

SUPREME COURT OF WYOMING

Jessica L. Tafoya v. Paul W. Tafoya

2013 WY 121 (2013) · No. S-13-0011 · Decided October 2, 2013

SUMMARY

The Wyoming Supreme Court affirmed an order clarifying a divorce decree under W.R.C.P. 60(a). The court held that conflicting provisions concerning transportation costs for visitation created a patent ambiguity that could be clarified without modifying the decree. The clarified order provided that weekend visitation costs were borne by the visiting parent and other visitation transportation costs were shared.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Day, District Judge; Kite, C.J.; Hill, J.; Voigt, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	October 2, 2013
DOCKET	S-13-0011
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother appealed from a district court order clarifying or correcting a divorce decree under W.R.C.P. 60(a), specifically regarding the allocation of transportation costs for visitation.
STANDARD OF REVIEW	The court reviewed de novo both whether the alleged correction or clarification concerned a clerical mistake under W.R.C.P. 60(a) and whether the order clarified rather than modified the original judgment.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	Jessica L. Tafoya v. Paul W. Tafoya

TOPICS

- family law procedure
- child custody
- visitation
- appellate procedure
- standard of review

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court had authority under W.R.C.P. 60(a) to clarify the ambiguity between the divorce decree and the incorporated Standard Visitation Order.
2. Whether the district court's order properly clarified the original decree or instead impermissibly modified it without a material change in circumstances or a timely motion under W.R.C.P. 59(e).

HOLDINGS

1. W.R.C.P. 60(a) permits a court to clarify an ambiguous judgment when clarification effectuates the contemporaneous intent of the court, even when the ambiguity is patent or latent and is not merely a mechanical transcription error.
2. The district court properly clarified, rather than substantively modified, the divorce decree by applying the Standard Visitation Order's allocation of transportation costs: the visiting parent bears weekend-visitation costs, and the parents share other visitation costs.

KEY QUOTATIONS

“A full reading of Spomer clearly indicates that Rule 60(a) is “designed to clarify as well as correct” in order to serve its purpose “to effectuate the intent of the court.”” (¶ 11)

“That calculus is informed and guided by the central purpose of Rule 60(a) which “is to effectuate the contemporaneous intent of the court and to ensure that the judgment reflects that intent.”” (¶ 14)

“In its order granting Father’s motion to clarify, the district court properly employed Rule 60(a) to clarify the ambiguity and correctly clarified the decree according to the contemporaneous intent of the trial court.” (¶ 24)

FACTUAL BACKGROUND

The parties divorced in 2012 and had one minor child. The decree awarded the parties joint legal custody, gave the father primary residential custody in Wyoming, and granted the mother, who lived in New Mexico, liberal visitation. The decree stated generally that the parties would share transportation costs, while the incorporated Standard Visitation Order required the visiting parent to bear weekend-visitation costs and required the parents to share summer and holiday transportation costs. The father sought clarification after the mother exercised weekend visitation and insisted that transportation costs be shared.

PROCEDURAL HISTORY

The parties divorced in 2012, and the divorce decree awarded the father primary residential custody and the mother liberal visitation. The father later moved to correct or clarify an ambiguity between the decree and the incorporated Standard Visitation Order concerning transportation expenses. The district court granted the motion and clarified that weekend visitation expenses were the responsibility of the visiting parent while other visitation costs were shared. The Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Elsassner, 989 P.2d at 108
- Johnson v. Johnson, 851 P.2d 4, 7-8 (Wyo. 1993)
- Brockway v. Brockway, 921 P.2d 1104, 1106 (Wyo. 1996)
- Glover v. Crayk, 2005 WY 143, ¶¶ 7, 9-10, 122 P.3d 955, 957-58 (Wyo. 2005)
- Wyland v. Wyland, 2006 WY 93, ¶¶ 8, 11, 138 P.3d 1165, 1168-69 (Wyo. 2006)
- Spomer v. Spomer, 580 P.2d 1146, 1149-50 (Wyo. 1978)
- Matter of Kimball's Estate, 583 P.2d 1274, 1278 (Wyo. 1978)
- United States v. Stuart
- In re White, 336 F. Supp. 735 (E.D. Wis. 1971)
- Harold Laz Advertising Co. v. Dumes, 2 Ariz. App. 236, 407 P.2d 777 (1965)
- Wadi Petroleum, Inc. v. Ultra Resources, Inc., 2003 WY 41, ¶¶ 11-12, 65 P.3d 703, 708 (Wyo. 2003)