

SUPREME COURT OF MONTANA

Kulstad v. Maniaci, 2009 MT 326, 352 Mont. 513

220 P.3d 595 (2009) · No. DA 08-0483 · Decided October 6, 2009

SUMMARY

The Supreme Court of Montana affirmed a district court decision awarding Michelle Kulstad a parental interest in two children raised with Barbara Maniaci and an equitable award related to jointly developed property. The court addressed whether Montana statutes governing nonparental parenting interests violated the legal parent's constitutional rights and whether the evidence supported the parental and property awards. The opinion also discussed the parties' same-sex domestic partnership and the children's best interests.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Brian Morris; Brian Morris; Mike McGrath; James C. Nelson; John Warner; W. William Leaphart; Patricia O. Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	October 6, 2009
DOCKET	DA 08-0483
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court judgment awarding a nonparent parental interests in two children and awarding equitable compensation and personal property interests to the nonparent.
STANDARD OF REVIEW	Statutory interpretation and application are reviewed for correctness; constitutional questions receive plenary review; factual findings are reviewed for clear error; and the decision is affirmed when supported by substantial credible evidence absent a clear abuse of discretion. Evidence is viewed in the light most favorable to the prevailing party, and witness credibility determinations are left to the trial court.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Barbara L. Maniaci v. Michelle Kulstad

TOPICS

family law procedure

child custody

parental rights

statutory interpretation

equitable distribution

PRACTICE AREAS

family law

constitutional law

property law

QUESTIONS PRESENTED

1. Whether Montana's nonparental-parenting statutes, §§ 40-4-211 and 40-4-228, MCA, violate a fit adoptive parent's fundamental constitutional rights by permitting a nonparent to obtain a parental interest without a finding of parental unfitness.
2. Whether Kulstad established the statutory requirements for a parental interest, including conduct by Maniaci contrary to the child-parent relationship, Kulstad's establishment of a child-parent relationship, and the children's best interests.
3. Whether the District Court properly awarded Kulstad an equitable interest in personal and real property.

HOLDINGS

1. Sections 40-4-211 and 40-4-228, MCA, are constitutional as applied because they require a nonparent to establish a child-parent relationship and require the court to balance the protected interests of parents and children; a finding that the natural or adoptive parent is unfit is not required before awarding a third party a parental interest under § 40-4-228.
2. The District Court properly awarded Kulstad a parental interest because clear and convincing evidence established that Maniaci engaged in conduct contrary to the child-parent relationship, Kulstad established a child-parent relationship with both children, and continuation of that relationship was in the children's best interests.
3. The District Court properly applied equitable principles to award Kulstad \$101,824.43 and the Kia Sportage based on her substantial monetary and labor contributions to the parties' joint assets and property.

KEY QUOTATIONS

“The Supreme Court in Troxel passed on the constitutional question as to whether the Due Process Clause requires all nonparental visitation statutes to include a showing of harm or potential harm to the child as a condition precedent to granting visitation.” (¶ 69)

“The nonparental statutory framework allows a court to award a parental interest to a nonparent who establishes two threshold conditions by clear and convincing evidence.” (¶ 74)

“Nothing in § 40-4-228(4), MCA, makes any mention of the requirement that the person acting in loco parentis does so to the exclusion of the natural parent.” (¶ 86)

“The district court had the power to make compensatory adjustments between the respective parties “according to the ordinary principles of equity.”” (¶ 94)

FACTUAL BACKGROUND

Kulstad and Maniaci lived together in a committed domestic relationship for more than ten years and jointly raised two children whom Maniaci adopted because Montana law allowed only one partner to adopt. The parties agreed that they would function equally as parents, and Kulstad provided substantial daily care, financial support, and emotional and developmental support to the children. Kulstad also contributed substantial money and labor to the parties' home, property, and household assets. After the relationship ended, Maniaci opposed Kulstad's continued parental relationship and disputed Kulstad's entitlement to property compensation.

PROCEDURAL HISTORY

Kulstad petitioned for dissolution-related relief, a parental interest, a parenting plan, and equitable distribution of property. The District Court rejected the dissolution claim because Montana did not recognize same-sex marriage, but denied Maniaci's motion to dismiss the parenting claim, found that Kulstad had established a child-parent relationship, entered interim and later permanent parenting orders, and awarded Kulstad \$101,824.43 and the Kia Sportage. Maniaci appealed.

DISPOSITION

affirmed

CASES CITED

- In re E.D., 2008 MT 216, 344 Mont. 228, 186 P.3d 1283
- In re M.P., 2008 MT 39, 341 Mont. 333, 177 P.3d 495
- In re Custody and Parental Rights of A.P., 2007 MT 297, 340 Mont. 39, 172 P.3d 105
- In re T.H., 2005 MT 237, 328 Mont. 428, 121 P.3d 541
- In re Custody and Parental Rights of D.S., 2005 MT 275, 329 Mont. 180, 122 P.3d 1239
- Fischer v. Fischer, 2007 MT 101, 337 Mont. 122, 157 P.3d 682
- Toavs v. Buls, 2006 MT 68, 331 Mont. 437, 133 P.3d 202
- In re Estate of Bradshaw, 2001 MT 92, 305 Mont. 178, 24 P.3d 211
- Matter of Guardianship of Doney, 174 Mont. 282, 570 P.2d 575 (1977)
- In re A.R.A., 277 Mont. 66, 919 P.2d 388 (1996)
- Girard v. Williams, 1998 MT 231, 291 Mont. 49, 966 P.2d 1155
- In re Parenting of J.N.P., 2001 MT 120, 305 Mont. 351, 27 P.3d 953
- In re Parenting of D.A.H., 2005 MT 68, 326 Mont. 296, 109 P.3d 247
- Troxel v. Granville, 530 U.S. 57, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000)
- Polasek v. Omura, 2006 MT 103, 332 Mont. 157, 136 P.3d 519
- SooHoo v. Johnson, 731 N.W.2d 815 (Minn. 2007)
- Rubano v. DiCenzo, 759 A.2d 959 (R.I. 2000)
- Janice M. v. Margaret K., 404 Md. 661, 948 A.2d 73 (2008)
- Anderson v. Woodward, 2009 MT 144, 350 Mont. 343, 207 P.3d 329
- LeFeber v. Johnson, 2009 MT 188, 351 Mont. 75, 209 P.3d 254

- In re Marriage of Swanner-Renner, 2009 MT 186, 351 Mont. 62, 209 P.3d 238
- Flood v. Kalinyaprak, 2004 MT 15, 319 Mont. 280, 84 P.3d 27
- Peterson v. Kabrich, 213 Mont. 401, 691 P.2d 1360 (1984)
- Niemen v. Howell, 234 Mont. 471, 764 P.2d 854 (1988)
- In re Estate of Bovey, 2006 MT 46, 331 Mont. 254, 132 P.3d 510
- In re Marriage of Horton, 2004 MT 353, 324 Mont. 382, 102 P.3d 1276
- Snetsinger v. Montana University System, 2004 MT 390, 325 Mont. 148, 104 P.3d 445

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