

SUPREME COURT OF MISSISSIPPI

McDonald v. McDonald

876 So. 2d 296 (Miss. 2004) · Decided July 1, 2004

SUMMARY

The Mississippi Supreme Court affirmed the Court of Appeals and trial court in a dispute involving temporary custody, visitation, child support, and contempt. The court held that the temporary custody order was not final or permanent and therefore was not subject to appellate review. The court also found no merit in the remaining assignments of error.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Smith, Chief Justice; Smith, C.J.; Waller, P.J.; Carlson, J.; Cobb, P.J.; Diaz, J.; Dickinson, J.; Easley, J.; Graves, J.; Randolph, J.
JURISDICTION	Mississippi
DECIDED	July 1, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Howard Clayborne McDonald, Jr. sought review by writ of certiorari of the Mississippi Court of Appeals' affirmance of a special chancellor's temporary custody and contempt orders. The Mississippi Supreme Court granted certiorari and affirmed.
STANDARD OF REVIEW	Appellate review of temporary, nonfinal custody orders is improper because the appellate court lacks jurisdiction to review them.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Howard Clayborne McDonald, Jr. v. Rosemary Sheffield McDonald

TOPICS

- child custody
- visitation
- appellate jurisdiction
- final judgment rule
- writ of certiorari

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the Mississippi Supreme Court had jurisdiction to review the special chancellor's temporary custody and support order.
2. Whether the Court of Appeals and trial court erred in affirming the temporary custody change, contempt finding, attorney-fee award, and related procedural rulings.

HOLDINGS

1. The Court lacked jurisdiction to review the custody change because the challenged order was expressly temporary, nonfinal, and contemplated a later full hearing on permanent custody.
2. The remaining assignments of error were without merit, and the judgments of the Court of Appeals and the trial court were affirmed.

KEY QUOTATIONS

“Therefore, we do not have jurisdiction to hear the appeal.” (876 So. 2d at 298)

“The evidence in the record supports the contention that the change of custody was intended to be temporary until the trial court could hold a full hearing on the merits after the litigation pending in federal district court was over.” (876 So. 2d at 298)

FACTUAL BACKGROUND

The parties were divorced in April 1998, with Howard receiving custody of their two younger daughters and Rosemary receiving custody of their oldest daughter. After Rosemary alleged that Howard violated visitation restrictions and interfered with her visitation, the special chancellor found Howard in contempt, awarded Rosemary extended visitation, and later temporarily transferred custody of the two younger children to her. The temporary custody and support order contemplated a later full hearing on permanent custody after resolution of related federal litigation.

PROCEDURAL HISTORY

Following the parties' 1998 divorce, the chancery court awarded Howard custody of the two younger daughters and Rosemary custody of the oldest daughter. After alleged interference with visitation, the special chancellor entered temporary orders modifying visitation and custody, found Howard in contempt, and ordered attorney fees and child support. The Court of Appeals consolidated Howard's appeals and affirmed, and the Mississippi Supreme Court granted certiorari before affirming in all respects.

DISPOSITION

affirmed

CASES CITED

- McDonald v. McDonald, 850 So. 2d 1182 (Miss. Ct. App. 2002)
- Michael v. Michael, 650 So. 2d 469, 471 (Miss. 1995)
- McDonald v. Griffin, 1:99CV226-D-D, 1999 WL 33537119 (N.D. Miss. Oct. 4, 1999)

- McDonald v. Griffin, 228 F.3d 409 (5th Cir. 2000) (table)
- McDonald v. Griffin, 531 U.S. 1150, 121 S. Ct. 1093, 148 L. Ed. 2d 966 (2001)

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