

SUPREME COURT OF TENNESSEE

Timothy Lee Kendrick v. Judy Kendrick Shoemake

90 S.W.3d 566 (Tenn. 2002) · No. E2000-01318-SC-R11-CV · Decided April 30, 2002

SUMMARY

The Tennessee Supreme Court considered the standard for modifying child custody from one parent to the other. It held that modification requires both a material change in circumstances affecting the child’s well-being and a determination that the change is in the child’s best interests. The court affirmed the Court of Appeals as modified, concluding that the evidence did not establish a material change in circumstances, and remanded for proceedings concerning child-support-related expenses and current support.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Justice Janice M. Holder; Frank F. Drowota III, Chief Justice; E. Riley Anderson, Justice; William M. Barker, Justice; Janice M. Holder, Justice; Adolpho A. Birch Jr., Justice
JURISDICTION	Tennessee
DECIDED	April 30, 2002
DOCKET	E2000-01318-SC-R11-CV
DISPOSITION	remanded
PROCEDURAL POSTURE	Appeal by permission from the Tennessee Court of Appeals concerning a petition by the father to modify custody from the mother to the father.
STANDARD OF REVIEW	Questions of law are reviewed de novo without deference. Findings of fact are reviewed de novo on the record with a presumption of correctness unless the preponderance of the evidence is otherwise. When the trial court makes no specific factual findings, the appellate court reviews the record to determine where the preponderance of the evidence lies.
PRECEDENTIAL VALUE	Published Tennessee Supreme Court opinion; precedential
PARTIES	Timothy Lee Kendrick v. Judy Kendrick Shoemake

TOPICS

child custody

family law procedure

appellate procedure

standard of review

child support

PRACTICE AREAS

family law

child custody

appellate procedure

QUESTIONS PRESENTED

1. What standard governs a petition to modify custody from one parent to the other parent?
2. Did the evidence establish a material change in circumstances sufficient to justify modifying Jordan's custody?
3. Whether the court needed to decide the child's best interests after finding no material change in circumstances.
4. What child-support-related matters required remand after disposition of the custody appeal?

HOLDINGS

1. A trial court may modify an award of custody from one parent to the other only when both a material change of circumstances has occurred and a change of custody is in the child's best interests.
2. The preponderance of the evidence did not establish a material change in circumstances affecting Jordan's well-being in a meaningful way.
3. Because no material change in circumstances was shown, the court did not reach the separate question whether changing custody was in Jordan's best interests.
4. The trial court was required to determine qualifying expenditures made by the father for the children's necessities, apply those amounts as directed by the Court of Appeals against child-support arrearages, and award an appropriate amount of current child support for Jordan under the Tennessee Child Support Guidelines.

KEY QUOTATIONS

"We hold that a trial court may modify an award of child custody when both a material change of circumstances has occurred and a change of custody is in the child's best interests." (-3)

"Having determined that no material change in circumstances has occurred in this case, we need not address whether a change in custody is in Jordan's best interests." (-9)

FACTUAL BACKGROUND

Timothy Kendrick and Judy Kendrick Shoemake divorced in 1990, and the marital dissolution agreement awarded Shoemake custody of their children. Their son Jordan, who is developmentally delayed, was the subject of the later custody dispute. In 1998, Kendrick sought emergency and permanent custody based on alleged turmoil in Shoemake's household, concerns about her work schedule, Jordan's education and medical care, and her alleged prioritization of her own interests. After a hearing, the trial court awarded Kendrick custody but made no specific findings of fact supporting a material change in circumstances or the child's best interests.

PROCEDURAL HISTORY

The trial court granted Timothy Kendrick's petition to modify custody without making specific findings identifying the material change in circumstances or explaining why a custody change was in the child's best interests. The Court of Appeals reversed, applying a substantial-harm standard. The Tennessee Supreme Court granted permission to appeal, adopted the material-change-and-best-interests standard, concluded that the evidence did not establish a material change in circumstances, affirmed the Court of Appeals as modified, and remanded for child-support-related proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Affirmed the Court of Appeals as modified. The trial court must determine the amount of the father's expenditures for necessities not provided by the mother between February 28, 1998, and September 3, 1999; apply those payments as an offset against child-support arrearages as directed by the Court of Appeals; and award an appropriate amount of current child support to the mother for Jordan under the Tennessee Child Support Guidelines.

CASES CITED

- S. Constructors, Inc. v. Loudon County Bd. of Educ., 58 S.W.3d 706, 710 (Tenn. 2001)
- Hass v. Knighton, 676 S.W.2d 554, 555 (Tenn. 1984)
- Nichols v. Nichols, 792 S.W.2d 713, 716 (Tenn. 1990)
- Ganzevoort v. Russell, 949 S.W.2d 293, 296 (Tenn. 1997)
- Blair v. Badenhope, 77 S.W.3d 137, 148, 150 (Tenn. 2002)