

SUPREME COURT OF IDAHO

Browning v. Browning, 136 Idaho 691

39 P.3d 631 (2001) · No. No. 26492 · Decided December 31, 2001

SUMMARY

The Idaho Supreme Court reviewed issues arising from a divorce decree concerning child support, spousal maintenance, community debts, an equalization payment, and attorney fees. The court held that spousal maintenance must be included in the recipient's gross income for child-support calculations, that imputing income to a full-time student requires a case-by-case exercise of discretion, and that the three-year maintenance award was supported by substantial evidence. The case was remanded for recalculation of support and for the magistrate court to determine how to enforce community-debt obligations.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Schroeder, Justice; Trout, Chief Justice; Walters, Justice; Kidwell, Justice; Eismann, Justice
JURISDICTION	Idaho
DECIDED	December 31, 2001
DOCKET	No. 26492
DISPOSITION	remanded
PROCEDURAL POSTURE	Sherry appealed from the Idaho district court's appellate decision modifying a magistrate's divorce decree. The Supreme Court reviewed the magistrate's record and the district court's appellate decision; Stephen's cross-appeal had previously been dismissed as untimely.
STANDARD OF REVIEW	The Supreme Court independently reviews the magistrate's record, with due regard for the district court's decision, to determine whether substantial and competent evidence supports the magistrate's factual findings and whether the conclusions of law follow from those findings. Child-support awards are reviewed for abuse of discretion. The factual findings supporting the amount and duration of spousal maintenance are reviewed for substantial and competent evidence.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential

PARTIES

Sherry Browning nka Sherry Ellison v. Stephen Browning

TOPICS

family law procedure

child support

spousal support

community property

appellate procedure

PRACTICE AREAS

family law

child support

spousal support

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remedies

QUESTIONS PRESENTED

1. Whether spousal maintenance paid by Stephen had to be included in calculating Sherry's gross income for child-support purposes.
2. Whether Stephen's income had to be adjusted for the spousal-maintenance payments and whether child support received by Stephen could be included in his gross income.
3. Whether full-time employment had to be imputed to Sherry because she was a full-time student.
4. Whether substantial and competent evidence supported awarding Sherry spousal maintenance for three years rather than two.
5. Whether the magistrate had authority to enforce Stephen's obligation to pay community debts and the equalization judgment.
6. Whether either party was entitled to attorney fees on appeal.

HOLDINGS

1. Spousal maintenance received by a parent must be included in that parent's gross income when calculating child support under the Idaho Child Support Guidelines.
2. Spousal-maintenance payments made by Stephen must be deducted from his gross income before calculating child support.
3. Child support received by Stephen must not be included in his gross income for child-support calculations.
4. A full-time student parent is not automatically required to have full-time employment imputed for child-support purposes; the amount of income attributed to the student must be determined case by case through discretionary application of the Guidelines.
5. Substantial and competent evidence supported awarding Sherry spousal maintenance for three years.
6. The magistrate had authority to enforce its own order requiring Stephen to pay community debts, and the method of enforcement was within the magistrate's discretion.
7. Sherry was not entitled to attorney fees on appeal under Idaho Code section 32-704(3).
8. Stephen was not entitled to attorney fees because he cited no authority supporting his request.

KEY QUOTATIONS

“Humberger does not, however, dictate that full-time employment be attributed to a student.” (634)

“The court has the authority to enforce its order. The method of doing so is within the discretion of the court entering the order.” (636)

“The case is remanded to the magistrate court to recalculate spousal maintenance and child support payments consistent with this opinion.” (637)

FACTUAL BACKGROUND

The parties were married in 1979 and had two children. Sherry left full-time employment to care for the children, later worked part-time jobs, and planned to attend a two-year accounting program; Stephen earned approximately \$46,000 annually. The magistrate awarded Sherry \$600 per month in spousal maintenance for three years and ordered her to pay \$141 per month in child support, while also ordering Stephen to pay an equalization payment and community debts.

PROCEDURAL HISTORY

Stephen filed for divorce, and the parties resolved custody and visitation by agreement. After trial on the remaining issues, the magistrate awarded Sherry spousal maintenance for three years, ordered her to pay child support, divided community property, and ordered Stephen to pay community debts and an equalization payment. The district court modified the child-support and spousal-maintenance determinations, including limiting maintenance to two years. The Supreme Court remanded for recalculation of support and for enforcement of the community-debt obligations, while affirming the award of a third year of spousal maintenance.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the magistrate court to recalculate spousal-maintenance and child-support payments consistently with the opinion and to determine the manner in which it will enforce Stephen's obligations to satisfy community debts and related orders, if those obligations remain unpaid. The award of a third year of spousal maintenance is affirmed. Neither party receives costs or attorney fees.

CASES CITED

- Nicholls v. Blaser, 102 Idaho 559, 633 P.2d 1137 (1981)
- Walborn v. Walborn, 120 Idaho 494, 817 P.2d 160 (1991)
- Henderson v. Smith, 128 Idaho 444, 915 P.2d 6 (1996)
- Noble v. Fisher, 126 Idaho 885, 894 P.2d 118 (1995)
- Sun Valley Shopping Ctr., Inc. v. Idaho Power Co., 119 Idaho 87, 803 P.2d 993 (1991)
- Humberger v. Humberger, 134 Idaho 39, 995 P.2d 809 (2000)

- Wilson v. Wilson, 131 Idaho 533, 960 P.2d 1262 (1998)
- Mulch v. Mulch, 125 Idaho 93, 867 P.2d 967 (1994)
- Tisdale v. Tisdale, 127 Idaho 331, 900 P.2d 807 (Ct. App. 1995)
- McNett v. McNett, 95 Idaho 59, 501 P.2d 1059 (1972)
- Tolman v. Tolman, 93 Idaho 374, 461 P.2d 433 (1969)
- Brashear v. Brashear, 71 Idaho 158, 228 P.2d 243 (1951)
- Thomas v. Worthington, 132 Idaho 825, 979 P.2d 1183 (1999)
- Smith v. Smith, 131 Idaho 800, 964 P.2d 667 (Ct. App. 1998)
- Bingham v. Montane Resource Associates, 133 Idaho 420, 987 P.2d 1035 (1999)