

SUPREME COURT OF THE STATE OF MONTANA

In re the Marriage of Kimberly Ann Kins Dixon and Michael Arthur
Dixon

2002 MT 147N · No. No. 01-717 · Decided June 27, 2002

SUMMARY

The Montana Supreme Court affirmed the District Court’s dissolution judgment in a case involving marital-property valuation and distribution, residential custody, and child support. The Court held that proceedings could continue despite the husband’s failure to file a responsive pleading because he actively participated in the case, and it upheld the valuation and distribution of the marital estate, the custody designation, and the child-support award. The decision was designated noncitable precedent and filed as a public document.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice W. William Leaphart; W. William Leaphart; Karla M. Gray; James C. Nelson; Patricia Cotter; Terry N. Trieweller
JURISDICTION	Montana
DECIDED	June 27, 2002
DOCKET	No. 01-717
DISPOSITION	affirmed
PROCEDURAL POSTURE	Michael Dixon appealed the District Court's findings of fact, conclusions of law, and order in a marriage dissolution proceeding, challenging the conduct of the proceedings after he failed to file a responsive pleading, the valuation and distribution of the marital estate, the designation of Kimberly Dixon as residential custodian of their child, and the child-support award.
STANDARD OF REVIEW	The court reviewed marital-property findings for clear error and affirmed the distribution unless the District Court abused its discretion. It reviewed conclusions of law for correctness, custody findings for clear error and the custody decision for clear abuse of discretion, and the child-support award for abuse of discretion.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

dissolution of marriage

equitable distribution

child custody

child support

default

PRACTICE AREAS

family law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the District Court could conduct dissolution proceedings and enter a final decree despite Michael's failure to file a responsive pleading.
2. Whether the District Court erred in valuing and distributing the marital estate, including its treatment of the parties' prior settlement agreement, post-separation assets and debts, condom vending machines, and the family home.
3. Whether the District Court erred in designating Kimberly as the residential custodial parent of Junior.
4. Whether the District Court abused its discretion in determining child support.

HOLDINGS

1. The District Court properly conducted the dissolution proceedings and entered a final decree despite Michael's failure to file a responsive pleading because he otherwise defended and actively participated in the proceedings, and the issue was not timely raised below.
2. The District Court did not err in valuing and distributing the marital estate at or near the time of dissolution, declining to enforce the prior settlement agreement, excluding the condom vending machines for lack of competent valuation evidence, or valuing the family home at \$73,500.
3. The District Court did not clearly abuse its discretion by designating Kimberly as Junior's residential custodial parent.
4. The District Court did not abuse its discretion in ordering Michael to pay \$340 per month in child support, beginning in June 2001, and \$500 per month in back support for March through May 2001.

KEY QUOTATIONS

"At this point, Michael's personal attempt to sanction himself is both untimely and unnecessary." (§120)

"The well-settled rule in Montana is that absent unique circumstances, a marital estate should be valued at or near the time of dissolution." (§130)

"Although the court must consider several statutory factors in determining the child's best interest pursuant to § 40-4-212, MCA, it need not make specific findings pertaining to each factor." (§141)

FACTUAL BACKGROUND

Michael and Kimberly Dixon were married in 1985, separated in 1995, and had two minor children. During the separation, the children primarily lived with Kimberly, while Michael maintained a flexible parenting schedule and paid the family home payment in lieu of child support. The parties accumulated substantial assets and debts, including retirement accounts, a family home, vehicles, and Kimberly's post-separation credit-card debt. Following trial, the District Court valued and distributed the marital estate, designated Kimberly as the residential custodian of Junior, and ordered Michael to pay current and back child support.

PROCEDURAL HISTORY

Kimberly Dixon filed a petition for dissolution on December 7, 2000. The District Court denied Michael Dixon's motion to dismiss; although he did not file a responsive pleading, he participated in the dissolution proceedings, including a settlement conference and trial. After trial, the District Court entered findings, conclusions, and an order distributing the marital estate, designating Kimberly as residential custodian, and ordering Michael to pay child support. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Klock v. Town of Cascade, 284 Mont. 167, 172-73, 943 P.2d 1262, 1265-66 (1997)
- In re Marriage of Gochanour, 2000 MT 156, ¶¶15-16, 300 Mont. 155, 4 P.3d 643
- In re Marriage of Engen, 1998 MT 153, ¶26, 289 Mont. 299, 961 P.2d 738
- In re Marriage of Wagner, 208 Mont. 369, 679 P.2d 753 (1984)
- In re Marriage of Lopez, 255 Mont. 238, 244, 841 P.2d 1122, 1125-26 (1992)
- In re Marriage of Gebhardt, 240 Mont. 165, 783 P.2d 400 (1989)
- In re Marriage of Rolfe, 216 Mont. 39, 46, 699 P.2d 79, 83 (1985)
- In re Marriage of Larson, 200 Mont. 134, 139, 649 P.2d 1351, 1354 (1982)
- In re Marriage of Hanni, 2000 MT 59, ¶22, 299 Mont. 20, 997 P.2d 760
- In re Marriage of Robinson, 269 Mont. 293, 296, 888 P.2d 895, 897 (1994)
- In re Marriage of McKenna, 2000 MT 58, ¶¶14-15, 299 Mont. 13, 996 P.2d 386
- In re Marriage of Schnell, 273 Mont. 466, 469, 905 P.2d 144, 146 (1995)