

SUPREME JUDICIAL COURT OF MAINE

Moores v. Doyle, 2003 ME 105

829 A.2d 260 (Me. 2003) · Decided August 7, 2003

SUMMARY

The Maine Supreme Judicial Court affirmed a judgment determining that Larry Doyle was the biological father of Larry C. Moores. The court held that Doyle waived any challenge to service of the original paternity action, and that a technical defect in service of the Rule 60(b)(6) motion was harmless. Although the trial court improperly granted relief under Rule 60(b)(6), the error was harmless because the Department of Human Services could intervene or initiate a new paternity action.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Levy, J.; Saufley, C.J.; Clifford, J.; Rudman, J.; Dana, J.; Alexander, J.
JURISDICTION	Maine
DECIDED	August 7, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Larry Doyle appealed from a District Court judgment determining that he was the biological father of the child, allocating parental rights and responsibilities, and ordering child support. He challenged the earlier grant of Dorothy Moores's M.R. Civ. P. 60(b)(6) motion vacating a 1995 summary judgment and reopening the paternity action, and also challenged service of process.
STANDARD OF REVIEW	The court reviewed the grant of relief under M.R. Civ. P. 60(b) for abuse of discretion. It treated preservation of an insufficient-service defense under M.R. Civ. P. 12(b) and (h)(1) as a legal question and applied harmless-error principles under M.R. Civ. P. 61.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Larry Doyle v. Dorothy Moores

TOPICS

- paternity
- family law procedure
- service of process
- harmless error
- appellate procedure

PRACTICE AREAS

family law

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether Doyle waived his challenge to service of process in the 1995 paternity action by failing to raise insufficient service in a responsive pleading or motion and by participating in the proceedings.
2. Whether service of Moores's 1999 Rule 60(b)(6) motion was governed by M.R. Civ. P. 80(k) personal-service requirements or by M.R. Civ. P. 5, and whether the method of service caused reversible prejudice.
3. Whether the District Court abused its discretion by granting Moores relief from the 1995 summary judgment under Rule 60(b)(6), and whether that error required disturbing the final paternity judgment.

HOLDINGS

1. A defense of insufficient service of process must be raised in a responsive pleading or by motion; because Doyle did not raise the defense and participated in the action, he waived it and could not collaterally attack service in the postjudgment proceeding.
2. A Rule 60(b) motion in an action otherwise governed by Rule 80 is not a motion seeking modification or enforcement of the judgment under Rule 80(k); therefore, personal service under Rule 80(k) was not required.
3. Even though the motion was mailed to Doyle rather than his attorney of record as Rule 5(b) generally requires, the defect was harmless because Doyle received timely actual notice and showed no prejudice.
4. The District Court abused its discretion by granting Moores's Rule 60(b)(6) motion because she relied on alleged legal errors, failed to appeal the 1995 judgment, identified no equitable grounds, and did not explain the nearly four-year delay.
5. The error in granting Rule 60(b)(6) relief was harmless and did not require reversal because DHS participated in the proceeding and could have independently filed a new paternity complaint; allowing paternity to be determined in the existing proceeding did not affect any substantial right of Doyle.

KEY QUOTATIONS

“A 60(b) motion filed in a proceeding otherwise governed by Rule 80 is not subject to the service requirements set forth in Rule 80(k). Hence, personal service was not required.” (829 A.2d at 263)

“In these circumstances, the technical deficiency in the service of the motion was harmless error.” (829 A.2d at 263)

“In these circumstances, Moores's 60(b) motion should not have been granted.” (829 A.2d at 264)

“Given that DHS intervened and participated in this proceeding and, in any event, could have simply filed a new complaint to obtain a determination of the child's paternity, permitting paternity to be determined in this proceeding does not affect any substantial right held by Doyle.” (829 A.2d at 264)

FACTUAL BACKGROUND

Dorothy Moores filed a paternity action against Larry Doyle concerning a child born July 31, 1992. Doyle obtained a 1995 summary judgment based on collateral estoppel, but he had not raised insufficient service of process and Moores did not appeal. Nearly four years later, Moores obtained relief under Rule 60(b)(6), after which DHS participated in the action and genetic testing indicated with 99.99% accuracy that Doyle was the biological father.

PROCEDURAL HISTORY

Moores filed a paternity, parental-rights, and child-support complaint against Doyle in 1995. The District Court entered summary judgment for Doyle based on collateral estoppel, and Moores did not appeal. In 1999, the court granted Moores's Rule 60(b)(6) motion, vacated the summary judgment, and reopened the action; Doyle's immediate appeal was dismissed as interlocutory. DHS later became a party, testing indicated with 99.99% accuracy that Doyle was the biological father, and the District Court entered judgment against Doyle. The Supreme Judicial Court affirmed, holding that any errors concerning service and the Rule 60(b)(6) ruling were harmless or waived.

DISPOSITION

affirmed

CASES CITED

- Peoples Heritage Sav. Bank v. Pease, 2002 ME 82, ¶ 13, 797 A.2d 1270, 1274
- Zink v. Zink, 687 A.2d 229, 231 (Me. 1996)
- Ketchum v. Ketchum, 2000 ME 13, ¶ 7, 743 A.2d 1270, 1272
- Scott v. Lipman & Katz, P.A., 648 A.2d 969, 974 (Me. 1994)
- Reville v. Reville, 370 A.2d 249, 254 (Me. 1977)

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