thereafter be known as Matthew S. Mayor.

PROCEDURAL HISTORY

The plaintiff filed an action seeking dissolution of marriage and custody of the parties' minor child. The defendant filed a cross complaint seeking dissolution, custody, child support, alimony, and attorney's fees. After an uncontested hearing, the trial court granted the plaintiff's request, made over the defendant's objection, to change the child's surname and included that order in the dissolution judgment. The defendant raised the subject matter jurisdiction issue for the first time on appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The portion of the judgment ordering a change of the minor child's name was set aside, and the case was remanded with direction to render judgment denying the request to change the child's name.

CASES CITED

- *Farricielli v. Personnel Appeal Board*, 186 Conn. 198, 210, 440 A.2d 286 (1982)
- *Capalbo v. Planning & Zoning Board of Appeals*, 208 Conn. 480, 486, 547 A.2d 528 (1988)
- *Nicotra Wieler Investment Management, Inc. v. Grower*, 207 Conn. 441, 451, 541 A.2d 1226 (1988)
- *State v. Champagne*, 206 Conn. 421, 428, 538 A.2d 193 (1988)
- *Rhodes v. Hartford*, 201 Conn. 89, 93, 513 A.2d 124 (1986)
- *Lundgren v. Stratford*, 12 Conn. App. 138, 142, 530 A.2d 183, cert. denied, 205 Conn. 808, 532 A.2d 76 (1987)
- *Gill v. Petrazzuoli Bros., Inc.*, 10 Conn. App. 22, 31, 521 A.2d 212 (1987)
- *Berger v. Tonken*, 192 Conn. 581, 589, 473 A.2d 782 (1984)
- *Blue Cross & Blue Shield of Connecticut, Inc. v. Mike*, 184 Conn. 352, 362, 439 A.2d 1026 (1981)
- *Heffernan v. Slapin*, 182 Conn. 40, 46, 438 A.2d 1 (1981)
- *Frazier v. Manson*, 176 Conn. 638, 642, 410 A.2d 475 (1979)
- *Monroe v. Monroe*, 177 Conn. 173, 177, 413 A.2d 819 (1979), cert. denied, 444 U.S. 801, 100 S. Ct. 20, 62 L. Ed. 2d 14 (1981)
- *Broaca v. Broaca*, 181 Conn. 463, 468, 435 A.2d 1016 (1981)
- *Hurta v. Hurta*, 25 Wash. App. 95, 605 P.2d 1278 (1979)