

SUPREME JUDICIAL COURT OF MAINE

Ivan J. Davies v. Mary T. Davies

2022 ME 56 (2022) · No. Yor-22-60 · Decided November 15, 2022

SUMMARY

The Maine Supreme Judicial Court held that a Rule 59(a) motion seeking to reopen evidence in a matter involving only child support is exempt from the post-judgment filing fee under Maine Administrative Order JB-05-26. The Court vacated the District Court’s order striking Mary T. Davies’s motion for failure to pay the fee and remanded with instructions to restore the motion to the docket as of its original filing date.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Connors, J.; Stanfill, C.J.; Mead, J.; Jabar, J.; Horton, J.; Lawrence, J.
JURISDICTION	Maine
DECIDED	November 15, 2022
DOCKET	Yor-22-60
DISPOSITION	vacated
PROCEDURAL POSTURE	Mary T. Davies appealed from an order of the District Court striking her Rule 59(a) motion to reopen evidence in a child-support modification proceeding because she had not paid a filing fee.
STANDARD OF REVIEW	The interpretation of procedural rules is reviewed de novo, using the plain language of the rules.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Mary T. Davies v. Ivan J. Davies

TOPICS

- child support
- family law procedure
- statutory interpretation
- plain meaning rule
- appellate procedure

PRACTICE AREAS

- Family law
- Maine civil procedure
- Appellate procedure

QUESTIONS PRESENTED

1. Whether Revised Court Fees Schedule and Document Management Procedures, Me. Admin. Order JB-05-26, requires a filing fee for a Rule 59(a) motion filed in a proceeding concerning only the modification or enforcement of child support.

HOLDINGS

1. The administrative order exempts from the post-judgment filing fee a Rule 59 motion whose purpose is to address the modification or enforcement of child support. Because Mary's motion sought to reopen evidence concerning the child-support modification, she was not required to pay a filing fee.

KEY QUOTATIONS

“It follows that the only reading of our administrative order that gives any meaning at all to the exception is one that exempts the filing fee when the purpose of “a Motion pursuant to M.R. Civ. P. 55(b)(2), 59, 60(b), 62, or 66” is to address the modification or enforcement of child support.” (¶ 9)

“Because Mary was not required to pay a filing fee, we vacate the trial court’s order striking Mary’s motion to reopen evidence and remand to the trial court to restore her motion to the docket as of the original filing date of November 30, 2021.” (¶ 10)

FACTUAL BACKGROUND

Ivan and Mary Davies divorced in 2007, and Ivan was ordered to pay Mary \$910 per month in child support. In 2018, Ivan moved to modify support after the parties' oldest child reached nineteen and graduated from high school; the District Court ultimately reduced his obligation to \$455 per month. Mary filed a Rule 59(a) motion to reopen evidence based on allegedly unavailable evidence concerning Ivan's 2021 income, but the clerk returned it for failure to include a filing fee and the District Court struck the refiled motion.

PROCEDURAL HISTORY

Ivan Davies obtained a reduction in his child-support obligation after the District Court granted his motion to modify support. Mary then filed a Rule 59(a) motion to reopen evidence, asserting that newly discovered income evidence warranted reconsideration. The clerk returned the motion for failure to pay a filing fee, and the District Court later struck the refiled motion. The Supreme Judicial Court of Maine vacated and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The District Court must restore Mary's motion to the docket as of the original filing date, November 30, 2021, and conduct further proceedings consistent with the opinion.

CASES CITED

- U.S. Bank Tr., N.A. v. Keefe, 2020 ME 104, ¶ 6, 237 A.3d 904

- Higgins v. Wood, 2018 ME 88, ¶ 58, 189 A.3d 724
- Dickau v. Vt. Mut. Ins., 2014 ME 158, ¶ 21, 107 A.3d 621
- Russell v. ExpressJet Airlines, Inc., 2011 ME 123, ¶ 16, 32 A.3d 1030
- State v. Dubois Livestock, Inc., 2017 ME 223, ¶ 8, 174 A.3d 308
- Cent. Me. Power Co. v. Devereux Marine, Inc., 2013 ME 37, ¶ 15, 68 A.3d 1262
- Cobb v. Bd. of Counseling Pros. Licensure, 2006 ME 48, ¶ 20, 896 A.2d 271

OPINION

PER CURIAM.

