

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Herrera-Frias v. Frias

130 So. 3d 733 (Fla. 2d DCA 2014) · Decided January 22, 2014

SUMMARY

The Florida Second District Court of Appeal affirmed a judgment dissolving the marriage of Claudia Herrera-Frias and Jesus Frias. The court upheld the equitable-distribution provisions and declined to disturb the child-custody and child-support rulings because the appellant failed to provide a transcript and had willfully violated an order requiring her to return the parties' children to Florida.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Altenbernd, J.; Davis, C.J.; Black, J.
JURISDICTION	Florida
DECIDED	January 22, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claudia Herrera-Frias appealed the final judgment dissolving her marriage, challenging equitable distribution, parental responsibility and contact with the children, and child support.
STANDARD OF REVIEW	Appellate review of evidentiary determinations and other decisions dependent on the evidence and arguments presented at trial is limited when the appellant fails to provide a transcript or adequate record.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Claudia Herrera-Frias v. Jesus Frias

TOPICS

dissolution of marriage

equitable distribution

child custody

child support

appellate procedure

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the trial court erred in its equitable-distribution determinations.

2. Whether the trial court erred by awarding Jesus Frias sole parental responsibility and limiting Claudia Herrera-Frias's contact with the children.
3. Whether the trial court erred in calculating child support.
4. Whether the absence of a transcript or adequate record prevented meaningful appellate review of evidence-dependent issues.

HOLDINGS

1. An appellant challenging trial-court decisions that depend on the evidence and arguments presented below must provide a transcript or otherwise take the necessary steps to furnish an adequate appellate record; without such a record, appellate review is extremely limited.
2. When a parent willfully violates a pretrial order concerning removal of children from the court's jurisdiction, the trial court has discretion to award sole parental responsibility to the parent who is properly before the court and complies with the court's orders.
3. The judgment of dissolution was affirmed.

KEY QUOTATIONS

“When a parent is in willful violation of a pretrial order addressing the removal of the children from the jurisdiction of the court, it is well within the discretion of the trial court to award sole responsibility to the parent who is properly before the court and compliant with the orders of that court.” (735)

FACTUAL BACKGROUND

The parties' marriage was dissolved and the judgment addressed equitable distribution, parental responsibility, contact with the parties' three children, and child support. Before entry of the final judgment, Herrera-Frias willfully disobeyed a pretrial order by fleeing to Mexico with the children and did not return them to the United States. The appellate record contained no transcript of the final hearing, so the court could not determine what evidence the trial court considered.

PROCEDURAL HISTORY

The trial court entered a judgment of dissolution awarding the husband sole parental responsibility for the parties' three children, limiting the wife's contact with them, determining child support, and dividing marital property. The wife appealed without providing a transcript of the final hearing, leaving the appellate court unable to review evidence-dependent issues fully. The appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- Gazil v. Gazil, 343 So. 2d 595 (Fla. 1977)
- Carney v. Carney, 861 So. 2d 1272 (Fla. 1st DCA 2008)

