

SUPREME COURT OF NORTH DAKOTA

Yanjun Zuo v. Yuanyuan Wang

2019 ND 211 (2019) · No. No. 20180403 · Decided August 6, 2019

SUMMARY

The North Dakota Supreme Court reviewed a divorce judgment awarding marital property, spousal support, and primary residential responsibility to Yuanyuan Wang. The court affirmed the evidentiary rulings, domestic-violence findings, residential-responsibility award, spousal-support award, and property distribution, but reversed the retroactive child-support award because an interim order provided that child support would begin the month after entry of judgment. The case was remanded for correction of the child-support commencement date, and the post-judgment order was affirmed.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Jerod E. Tufte; James D. Gion, D.J.; Gerald W. VandeWalle, C.J.; Daniel J. Crothers
JURISDICTION	North Dakota
DECIDED	August 6, 2019
DOCKET	No. 20180403
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Zuo appealed a divorce judgment and post-judgment orders concerning evidentiary rulings, marital-property distribution, spousal support, primary residential responsibility, and child support.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion. Primary residential responsibility, spousal support, and marital-property findings are reviewed under the clearly erroneous standard. The decision whether to award past child support is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Yanjun Zuo v. Yuanyuan Wang

TOPICS

- family law procedure
- child custody
- spousal support
- child support
- evidence

PRACTICE AREAS

family law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by excluding English translations of audio recordings offered by Zuo.
2. Whether the district court clearly erred in awarding Wang primary residential responsibility based in part on its domestic-violence findings and best-interest-factor analysis.
3. Whether the district court clearly erred in awarding Wang rehabilitative spousal support under the Ruff-Fischer guidelines.
4. Whether the district court clearly erred in valuing and distributing the marital estate, including an \$85,000 transfer by Zuo to his sister.
5. Whether the district court abused its discretion by making Zuo's child-support obligation retroactive to February 1, 2017 despite the interim order.
6. Whether the post-judgment order should be reversed when Zuo presented no argument challenging it on appeal.

HOLDINGS

1. The district court did not abuse its discretion by excluding the English translations because it adequately explained its concerns regarding authentication and translation reliability, parentheticals, and untimeliness, and its decision was not arbitrary or capricious.
2. The district court did not clearly err in awarding Wang primary residential responsibility of the child.
3. The district court did not clearly err in awarding Wang \$1,750 per month in rehabilitative spousal support for ten years.
4. The district court did not clearly err in including and distributing the \$85,000 transfer to Zuo's sister as part of the marital estate.
5. The district court abused its discretion by backdating Zuo's child-support obligation to February 1, 2017; the obligation had to begin the month following entry of final judgment as provided in the interim order.
6. The court affirmed the order denying Zuo's post-judgment motions because Zuo provided no argument on appeal concerning that order.

KEY QUOTATIONS

“Because the interim order provided child support would not begin until the month following entry of judgment, we conclude the district court abused its discretion by backdating Zuo’s child support obligation to February 1, 2017.” (¶ 28)

“The judgment is affirmed in part, reversed in part, and remanded. The post-judgment order is affirmed.” (¶ 30)

FACTUAL BACKGROUND

Zuo and Wang married in Beijing in 1994 and have one child. Zuo was a University of North Dakota professor earning approximately \$143,400 annually, while Wang's earnings declined substantially after moving between Hong Kong and Grand Forks. After incidents in August 2015, November 2015, and January 2017, the district court found Zuo had committed domestic violence against Wang and awarded Wang primary residential responsibility. The court also awarded Wang marital property and \$1,750 per month in rehabilitative spousal support, and ordered Zuo to pay \$1,335 per month in child support retroactive to February 1, 2017, despite an interim order stating child support would begin the month after final judgment.

PROCEDURAL HISTORY

Zuo filed for divorce in December 2016. The district court entered an interim order in March 2017 based on the parties' stipulation, conducted a four-day bench trial in April and May 2018, and entered judgment awarding Wang marital property, rehabilitative spousal support, and primary residential responsibility while ordering Zuo to pay retroactive child support. The Supreme Court affirmed in part, reversed the retroactive child-support ruling, remanded for correction of the child-support effective date, and affirmed the post-judgment order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for entry of a judgment ruling that Zuo's child-support obligation began the month following entry of final judgment, rather than February 1, 2017.

CASES CITED

- Vandal v. Leno, 2014 ND 45, ¶ 26, 843 N.W.2d 313
- Zundel v. Zundel, 2017 ND 217, ¶ 27, 901 N.W.2d 731
- Grasser v. Grasser, 2018 ND 85, ¶ 17, 909 N.W.2d 99
- Sargent Cty. Bank v. Wentworth, 547 N.W.2d 753, 762 (N.D. 1996)
- Schmuck v. Schmuck, 2016 ND 87, ¶ 6, 882 N.W.2d 918
- Fischer v. Fischer, 139 N.W.2d 845, 852 (N.D. 1966)
- Ruff v. Ruff, 78 N.D. 775, 784, 52 N.W.2d 107, 111 (1952)
- Rhodenbaugh v. Rhodenbaugh, 2019 ND 109, ¶ 16, 925 N.W.2d 742