MAINE SUPREME JUDICIAL COURT Reporter of Decisions Decision: 2022 ME 56 Docket: Yor-22-60 Submitted On Briefs: September 21, 2022 Decided: November 15, 2022 Panel: STANFILL, C.J., and MEAD, JABAR, HORTON, CONNORS, and LAWRENCE, JJ. IVAN J. DAVIES v. MARY T. DAVIES CONNORS, J. [¶1] Mary T. Davies appeals from an order entered by the District Court (Biddeford, Mulhern, J.) striking her “motion to reopen evidence” on Ivan J. Davies’s motion to modify child support because she failed to pay a filing fee.

Mary contends that the trial court erred by interpreting the administrative order setting forth the court fees schedule, Revised Court Fees Schedule and Document Management Procedures, Me. Admin. Order JB-05-26 (as amended by A. 2-21.2) (effective Feb. 11, 2021),¹ as requiring a filing fee for a motion filed 1 Me. Admin. Order JB-05-26 has recently been amended but not in any way that affects this appeal.

See Revised Court Fees Schedule and Document Management Procedures, Me. Admin. Order JB-05-26 (as amended by A. 6-22) (effective June 1, 2022). 2 pursuant to M.R. Civ. P. 59 where the only issue in the underlying matter is child support.

We agree and vacate the judgment. I. BACKGROUND [¶2] Ivan and Mary divorced in 2007. At the time of the divorce, the parties had two minor children, and Ivan was ordered to pay Mary child support in the amount of \$910 per month. [¶3] In 2018, Ivan filed a motion to modify child support, seeking a reduction in his support obligation because the parties’ oldest child had reached nineteen years of age and had graduated from high school.

See 19-A M.R.S. § 2006(8)(G)(1)-(2) (2022). On November 22, 2021, after a hearing, the trial court entered an order granting Ivan’s motion, reducing his child support obligation to \$455 per month, retroactive to when the motion was served on Mary. [¶4] On November 30, 2021, Mary attempted to file a “motion to reopen evidence” pursuant to M.R. Civ. P. 59(a), asserting that she had discovered evidence that was unavailable at the time of the hearing and would show that Ivan’s actual income in 2021 was significantly higher than the income imputed to him by the trial court in its order.

By a notice dated December 14, 2021, the clerk returned Mary's motion for failing to include the filing fee required by 3 Me. Admin. Order JB-05-26. See M.R. Civ. P. 5(f) ("Filings that are received but which are not... accompanied at the time of filing by a legally required element, including but not limited to, a filing fee,... shall be returned by the clerk as incomplete.").

Six days later, Mary refiled her "motion to reopen evidence," again without the fee. In the cover letter accompanying the refiled motion, Mary requested that her motion be restored to the docket as of the original filing date, arguing that Me. Admin. Order JB-05-26 "explicitly exempts from any filing fee a Rule 59 Motion related to an underlying motion to modify child support order." On February 14, 2022, the trial court entered an order, stating that while [Ivan] may have been exempted from a filing fee when he filed the motion to modify, [Mary's] Rule 59(a) Motion to Reopen Evidence is a separate filing for... which a filing fee is required.

[Mary's] Rule 59(a) Motion to Reopen Evidence was properly rejected as incomplete for lack of a filing fee on November 30, 2021[1]. It similarly should not have been accepted for filing on December 20, 2021. The Motion to Reopen Evidence filed on December 20, 2021 is hereby STRICKEN. No action will be taken on that motion as it is not properly before the Court.

Mary timely appealed. See 14 M.R.S. § 1901(1) (2022); M.R. App. P. 2B(c)(1). II. DISCUSSION [¶5] Mary contends that the trial court erred by interpreting the court fees schedule as requiring a filing fee for her motion to reopen evidence. "We 4 review a trial court's interpretation of procedural rules de novo and look to the plain language of the rules to determine their meaning." U.S. Bank Tr., N.A. v. Keefe, 2020 ME 104, ¶ 6, 237 A.3d 904 (citation and quotation marks omitted). [¶6] Me.

Admin. Order JB-05-26 sets forth the Judicial Branch's schedule of court fees. The relevant provision states that a \$60 fee is required when [f]iling a Motion pursuant to M.R. Civ. P. 55(b)(2), 59, 60(b), 62, or 66, except there shall be no fee for the following: • Motion to Modify or Enforce a Child Support Order • Motion for Contempt alleging the failure to pay child support • Motion for Contempt filed by a plaintiff in a Protection from Abuse Action • Motion for Contempt filed by a plaintiff in a Protection from Harassment action involving domestic violence, stalking, sexual assault, sex trafficking, or unauthorized dissemination of certain private images Me.

Admin. Order JB-05-26 § I(A)(3)(y) (footnotes omitted). This provision further states: A motion or stipulation to modify or enforce a child support order may include a request for attorney fees and still be exempt from the post-judgment filing fee. A fee will be charged for a post-judgment motion or stipulation that raises additional issues.

