

COURT OF APPEALS OF MARYLAND

Dean v. Dean, 218 Md. 391

146 A.2d 861 (1958) · No. No. 7, October Term, 1955 · Decided October 7, 2001

SUMMARY

The Maryland Court of Appeals affirmed summary judgment dismissing an alleged wife's claim for alimony and child support. The court held that a Kentucky judgment expunging the purported marriage certificate was entitled to full faith and credit and was res judicata as to whether the alleged marriage had occurred, despite constructive rather than personal service.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Henderson, J.; Brune, C.J.; Hammond, J.
JURISDICTION	Maryland
DECIDED	October 7, 2001
DOCKET	No. 7, October Term, 1955
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting the appellee's motion for summary judgment and dismissing the appellant's bill of complaint with prejudice.
STANDARD OF REVIEW	De novo review of the grant of summary judgment and whether the Kentucky judgment was entitled to full faith and credit.
PRECEDENTIAL VALUE	Published Maryland appellate opinion; precedential
PARTIES	Daisy Mae Gregory, alleged wife v. Isom Dean

TOPICS

- annulment
- marriage
- summary judgment
- res judicata
- appellate procedure

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Kentucky judgment expunging the purported marriage certificate was entitled to full faith and credit in Maryland despite the appellant's lack of personal service.
2. Whether the Kentucky judgment was res judicata as to the fact that the alleged marriage had occurred, even though the Kentucky proceeding was styled as an action to correct or expunge a record rather than an action to annul a marriage.
3. Whether summary judgment was proper where the appellant offered no counter-affidavits or exhibits creating a genuine dispute as to the material facts.

HOLDINGS

1. The Kentucky judgment was entitled to full faith and credit because the Kentucky court had jurisdiction over the in rem proceeding concerning the authenticity of a public record, and notice reasonably calculated to provide knowledge of the action and an opportunity to be heard was sufficient.
2. The Kentucky judgment was res judicata not only as to the validity of the marriage certificate but also as to the factum of the alleged marriage as certified in that document.
3. The appellant could not rely on the alleged religious ceremony or a common-law-marriage theory because the judicial finding that no marriage occurred was conclusive, and neither Maryland nor Kentucky recognized a common-law marriage claimed to have been entered into within its borders.
4. Summary judgment and dismissal with prejudice were proper because there was no genuine dispute as to any material fact and the Kentucky judgment conclusively resolved the appellant's marital-status claim.

KEY QUOTATIONS

"We think the matter is now res judicata, not merely as to the validity of the certificate but as to the factum of the alleged marriage as therein certified." (396)

"It is sufficient if steps are taken which under all the circumstances are reasonably calculated to afford knowledge of the action and an opportunity to be heard." (395)

FACTUAL BACKGROUND

The appellant claimed that she and the appellee had been married in Kentucky by religious ceremony in 1938 and sought alimony and child support. The appellee presented evidence that the marriage certificate was forged, that no marriage ceremony had occurred, and that a Kentucky court had ordered the certificate cancelled, annulled, set aside, and expunged. Although the appellant did not personally appear in the Kentucky proceeding, she received constructive and then actual notice and did not timely challenge the judgment; during the intervening years, the appellee remarried.

PROCEDURAL HISTORY

The appellant filed a bill seeking permanent alimony and support for her minor children, alleging that the parties had married in Kentucky. The appellee denied that any marriage had occurred and relied on a prior Kentucky judgment expunging a purported marriage certificate. The Maryland chancellor found no genuine dispute of material fact, gave the Kentucky judgment full faith and credit, granted summary judgment, and dismissed the

bill. During the Maryland appeal, the appellant unsuccessfully sought to set aside the Kentucky judgment; the Kentucky Court of Appeals reversed the later judgment that had set aside the original Kentucky judgment and held that the original judgment affecting marital status had to be respected.

DISPOSITION

affirmed

CASES CITED

- Montgomery v. U'Nertle, 143 Md. 200
- Millar v. Millar, 200 Md. 14
- Honeyman v. Hanan, 302 U.S. 375
- Estin v. Estin, 334 U.S. 541
- O'Brien v. Eustice, 19 N.E.2d 137 (Ill. App.)
- Randazzo v. Roppolo, 105 N.Y.S. 481
- Carroll v. Carroll, 251 S.W.2d 989, 991 (Ky.)
- Kennedy v. Damron, 268 S.W.2d 22 (Ky.)