

SUPREME COURT OF WASHINGTON

In re the Marriage of Rideout, 150 Wash. 2d 337

77 P.3d 1174 (Wash. 2003) · No. No. 72366-4 · Decided October 27, 2003

SUMMARY

The Washington Supreme Court affirmed a contempt order against a parent who failed to comply with a parenting plan and a subsequent order requiring delivery of a child for court-ordered residential time. The court held that, when documentary submissions require credibility determinations, appellate review applies a substantial-evidence standard rather than de novo review. It further held that a parent may be held in contempt under RCW 26.09.160 for failing to make reasonable efforts to require a child to comply with ordered residential time.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Alexander, C.J.; Johnson, J.; Madsen, J.; Sanders, J.; Ireland, J.; Bridge, J.; Chambers, J.; Owens, J.; Fairhurst, J.
JURISDICTION	Washington
DECIDED	October 27, 2003
DOCKET	No. 72366-4
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sara Rideout petitioned the Washington Supreme Court for review of a Court of Appeals decision affirming a superior court contempt order based on her failure to comply with parenting-plan and residential-time orders. Christopher Rideout cross-appealed the attorney-fee award below.
STANDARD OF REVIEW	Findings of fact in a documentary contempt proceeding are reviewed for substantial evidence when the proceeding requires the trial court to weigh competing evidence, resolve conflicts, and make credibility determinations. The appellate court reviews whether the findings support the conclusions of law.
PRECEDENTIAL VALUE	published; precedential Washington Supreme Court opinion
PARTIES	Sara Dixon Rideout v. John Christopher Rideout

TOPICS

family law procedure

visitation

writ of certiorari

standard of review

remedies

PRACTICE AREAS

family law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether findings of fact based solely on documentary submissions in a contempt proceeding should be reviewed de novo or for substantial evidence when the trial court was required to weigh credibility and conflicting evidence.
2. Whether a parent may be held in contempt under RCW 26.09.160 when a child resists court-ordered residential time and the parent either contributes to the child's resistance or fails to make reasonable efforts to require compliance.
3. Whether the Court of Appeals properly awarded Christopher attorney fees based solely on his status as the prevailing party under RCW 26.09.140.
4. Whether Christopher was entitled to attorney fees and costs on appeal under RCW 26.09.160.

HOLDINGS

1. When a contempt proceeding based solely on documentary evidence requires the trial court to weigh competing evidence, resolve conflicts, and determine credibility, the appellate court reviews the trial court's factual findings for substantial evidence rather than de novo.
2. A parent may be held in contempt under RCW 26.09.160 when a child resists court-ordered residential time and the parent either contributes to the child's resistance or fails to make reasonable efforts to require the child to comply with the parenting plan and residential-time order.
3. The Court of Appeals erred to the extent it awarded attorney fees under RCW 26.09.140 solely because Christopher was the prevailing party, but the fee award could be affirmed under RCW 26.09.160 because the fees related to Sara's contempt and noncompliance.

KEY QUOTATIONS

"In sum, we affirm the decision of the Court of Appeals, holding that the appropriate standard of review here is not de novo, but rather is whether the trial court's findings of fact are supported by substantial evidence." (*1181)

*"In sum, we hold that where a child resists court-ordered residential time and where the evidence establishes that a parent either contributes to the child's attitude or fails to make reasonable efforts to require the child to comply with the parenting plan and a court-ordered residential time, such parent may be deemed to have acted in "bad faith" for purposes of RCW 26.09.160(1)." (*1183)*

"We affirm, on different grounds, the Court of Appeals' decision to the extent that it awarded attorney fees to Christopher for the appeal to that court." (*1184)

FACTUAL BACKGROUND

The Rideouts' dissolution decree included a permanent parenting plan granting Christopher alternating weekends, four weeks of summer residential time, and residential time with Caroline on her thirteenth birthday. In 2000, Caroline resisted visiting Christopher, and Sara did not deliver Caroline for scheduled residential time or for the period required by a July 27, 2000, court order. The trial court found that Sara was capable of requiring the thirteen-year-old child to comply but failed to make reasonable efforts and had contributed to or acquiesced in the child's resistance.

PROCEDURAL HISTORY

The Thurston County Superior Court held Sara Rideout in contempt under RCW 26.09.160 for failing to deliver or make reasonable efforts to require her daughter to comply with court-ordered residential time with Christopher, and imposed daily sanctions and attorney fees. The superior court denied revision of the commissioner's order. The Court of Appeals affirmed the contempt determination, affirmed the attorney-fee amount, and awarded Christopher fees on appeal. The Washington Supreme Court granted review, affirmed the contempt ruling and the award of appellate fees on alternative statutory grounds, and awarded Christopher fees and costs for the proceedings in the Supreme Court.

DISPOSITION

affirmed

CASES CITED

- In re Marriage of Rideout, 110 Wash. App. 370, 40 P.3d 1192 (2002)
- In re Marriage of Rideout, 147 Wash. 2d 1008, 54 P.3d 1212 (2002)
- Progressive Animal Welfare Soc'y v. Univ. of Wash., 125 Wash. 2d 243, 252, 884 P.2d 592 (1994)
- Smith v. Skagit County, 75 Wash. 2d 715, 718, 453 P.2d 832 (1969)
- In re Marriage of Flynn, 94 Wash. App. 185, 190, 972 P.2d 500 (1999)
- Danielson v. City of Seattle, 45 Wash. App. 235, 240, 724 P.2d 1115 (1986), *aff'd*, 108 Wash. 2d 788, 742 P.2d 717 (1987)
- In re Parentage of Jannot, 110 Wash. App. 16, 37 P.3d 1265 (2002), *aff'd*, 149 Wash. 2d 123, 65 P.3d 664 (2003)
- In re Marriage of James, 79 Wash. App. 436, 445, 903 P.2d 470 (1995)
- In re Marriage of Farr, 87 Wash. App. 177, 940 P.2d 679 (1997)
- Truck Ins. Exch. v. VanPort Homes, Inc., 147 Wash. 2d 751, 766, 58 P.3d 276 (2002)
- State ex rel. A.N.C. v. Grenley, 91 Wash. App. 919, 927-28, 959 P.2d 1130 (1998), review denied, 136 Wash. 2d 1031, 972 P.2d 467 (1999)
- In re Parentage of Schroeder, 106 Wash. App. 343, 353-54, 22 P.3d 1280 (2001)
- State v. Hoffman, 115 Wash. App. 91, 101, 60 P.3d 1261 (2003)