

SUPREME COURT OF RHODE ISLAND

Michelle Andrade v. Christano Andrade

No. 2019-467-Appeal (R.I. June 16, 2021) · No. 2019-467-Appeal (P 15-1228) · Decided June 16, 2021

SUMMARY

The Rhode Island Supreme Court reviewed a Family Court order denying Michelle Andrade's motion to relocate with the parties' minor child and an order modifying Christano Andrade's child-support obligation. The Court affirmed the denial of relocation, concluding that the Family Court properly considered the child's best interests and relevant relocation factors. It vacated the child-support modification because the Family Court failed to find a substantial change in circumstances and remanded the matter.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Paul A. Suttell; Chief Justice Suttell; Justice Goldberg; Justice Robinson; Justice Lynch Prata; Justice Long
JURISDICTION	Rhode Island
DECIDED	June 16, 2021
DOCKET	2019-467-Appeal (P 15-1228)
DISPOSITION	vacated
PROCEDURAL POSTURE	Plaintiff appealed Family Court orders denying her motion to relocate with the parties' minor child and granting defendant's motion to modify child support. The Supreme Court treated the appeal from the child-support modification order as a common-law petition for writ of certiorari because such an order was not appealable.
STANDARD OF REVIEW	Custody and best-interests findings, including relocation determinations, are reviewed for abuse of discretion and will not be disturbed unless the factual findings overlooked or misconceived material evidence or were clearly wrong. Child-support modification findings are reviewed for clear error, overlooking material evidence, or misconstruction of applicable law. Modification also requires proof by a fair preponderance of a substantial change in circumstances after entry of the existing decree.
PRECEDENTIAL VALUE	published Rhode Island Supreme Court opinion

PARTIES

Michelle Andrade v. Christano Andrade

TOPICS

relocation

child support

appellate procedure

preservation of error

standard of review

PRACTICE AREAS

family law

child custody

child support

appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Court abused its discretion or overlooked or misconceived material evidence in denying plaintiff's motion to relocate with the child.
2. Whether the Family Court properly considered the governing relocation and best-interests factors.
3. Whether plaintiff preserved her challenge to the exclusion of evidence concerning alleged prior domestic violence.
4. Whether the Family Court could modify the existing child-support order without finding a substantial post-decree change in the child's needs or the defendant's ability to pay.
5. Whether the plaintiff's challenge to the child-support modification order was properly before the Supreme Court as an appeal or should be treated as a common-law writ of certiorari.

HOLDINGS

1. The Family Court did not abuse its discretion in denying plaintiff's motion to relocate because it properly weighed the relevant relocation and best-interests factors and reasonably concluded that relocation was not in the child's best interests.
2. The trial justice did not overlook or misconceive material evidence in denying relocation.
3. The plaintiff waived appellate review of the evidentiary issue because she did not articulate at trial why the excluded questions were relevant to relocation.
4. A child-support order may not be modified under Rhode Island General Laws § 15-5-16.2(c)(2) without findings establishing a substantial post-decree change in circumstances, including a change in the child's needs or the obligor parent's ability to meet those needs.
5. Because an order modifying child support is not appealable, the Supreme Court treated plaintiff's challenge as a common-law petition for writ of certiorari in the interests of judicial economy.

KEY QUOTATIONS

“Any modification of that order under § 15-5-16.2(c)(2) must be supported by a finding that a substantial change in circumstances has occurred.” (at 17-18)

“The trial justice clearly considered the relevant Dupré factors, weighing and balancing them to conclude that relocation was not in the best interest of the child.” (at 12-13)

FACTUAL BACKGROUND

The parties divorced in 2015 and have one child, with joint custody and the child spending equal time with each parent under a later alternating-week arrangement. Plaintiff sought to relocate with the child to New York or New Jersey for career-related reasons, while defendant opposed relocation based on his close involvement in the child's life and the child's relationships with Rhode Island family, school, and community. Defendant also sought to reduce child support because the parties shared physical placement equally. The Family Court denied relocation and reduced support without making findings concerning a post-decree change in the child's needs or defendant's ability to pay.

PROCEDURAL HISTORY

The parties divorced in the Providence County Family Court in 2015, with joint custody, physical placement primarily with plaintiff under the written agreement, and child support set at \$1,471 per month. In 2018, plaintiff moved to relocate with the child to New York or New Jersey, and defendant moved to modify child support based on the parties' shared-parenting arrangement. After a 2019 hearing, the Family Court denied relocation and reduced defendant's support obligation retroactively. The Rhode Island Supreme Court affirmed the relocation ruling, vacated the child-support modification order, and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case is remanded to the Family Court after affirmance of the order denying relocation and vacatur of the order granting child-support modification.

CASES CITED

- Pettinato v. Pettinato, 582 A.2d 909, 913-14 (R.I. 1990)
- Dupré v. Dupré, 857 A.2d 242, 257-59 (R.I. 2004)
- DePrete v. DePrete, 44 A.3d 1260, 1270-71 (R.I. 2012)
- Saltzman v. Saltzman, 218 A.3d 551, 557-58 (R.I. 2019)
- Ainsworth v. Ainsworth, 186 A.3d 1074, 1082-83 (R.I. 2018)
- H.J. Baker & Bro., Inc. v. Organics, Inc., 554 A.2d 196, 202 (R.I. 1989)
- In re Shy C., 126 A.3d 433, 434-35 (R.I. 2015)
- State v. Gomez, 848 A.2d 221, 237 (R.I. 2004)
- Lentz v. Lentz, 651 A.2d 1242, 1242 (R.I. 1994) (mem.)
- McCann v. McCann, 121 R.I. 173, 175-76, 396 A.2d 942, 944 (1979)
- Heatherton v. Heatherton, 110 R.I. 144, 145, 290 A.2d 912, 913 (1972)
- Hull v. Hull, 120 R.I. 77, 79-80, 384 A.2d 1065, 1067 (1978)

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