

SUPREME COURT OF NEW HAMPSHIRE

Scheffel v. Krueger

146 N.H. 669 (2001) · Decided July 26, 2001

SUMMARY

The New Hampshire Supreme Court held that a statutory spendthrift provision protected trust assets from attachment by a tort creditor seeking to satisfy a judgment. The court concluded that RSA 564:23 created no exception for tort creditors or criminal conduct beyond the statutory exceptions for beneficiary-settlor trusts and fraudulent transfers. The court also upheld the denial of the request to terminate the trust because its support, maintenance, and education purposes could still be fulfilled.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Duggan, J.; Barry, J., specially assigned; Fauver, J., specially assigned; Hollman, J., trial judge
JURISDICTION	New Hampshire
DECIDED	July 26, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order dismissing a trustee process action against Citizens Bank NH after the trial court held that a spendthrift provision protected the trust assets from the plaintiff's judgment claim.
STANDARD OF REVIEW	On a motion to dismiss, whether the alleged facts establish a basis for legal relief; statutory interpretation is reviewed de novo. Trial-court findings are not disturbed unless unsupported by the evidence or erroneous as a matter of law.
PRECEDENTIAL VALUE	Published New Hampshire Supreme Court opinion; precedential.
PARTIES	Lorie Scheffel, individually and as mother and next friend of Cory C. v. Citizens Bank NH, trustee defendant

TOPICS

- spendthrift trusts
- trusts
- statutory interpretation
- trustee duties
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether RSA 564:23 shields a beneficiary's trust interest from a tort creditor, including a creditor whose claim arises from criminal conduct.
2. Whether the beneficiary's rights to determine payment frequency, receive principal after age fifty, and dispose of trust assets by will prevent the trust from qualifying for statutory spendthrift protection.
3. Whether the trust should be terminated because incarceration allegedly prevents fulfillment of its support, maintenance, and education purposes.

HOLDINGS

1. RSA 564:23 makes the spendthrift provision enforceable against the plaintiff's tort judgment claim because the statute contains no exception for tort creditors or claims arising from criminal conduct.
2. The trust qualifies for protection under RSA 564:23 notwithstanding provisions allowing the beneficiary to determine payment frequency, receive principal after age fifty, and dispose of trust assets by will.
3. Termination was properly denied because the record supported the trial court's finding that the trust's purpose could still be fulfilled during and after the beneficiary's incarceration.

KEY QUOTATIONS

“Thus, under the plain language of the statute, a spendthrift provision is enforceable unless the beneficiary is also the settlor or the assets were fraudulently transferred to the trust.” (at 672)

“Where the legislature has made specific exemptions, we must presume no others were intended.” (at 672)

“No rule of public policy is available to overcome [this] statutory rule.” (at 673)

FACTUAL BACKGROUND

Krueger's grandmother established an irrevocable trust for his benefit in 1985. The trust required payment of net income to Krueger and authorized discretionary distributions of principal for his maintenance, support, and education, while prohibiting voluntary or involuntary transfers and creditor process before receipt by the beneficiary. After Scheffel obtained a \$551,286.25 default judgment against Krueger, she sought to attach his beneficial interest in the trust. Krueger's conduct underlying the judgment also formed the basis for criminal charges, and he was expected to remain incarcerated for a period of years.

PROCEDURAL HISTORY

Scheffel obtained a default judgment against Kyle Krueger for \$551,286.25 arising from alleged sexual assault and related conduct. To satisfy the judgment, she sought attachment of Krueger's beneficial interest in an irrevocable trust. The superior court ruled that RSA 564:23 made the trust's spendthrift provision enforceable against her claim, released the attachment, and dismissed the trustee process action. The Supreme Court of New Hampshire affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Krueger, 146 N.H. 541, 542 (2001)
- DeLellis v. Burke, 134 N.H. 607, 610 (1991)
- Provencher v. Buzzell-Plourde Assoc., 142 N.H. 848, 852-53 (1998)
- Key Bank of Maine v. Latshaw, 140 N.H. 634, 636 (1996)
- Appeal of Rainville, 143 N.H. 624, 631 (1999)
- Rye Beach Country Club v. Town of Rye, 143 N.H. 122, 125 (1998)
- Brahme v. Rollins, 87 N.H. 290, 298-99 (1935)
- Sligh v. First Nat. Bank of Holmes County, 704 So. 2d 1020, 1024 (Miss. 1997)
- Elec. Workers v. IBEW-NECA Holiday Trust, 583 S.W.2d 154, 162 (Mo. 1979)
- Athorne v. Athorne, 100 N.H. 413, 416 (1957)