

SUPREME COURT OF ALASKA

In the Matter of Kristine A. Schmidt, Regarding Sanctions Imposed
in Koivisto v. Koivisto

114 P.3d 816 (Alaska 2005) · No. S-11427 · Decided June 24, 2005

SUMMARY

The Alaska Supreme Court reviewed sanctions and attorney-fee awards imposed on attorney Kristine A. Schmidt after she filed a post-trial brief after a court-ordered deadline. The court affirmed the award of fees associated with the opposing party’s reply brief under Alaska Civil Rule 95(a), but vacated a conflicting order that denied acceptance of the late brief and awarded fees for the opposing party’s original brief. The court also addressed notice, due process, and the superior court’s authority to enforce briefing deadlines.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Fabe, Justice; Bryner, Chief Justice; Matthews, Justice; Eastaugh, Justice; Carpeneti, Justice
JURISDICTION	Alaska
DECIDED	June 24, 2005
DOCKET	S-11427
DISPOSITION	remanded
PROCEDURAL POSTURE	Schmidt appealed a superior court judgment enforcing attorney-fee awards imposed in connection with her late filing of a post-trial brief in divorce proceedings.
STANDARD OF REVIEW	Awards of attorney's fees and sanctions are reviewed for abuse of discretion; questions of law and interpretation of civil rules are reviewed de novo under the court's independent judgment; procedural due process issues are reviewed independently; factual findings are reviewed for clear error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kristine A. Schmidt v. Clifford Daniel Koivisto

TOPICS

sanctions

attorney fees

civil procedure

motion for reconsideration

family law procedure

PRACTICE AREAS

civil procedure

family law

attorney fees

sanctions

constitutional law

QUESTIONS PRESENTED

1. Whether Alaska Civil Rule 95(a) authorized the superior court to assess attorney's fees and costs against Schmidt for filing a post-trial brief after a court-ordered deadline.
2. Whether the superior court's award of fees under Civil Rule 95(a) violated Schmidt's procedural due process rights because she was not given advance notice and a pre-sanction hearing.
3. Whether the superior court abused its discretion by entering a later order rejecting Schmidt's late-filed brief and awarding fees for Koivisto's original post-trial brief after previously accepting the late brief and authorizing a reply.
4. Whether the later superior court order that each party pay its own attorney's fees superseded the earlier sanction award for the reply brief.

HOLDINGS

1. A superior court may assess attorney's fees and costs against an attorney under Alaska Civil Rule 95(a) when the attorney violates an enforceable court-ordered briefing deadline, even if the court accepts the late filing.
2. Any deficiency in advance notice or a pre-sanction opportunity to be heard was harmless because Schmidt had notice of Koivisto's fee request and an opportunity to challenge the sanction through reconsideration.
3. The superior court abused its discretion by entering an unexplained order that contradicted its prior acceptance of the late brief and awarded fees for costs Koivisto would have incurred regardless of the late filing.
4. The later decision adopting the master's recommendation that each party pay its own attorney's fees did not supersede the earlier sanction requiring Schmidt to pay the fees associated with Koivisto's reply brief.

KEY QUOTATIONS

"But assessment under Rule 95(a) requires a showing that counsel has violated "these rules." (821)

"Thus, our case law recognizes that filing deadlines for briefs are essential to the efficient administration of the judicial system." (822)

"Like other sanctions, attorney's fees certainly should not be assessed lightly or without fair notice of an opportunity for a hearing on the record." (824)

"Because the order disallowing the late brief was incompatible with the original order, we reverse the superior court's July 21, 2000 order rejecting the late-filed brief and assessing attorney's fees in the amount

FACTUAL BACKGROUND

Schmidt represented Hopeful Lucy Koivisto, later Hopeful Lucy Standefer, in divorce proceedings involving property division, spousal support, and attorney's fees. The superior court master ordered simultaneous post-trial briefs due May 10, 2000, and stated that no continuances would be allowed. Schmidt filed her client's brief one week late, along with a motion to accept the late filing. The superior court accepted the brief but permitted Koivisto to file a reply and ordered Schmidt to pay the reasonable fees and costs associated with that reply; it later entered a conflicting order rejecting the late brief and awarding fees for Koivisto's original brief.

PROCEDURAL HISTORY

The superior court accepted Schmidt's late-filed brief, allowed Koivisto to file a reply, and ordered Schmidt to pay reasonable fees and costs associated with the reply under Alaska Civil Rule 95(a). The court later entered a conflicting order rejecting the late brief and awarding Koivisto the fees incurred preparing his original post-trial brief. After Koivisto sought enforcement, the superior court entered a \$1,778.53 judgment against Schmidt. The Alaska Supreme Court affirmed the orders concerning the reply-brief fees, vacated the conflicting order concerning the original brief, and remanded for entry of judgment for \$656.40 plus prejudgment interest.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Vacate the July 21, 2000 order rejecting the late-filed brief and awarding \$851 for preparation of Koivisto's initial post-trial brief. Remand for entry of judgment against Schmidt in the amount of \$656.40, representing the reply-brief fees, plus prejudgment interest from August 4, 2000. The June 20, 2000 order and the July 21, 2000 orders concerning the reply brief and reconsideration were affirmed.

CASES CITED

- McNett v. Alyeska Pipeline Service Co., 856 P.2d 1165 (Alaska 1993)
- Keen v. Ruddy, 784 P.2d 653 (Alaska 1989)
- Doe v. State, Department of Public Safety, 92 P.3d 398 (Alaska 2004)
- Paxton v. Gavlak, 100 P.3d 7 (Alaska 2004)
- S.S.M. v. State, Department of Health & Social Services, Division of Family & Youth Services, 3 P.3d 342 (Alaska 2000)
- State, Commercial Fisheries Entry Commission v. Carlson, 65 P.3d 851 (Alaska 2003)
- Wilson v. Municipality of Anchorage, 977 P.2d 713 (Alaska 1999)
- State v. 1.163 Acres, More or Less, Chuckwm, Inc., 449 P.2d 776 (Alaska 1968)
- Sheehan v. University of Alaska, 700 P.2d 1295 (Alaska 1985)
- Esch v. Superior Court, Third Judicial District, 577 P.2d 1039 (Alaska 1978)

- Stephenson v. Superior Court, Fourth Judicial District, 697 P.2d 653 (Alaska 1985)
- Metcalf v. Felec Services, 938 P.2d 1023 (Alaska 1997)
- Brown v. Brown, 854 P.2d 732 (Alaska 1993)
- Roadway Express, Inc. v. Piper, 447 U.S. 752 (1980)
- Lashbrook v. Lashbrook, 957 P.2d 326 (Alaska 1998)
- Tobey v. Superior Court, Third Judicial District, 680 P.2d 782 (Alaska 1984)
- Brady v. Fireman's Fund Insurance Cos., 484 A.2d 566 (D.C. 1984)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/alaska-supreme-court-of-alaska/2005/in-the-matter-of-kristine-a-schmidt-regarding-sanctions-obynkeds>