

SUPREME COURT OF NEW HAMPSHIRE

In re Rohdenburg

149 N.H. 276 (2003) · Decided March 17, 2003

SUMMARY

The New Hampshire Supreme Court reviewed a child support modification order that increased the respondent's obligation without addressing his request for a downward modification. The court held that the marital master committed clear legal error by accepting the petitioner's incomplete financial affidavit and by failing to make required findings concerning the economic consequences of the petitioner's remarriage. The judgment was reversed and remanded.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Nadeau, J.; Brock, C.J.; Broderick, J.; Dalianis, J.; Duggan, J.
JURISDICTION	New Hampshire
DECIDED	March 17, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a superior court order approving a marital master's recommendation that increased the respondent's child support obligation.
STANDARD OF REVIEW	Because the respondent failed to provide a transcript of the contested hearing, the court presumed that the master's findings were supported by the record and limited review to whether the master committed a clear error of law.
PRECEDENTIAL VALUE	Published New Hampshire Supreme Court opinion; precedential.
PARTIES	Brad D. Rohdenburg v. Jennie A. Louzan

TOPICS

- child support
- family law procedure
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

- Family law
- Child support
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the marital master committed clear error by accepting and relying on the petitioner's incomplete financial affidavit in a child-support modification proceeding.
2. Whether the marital master erred by failing to address the respondent's request for a downward modification based on a substantial change in the parties' economic circumstances following the petitioner's remarriage.

HOLDINGS

1. Superior Court Rule 197 mandates full disclosure in every section of the financial affidavit at a hearing to modify child support, and the marital master committed clear error by accepting and relying on the petitioner's incomplete affidavit.
2. The master committed legal error by failing to make written findings addressing the respondent's claim that the parties' economic circumstances had substantially changed after the petitioner's remarriage.

KEY QUOTATIONS

“Each party has a duty to complete all sections of the Rule 197 financial affidavit to the best of his or her ability.” (149 N.H. at 279)

“The duty of full disclosure is mandatory and cannot be waived by either of the parties or by the court.” (149 N.H. at 279)

“When determining if there has been a substantial change of circumstances at a modification hearing, remarriage and consequential duties of support to step-children are factors that must be considered, although they may not be dispositive of the issue.” (149 N.H. at 280)

FACTUAL BACKGROUND

The petitioner sought modification of child support under RSA 458-C:7 based on the three-year modification provision and did not allege a change in circumstances. The respondent requested a downward modification based on substantial changes in the parties' economic circumstances following the petitioner's remarriage. The petitioner filed a financial affidavit that omitted information about assets, property interests, and related debt, although it listed mortgage and vehicle expenses; the master nevertheless increased the respondent's support obligation under the guidelines and failed to address his downward-modification request.

PROCEDURAL HISTORY

Louzan moved in superior court to modify child support and for contempt. After a contested hearing based on offers of proof, the marital master denied contempt but increased Rohdenburg's monthly support obligation from \$3,300 to \$3,800 and did not address his request for a downward modification based on changed circumstances after Louzan's remarriage. The superior court approved the master's recommendation, and Rohdenburg appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

On remand, the master must obtain complete financial disclosures under Superior Court Rule 197, consider all relevant evidence concerning the ability of all persons owing a duty to support the children, and make written findings addressing the respondent's requested downward modification and the statutory special-circumstances factors.

CASES CITED

- Giles v. Giles, 136 N.H. 540, 544 (1992)
- Cote v. Cote, 123 N.H. 376, 377-78 (1983)
- DePalantino v. DePalantino, 139 N.H. 522, 525 (1995)
- Shafmaster v. Shafmaster, 138 N.H. 460, 467 (1994)
- Logan v. Logan, 120 N.H. 839, 842-43 (1980)

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