

SUPREME JUDICIAL COURT OF MAINE

Penny (Leask) Thorne v. Richard S. Leask

861 A.2d 690 (Me. 2004) · Decided November 30, 2004

SUMMARY

The Maine Supreme Judicial Court held that a court may not add a substantive provision to a stipulated divorce judgment without notifying the parties and providing a meaningful opportunity to be heard. The court vacated the judgment requiring the parties to attend a high-conflict co-parenting education course and remanded the matter to the District Court.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Saufley, C.J.; Clifford, J.; Rudman, J.; Dana, J.; Alexander, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	November 30, 2004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Richard S. Leask appealed from a modified divorce judgment and a separate order entered by a Maine District Court Case Management Officer, challenging the addition of a mandatory high-conflict co-parenting education requirement to the parties' stipulated judgment without consent or a hearing.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential
PARTIES	Richard S. Leask v. Penny (Leask) Thorne

TOPICS

- family law procedure
- divorce
- child custody
- appellate procedure

PRACTICE AREAS

- family law
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

- Whether a divorce court or Case Management Officer may add a substantive provision requiring participation in a co-parenting education course to a stipulated divorce judgment without first notifying

the parties and providing a meaningful opportunity to be heard.

HOLDINGS

1. Before adding a substantive provision to a stipulated divorce judgment to which the parties have not agreed, the court must notify the parties of its intention to add the term and afford them a meaningful opportunity to be heard.

KEY QUOTATIONS

“We conclude, therefore, that before adding a substantive provision to which the parties have not agreed, the court must provide notice to the parties of its intention to add a substantive term to the stipulated judgment and afford the parties a meaningful opportunity to be heard.” (¶ 8)

FACTUAL BACKGROUND

Richard Leask and Penny Thorne divorced in 1997. In 2002 and 2003, Thorne filed motions seeking modifications concerning child-related matters, including requests for anger-management and parenting-program participation, while Leask objected and sought contempt. The parties ultimately stipulated to modifications of contact, child support, and medical-payment provisions, but their stipulation did not require either party to participate in a parenting program. The Case Management Officer added such a requirement and ordered both parties to attend an eight-week high-conflict co-parenting course without their consent or an opportunity to be heard.

PROCEDURAL HISTORY

The parties were divorced in 1997. After motions to modify concerning child-related matters, contact, support, and medical payments, the parties stipulated to a modified divorce judgment that contained no parenting-program requirement. The Case Management Officer added a mandatory Kids First high-conflict co-parenting course provision and issued a separate implementing order without obtaining the parties' agreement or conducting a hearing. Leask appealed, and the Supreme Judicial Court of Maine vacated the judgment and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the modified divorce judgment and remand to the District Court for proceedings consistent with the requirement that the parties receive notice and a meaningful opportunity to be heard before any substantive provision not agreed upon is added to the stipulated judgment.

CASES CITED

- Shaw v. Shaw, 2003 ME 153, ¶ 12 & n. 4, 839 A.2d 714, 717
- Cloutier v. Cloutier, 2003 ME 4, ¶¶ 12-14, 814 A.2d 979, 983-84

