

SUPREME COURT OF APPEALS OF WEST VIRGINIA

S.U. v. C.J.

No. 19-1181 (W. Va. Feb. 2, 2021) (memorandum decision) · No. No. 19-1181 (Gilmer County 19-P-70) ·

Decided February 2, 2021

SUMMARY

The West Virginia Supreme Court of Appeals affirmed dismissal of S.U.’s emergency petition seeking to disestablish C.J.’s maternity and remove her from the birth certificates of their three youngest children. The Court held that res judicata barred the petition because the parties had previously litigated whether C.J. was the children’s legal mother. The Court also found no error in the circuit court’s dismissal procedure and directed that court to consider whether attorney’s fees and costs should be awarded to C.J.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Evan H. Jenkins; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice John A. Hutchison; Justice William R. Wooton
JURISDICTION	West Virginia
DECIDED	February 2, 2021
DOCKET	No. 19-1181 (Gilmer County 19-P-70)
DISPOSITION	affirmed
PROCEDURAL POSTURE	S.U. appealed the Circuit Court of Gilmer County's order dismissing his Emergency Petition to Disestablish Maternity of Gestational Surrogate. The Supreme Court of Appeals affirmed the dismissal.
STANDARD OF REVIEW	The final order and ultimate disposition are reviewed for abuse of discretion, while the circuit court's underlying factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	Unpublished memorandum decision; the opinion states that disposition by memorandum decision is appropriate under West Virginia Rule of Appellate Procedure 21.
PARTIES	S.U. v. C.J.

TOPICS

parental rights

res judicata

motions to dismiss

appellate procedure

family law

PRACTICE AREAS

family law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether res judicata barred S.U.'s emergency petition seeking to disestablish C.J.'s maternity and remove her from the children's birth certificates.
2. Whether the circuit court erred by dismissing the petition without separately adjudicating its merits under Rules 12(c) and 56 of the West Virginia Rules of Civil Procedure.
3. Whether the circuit court could dismiss the action sua sponte based on a previously adjudicated issue in order to avoid duplicative litigation.
4. Whether the matter should be remanded for a hearing concerning attorney's fees and costs incurred by C.J. in defending the action.

HOLDINGS

1. Res judicata barred S.U.'s petition because the prior proceeding involved a final adjudication on the merits by a court with jurisdiction, the same parties, and the same cause of action or issue: whether C.J. was the legal mother of the children and properly appeared on their birth certificates.
2. The circuit court did not err by dismissing the petition based on res judicata without converting the dismissal into a summary-judgment proceeding under Rule 56.
3. Although circuit courts are generally prohibited from dismissing claims sua sponte, an exception permitted dismissal here because the action sought to relitigate an issue that had already been squarely decided.
4. The circuit court was directed to hold a hearing on whether attorney's fees and costs associated with C.J.'s defense were appropriate.

KEY QUOTATIONS

“As such, we find that all three elements for res judicata are met: the prior proceeding resulted in an adjudication on the merits by a court with jurisdiction, the same parties were involved in both actions, and the cause of action determined in the prior action—whether respondent was the legal mother of the children at issue—is identical to the issue presented in the instant case.” (at 3)

“In short, this Court has previously recognized that “[a] court on notice that it has previously decided an issue may dismiss the action sua sponte, consistent with the res judicata policy of avoiding judicial waste[.]’” (at 4)

“Therefore, under the limited circumstances of this case, we find no error in the circuit court’s decision to dismiss the petition as barred by res judicata in the interest of avoiding judicial waste.” (at 4)

“Finally, we direct the circuit court to hold a hearing on whether attorney’s fees and costs associated with any defense of this action are appropriate for respondent, in light of petitioner’s attempts to relitigate an issue that was previously fully resolved.” (at 5)

FACTUAL BACKGROUND

S.U. and C.J. were in an intimate relationship for approximately twelve years and had four children through nonconventional methods of conception. S.U. previously challenged C.J.'s inclusion as the children's mother on their birth certificates and argued that an alleged custodial agreement required C.J. to act only as a gestational surrogate. The prior proceedings determined that the agreement was unenforceable and that C.J. was the legal mother of all four children. S.U.'s later petition sought to relitigate C.J.'s maternity and remove her from the birth certificates of the three youngest children.

PROCEDURAL HISTORY

In prior family-court proceedings, S.U. sought to remove C.J. from the children's birth certificates and challenged her status as their legal mother based on an alleged custodial agreement. The family court found the agreement unenforceable and ruled that C.J. was the legal mother of all four children; the circuit court and Supreme Court of Appeals affirmed. S.U. then filed the present emergency petition seeking to remove C.J. from the birth certificates of the three youngest children and regain custody. The Circuit Court of Gilmer County dismissed the petition as barred by res judicata, and the Supreme Court affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Circuit Court of Gilmer County must hold a hearing on whether attorney's fees and costs associated with C.J.'s defense of the action are appropriate.

CASES CITED

- S.U. v. C.J., No. 18-0566, 2019 WL 5692550 (W. Va. Nov. 4, 2019) (memorandum decision)
- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- Melinda H. v. William R. II, 230 W. Va. 731, 742 S.E.2d 419 (2013)
- State v. Brandon B., 218 W. Va. 324, 624 S.E.2d 761 (2005)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- McCormick v. Allstate Insurance Co., 197 W. Va. 415, 475 S.E.2d 507 (1996)
- In re S.W., 236 W. Va. 309, 779 S.E.2d 577 (2015)
- Blake v. Charleston Area Medical Center, Inc., 201 W. Va. 469, 498 S.E.2d 41 (1997)
- Beahm v. 7 Eleven, Inc., 223 W. Va. 269, 672 S.E.2d 598 (2008)
- Bezanson v. Bayside Enterprises, Inc., 922 F.2d 895, 904 (1st Cir. 1990)
- Gulas v. Infocision Management Corp., 215 W. Va. 225, 599 S.E.2d 648 (2004)

- *Humphrey v. Deal*, No. 19-1009, 2020 WL 6482785, at *3 n.2 (W. Va. Nov. 4, 2020) (memorandum decision)
- *Hanlon v. Boone County Community Organization, Inc.*, 182 W. Va. 190, 386 S.E.2d 847 (1989)
- *Dan Ryan Builders, Inc. v. Crystal Ridge Development, Inc.*, 239 W. Va. 549, 803 S.E.2d 519 (2017)
- *Allen v. McCurry*, 449 U.S. 90, 94, 101 S. Ct. 411, 66 L. Ed. 2d 308 (1980)

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