

SUPREME COURT OF NORTH DAKOTA

State of North Dakota and Shannon L. Strating v. Kenneth A. Andres

State v. Andres, 2016 ND 90 (2016) · No. 20150328 · Decided May 26, 2016

SUMMARY

The North Dakota Supreme Court reviewed a district court order granting equal residential responsibility for a child to Shannon Strating and Kenneth Andres. The court held that the district court's best-interest findings and written judgment were not clearly erroneous, but that the parenting plan omitted statutorily required transportation provisions and that child support calculations were required despite equal residential responsibility. The judgment was affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Crothers, Justice; Daniel J. Crothers; Lisa Fair McEvers; Carol Ronning Kapsner; Dale V. Sandstrom; Gerald W. VandeWalle, Chief Justice
JURISDICTION	North Dakota
DECIDED	May 26, 2016
DOCKET	20150328
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State of North Dakota and Shannon L. Strating appealed from a district court order granting Strating and Kenneth A. Andres equal residential responsibility for their child and ordering no child support.
STANDARD OF REVIEW	An award of residential responsibility is reviewed as a finding of fact and will not be reversed unless clearly erroneous. Child-support determinations involve de novo review of legal questions, clearly erroneous review of factual findings, and abuse-of-discretion review in limited areas. Failure to properly apply the child-support guidelines is an error of law.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Shannon L. Strating, State of North Dakota v. Kenneth A. Andres, State of North Dakota

TOPICS

child custody child support family law procedure appellate procedure statutory interpretation

PRACTICE AREAS

family law child custody child support appellate procedure

QUESTIONS PRESENTED

1. Whether the district court clearly erred in granting the parents equal residential responsibility based on its findings under the statutory best-interest factors.
2. Whether the district court's parenting plan complied with statutory requirements concerning the child's legal residence for school attendance and transportation and exchange.
3. Whether the district court erred by entering a written judgment inconsistent with its earlier oral statements concerning primary residential responsibility and parenting time.
4. Whether the district court was required to calculate child support for each parent despite awarding equal residential responsibility.

HOLDINGS

1. The district court's findings under the statutory best-interest factors were supported by the evidence and were not clearly erroneous; the award of equal residential responsibility was affirmed.
2. The parenting plan was deficient because it did not specify transportation and exchange arrangements or explain the omission. On remand, the district court was required to include those provisions or explain their omission.
3. The written judgment controlled over any inconsistent prior oral ruling, so entering the written judgment was not error.
4. The district court was required to calculate a child-support obligation for each parent even though the parents had equal residential responsibility and parenting time. The failure to make those calculations was reversible error.

KEY QUOTATIONS

“Because N.D.C.C. § 14-09-30(2) requires certain provisions to be included in a parenting plan “at a minimum,” and because those provisions include transportation and exchange and the child’s legal residence for school attendance, the district court’s failure to include them was erroneous.” (¶ 11)

“Under the plain language of the statute, the district court’s failure to calculate child support for each party was erroneous and a remand is necessary for its inclusion.” (¶ 18)

“We reverse and remand with instructions for the district court to add the missing statutorily mandated child support calculations and parenting plan provisions. We affirm the remainder of the judgment.” (¶ 19)

FACTUAL BACKGROUND

Strating and Andres are unmarried parents of one child. An interim order gave Strating primary residential responsibility, gave Andres regular parenting time, and imposed child support on Andres. After trial, the district court granted the parents equal residential responsibility and entered a parenting plan, but the plan did not address transportation and exchange details and the court made no child-support calculations.

PROCEDURAL HISTORY

The Child Support Enforcement Unit commenced a paternity action against Andres after Strating applied for child support. Following trial, the district court granted the parents equal residential responsibility, entered a parenting plan, and ordered no child support. The district court denied Strating's motion to amend, and the State and Strating appealed. The Supreme Court affirmed the custody-related portions of the judgment but reversed and remanded for required parenting-plan provisions and child-support calculations.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must add the statutorily mandated child-support calculations for each parent and include the missing parenting-plan provisions concerning transportation and exchange, or provide an explanation for their omission. The remainder of the judgment is affirmed.

CASES CITED

- Law v. Whittet, 2014 ND 69, ¶ 8, 844 N.W.2d 885
- Schmidt v. Schmidt, 2003 ND 55, ¶ 6, 660 N.W.2d 196
- P.A. v. A.H.O., 2008 ND 194, ¶ 15, 757 N.W.2d 58
- Hammeren v. Hammeren, 2012 ND 225, ¶ 8, 823 N.W.2d 482
- Brown v. Brodell, 2008 ND 183, ¶ 12, 756 N.W.2d 779
- Wetzel v. Schlenvogt, 2005 ND 190, ¶ 26, 705 N.W.2d 836
- Fenske v. Fenske, 542 N.W.2d 98, 102 (N.D. 1996)
- Fed. Land Bank of St. Paul v. Lillehaugen, 404 N.W.2d 452, 454 (N.D. 1987)
- Keita v. Keita, 2012 ND 234, ¶ 15, 823 N.W.2d 726
- Buchholz v. Buchholz, 1999 ND 36, ¶ 11, 590 N.W.2d 215
- Becker v. Becker, 2011 ND 107, ¶¶ 12-13, 799 N.W.2d 53
- Heinle v. Heinle, 2010 ND 5, ¶ 36, 777 N.W.2d 590