

SUPREME COURT OF IDAHO

King v. King

137 Idaho 438 (Idaho 2002) · No. No. 27271 · Decided June 18, 2002

SUMMARY

The Supreme Court of Idaho affirmed a magistrate judge’s award of primary physical custody of the parties’ child to Justin King, with joint legal custody and specified parenting time for Melissa King. The court held that the magistrate did not commit reversible error by adopting and modifying portions of proposed findings submitted by one party, that the findings were supported by substantial and competent evidence, and that the custody determination was not an abuse of discretion. The court awarded Justin costs on appeal but denied attorney fees to both parties.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Eismann, Justice; Eismann; Trout, Chief Justice; Schroeder, Justice; Walters, Justice; Kidwell, Justice
JURISDICTION	Idaho
DECIDED	June 18, 2002
DOCKET	No. 27271
DISPOSITION	affirmed
PROCEDURAL POSTURE	Melissa King appealed the child-custody provisions of a divorce judgment from the magistrate division to the district court, which affirmed. She then appealed to the Idaho Supreme Court.
STANDARD OF REVIEW	The Supreme Court reviews the magistrate's decision independently, with due regard for the district court's intermediate appellate decision. Findings of fact are reviewed for clear error and will not be set aside if supported by substantial and competent evidence. Child-custody decisions are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion
PARTIES	Melissa Ann King v. Justin King

TOPICS

child custody

family law procedure

appellate procedure

standard of review

attorney fees

PRACTICE AREAS

Family law

appellate procedure

child custody

attorney fees

QUESTIONS PRESENTED

1. Whether the magistrate committed reversible error by adopting some of Justin's proposed findings of fact and conclusions of law, including adopting twenty custody-related paragraphs verbatim.
2. Whether three of the magistrate's factual findings were unsupported by substantial and competent evidence.
3. Whether the magistrate abused its discretion in awarding Justin primary physical custody under Idaho's child-custody statutes.
4. Whether either party was entitled to attorney fees on appeal.

HOLDINGS

1. The magistrate did not commit reversible error by adopting some of Justin's proposed findings, including some verbatim, because the record showed that the magistrate reviewed, rejected, modified, and adopted findings while exercising independent judgment.
2. The challenged findings concerning the cleanliness of the home, Justin's mental illness and parenting ability, and whether Justin was a habitual perpetrator of domestic violence were supported by substantial and competent evidence and were not clearly erroneous.
3. The magistrate did not abuse its discretion in awarding Justin primary physical custody of Megan.
4. Neither party was awarded attorney fees on appeal, although Justin was awarded appellate costs.

KEY QUOTATIONS

“The record shows that the magistrate exercised independent judgment when deciding which of the proposed findings to adopt.” (457)

“Joint physical custody does not mean that the parents have physical custody of the child for equal periods of time, nor does it mean that the child should alternate back and forth between the parents for specified periods of time.” (460)

FACTUAL BACKGROUND

Justin and Melissa King were married and had one child, Megan. In May 1999, Melissa moved with Megan from Idaho to Michigan without Justin's knowledge or consent; an Idaho court entered a temporary custody order, and the Michigan court deferred to Idaho. After trial, the magistrate found that Justin was better able to provide for Megan's welfare and awarded him primary physical custody, while awarding both parents joint legal custody and Melissa substantial visitation.

PROCEDURAL HISTORY

The magistrate awarded the parties joint legal custody but awarded Justin primary physical custody, with Melissa receiving specified periods of physical custody and responsibility for travel expenses. The district court

affirmed the magistrate's judgment. The Idaho Supreme Court independently reviewed the magistrate's decision, giving due regard to the district court's intermediate appellate decision, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Brinkmeyer v. Brinkmeyer, 135 Idaho 596, 21 P.3d 918 (2001)
- Compton v. Gilmore, 98 Idaho 190, 560 P.2d 861 (1977)
- Cheney v. Jemmett, 107 Idaho 829, 831, 693 P.2d 1031, 1033 (1984)
- State v. Harmon, 131 Idaho 80, 952 P.2d 402 (1998)
- Bramwell v. South Rigby Canal Co., 136 Idaho 648, 39 P.3d 588 (2001)
- Rowley v. Fuhrman, 133 Idaho 105, 982 P.2d 940 (1999)
- Brownson v. Allen, 134 Idaho 60, 995 P.2d 830 (2000)
- Browning v. Browning, 136 Idaho 691, 39 P.3d 631 (2001)
- Sacred Heart Med. Ctr. v. Nez Perce County, 136 Idaho 448, 35 P.3d 265 (2001)