For example, a motion or stipulation seeking both a change in visitation and modification of child support requires payment of the fee. Id. § I(A)(3)(y) n.16. 5 [¶7] Hence, the question presented in this appeal is whether the administrative order exempts the fee requirement for post-judgment

motions—here, a motion filed pursuant to Rule 59(a)—when the underlying matter is solely a motion to modify or enforce a child support order. [¶8] We start with the plain language of the administrative order, taking into account the purpose of the order, and our analysis ends there if the meaning is clear.

See *Higgins v. Wood*, 2018 ME 88, ¶ 58, 189 A.3d 724 (Jabar, J., dissenting) (stating that, as with statutes, we interpret court orders based on their plain language); *Dickau v. Vt. Mut. Ins.*, 2014 ME 158, ¶ 21, 107 A.3d 621 (“[W]e must interpret the plain language by taking into account the subject matter and purposes of the statute, and the consequences of a particular interpretation.”); *Russell v. ExpressJet Airlines, Inc.*, 2011 ME 123, ¶ 16, 32 A.3d 1030 (stating that our analysis of a statute ends with its plain language when the statute’s meaning is clear and the result is not illogical or absurd).

In so reviewing plain language, we must reject interpretations that do not give meaning to every word in the text. *State v. Dubois Livestock, Inc.*, 2017 ME 223, ¶ 8, 174 A.3d 308; see also *Cent. Me. Power Co. v. Devereux Marine, Inc.*, 2013 ME 37, ¶ 15, 68 A.3d 1262; *Cobb v. Bd. of Counseling Pros. Licensure*, 2006 ME 48, ¶ 20, 896 A.2d 271. 6 [¶9] Applying these rules of statutory construction, the plain language of the administrative order imposes a fee except as to “a Motion pursuant to M.R.

Civ. P. 55(b)(2), 59, 60(b), 62, or 66” for a series of motions, including a “Motion to Modify or Enforce a Child Support Order.” Me. Admin. Order JB-05-26 § I(A)(3)(y). A motion to modify or enforce child support is governed by M.R. Civ. P. 107(a)(1) if it is a pre-judgment motion and by M.R. Civ. P. 120(a) if it is a post-judgment motion.

In other words, there is no such thing as a motion to modify or enforce a child support order “pursuant to M.R. Civ. P. 55(b)(2), 59, 60(b), 62, or 66.” But there clearly is an exception to the fee requirement for a motion under those rules that involves “a Motion to Modify or Enforce a Child Support Order.” Me. Admin. Order JB-05-26 § I(A)(3)(y). That exception makes sense if, and only if, we interpret it to apply to a Rule 59 motion seeking a new trial on a motion to modify or enforce a child support order—exactly what Mary’s motion was attempting to do.

It follows that the only reading of our administrative order that gives any meaning at all to the exception is one that exempts the filing fee when the purpose of “a Motion pursuant to M.R. Civ. P. 55(b)(2), 59, 60(b), 62, or 66” is to address the modification or enforcement of child support. Me. Admin. Order JB-05-26 § I(A)(3)(y); see *Cobb*, 2006 ME 48, 7 ¶ 20, 896 A.2d 271 (“[B]ecause no language is to be treated as surplusage if it can be reasonably construed, we must give meaning to this language.”). [¶10] This reading does not result in an illogical or absurd result, see *Dickau*, 2014 ME 158, ¶ 21, 107 A.3d 621, but rather is consistent with the purpose of the fee exemption—to exempt fees in the context of proceedings solely addressing child support, see generally 19-A M.R.S. § 2202(1) (2022).

Therefore, we need go no further than the text of the administrative order.² See Russell, 2011 ME 123, ¶ 16, 32 A.3d 1030. Because Mary was not required to pay a filing fee, we vacate the trial court's order striking Mary's motion to reopen evidence and remand to the trial court to restore her motion to the docket as of the original filing date of November 30, 2021.

The entry is: Judgment vacated. Remanded to the District Court for further proceedings consistent with this opinion. ² Because we conclude that no fee is required to file a post-judgment motion in matters dealing with child support only, we need not reach Mary's alternative argument that her failure to pay a filing fee should be excused for good cause. ⁸ *Dori F. Chadbourne, Esq., Chadbourne Law Offices, P.A., Cumberland, for appellant Mary T. Davies* *Craig J. Rancourt, Esq., Law Offices of Craig J. Rancourt, P.A., Biddeford, for appellee Ivan J. Davies* Biddeford District Court docket number FM-2006-496 FOR CLERK REFERENCE ONLY