

SUPREME COURT OF IDAHO

MacKowiak v. Harris, 146 Idaho 864

204 P.3d 504 (2009) · No. No. 34527 · Decided March 5, 2009

SUMMARY

The Idaho Supreme Court affirmed an order reducing a father's child support obligation to zero during his incarceration and requiring the parties to seek modification after his release. The court held that the mother could not challenge the reduction on appeal because she had not opposed it in the trial court. It further held that the trial court did not abuse its discretion by declining to automatically reinstate the prior support amount upon the father's release.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Eismann, Chief Justice; Burdick; Eismann; J. Jones; W. Jones; Horton
JURISDICTION	Idaho
DECIDED	March 5, 2009
DOCKET	No. 34527
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court decision affirming a trial court order reducing the appellee's child support obligation to zero during his incarceration and requiring a later motion to determine support after his release.
STANDARD OF REVIEW	The Supreme Court directly reviews the district court's decision when the district court acts in its appellate capacity. Whether the trial court abused its discretion is evaluated by asking whether it correctly perceived the issue as discretionary, acted within the outer boundaries of its discretion and consistently with applicable legal standards, and reached its decision through an exercise of reason.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential
PARTIES	Amber MacKowiak, formerly Amber Harris v. Seth Harris

TOPICS

child support appellate procedure preservation of error standard of review family law procedure

PRACTICE AREAS

family law

child support

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the district court erred in affirming the reduction of Harris's child support obligation to zero because he was incarcerated.
2. Whether the district court erred in affirming the trial court's refusal to automatically reinstate the prior child support award upon Harris's release from incarceration.

HOLDINGS

1. MacKowiak could not challenge the reduction on appeal because she did not oppose that modification in the trial court.
2. The trial court did not abuse its discretion by requiring the parties to seek a new child support determination after Harris's release rather than automatically reinstating the prior award.

KEY QUOTATIONS

"We hold that the payee cannot challenge the first provision because she did not oppose the child support reduction in the trial court and that she has not shown any abuse of discretion by the trial court in failing to order that the child support automatically revert to the prior level upon the payor's release from prison." (at 505)

"Under Idaho Code (I.C.) § 32-709, the child support provisions of a divorce decree may be modified if a substantial and material change of circumstances has occurred since the last divorce decree was entered." (at 506)

"[I]t is well accepted that issues not argued before the trial court will not be considered when raised for the first time on appeal." (at 507)

"Because Mackowiak did not oppose the motion to abate child support, she cannot argue on appeal that the trial court erred in doing so by reducing the child support to zero." (at 507)

"Determination of whether a trial court abused its discretion involves a three-part test which asks whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion and consistently with the legal standards applicable to the specific choices available to it; and (3) reached its decision by an exercise of reason." (at 507-508)

FACTUAL BACKGROUND

MacKowiak and Harris were divorced in 2005, with MacKowiak receiving primary physical custody of their two children and Harris ordered to pay \$500 per month in child support, increasing to \$750 after spousal maintenance ended. Harris was later convicted of aggravated assault and burglary and sentenced to a prison term of three fixed years and up to seven additional indeterminate years. The trial court reduced his child support obligation to zero during incarceration because there was no evidence that he had resources to pay, and it

required a later motion to determine support after his release. MacKowiak did not oppose the reduction but challenged the requirement that support be redetermined rather than automatically reinstated.

PROCEDURAL HISTORY

The parties were divorced by an Idaho trial court, which awarded MacKowiak primary physical custody and ordered Harris to pay child support. After Harris was incarcerated, the trial court reduced his child support obligation to zero and required either party to file a motion to modify support after his release. MacKowiak did not oppose the reduction in the trial court but sought automatic reinstatement of the prior support amount; the trial court denied that request. The Idaho district court, acting in its appellate capacity, affirmed, and the Idaho Supreme Court affirmed the district court.

DISPOSITION

affirmed

CASES CITED

- *Reisenauer v. State, Department of Transportation*, 145 Idaho 948, 949, 188 P.3d 890, 891 (2008)
- *Rohr v. Rohr*, 128 Idaho 137, 141, 911 P.2d 133, 137 (1996)
- *Farr v. Mischler*, 129 Idaho 201, 205, 923 P.2d 446, 450 (1996)
- *Kirkman v. Stoker*, 134 Idaho 541, 544, 6 P.3d 397, 400 (2000)
- *Porter v. Board of Trustees, Preston School Dist. No. 201*, 141 Idaho 11, 105 P.3d 671 (2004)
- *Sun Valley Potato Growers, Inc. v. Texas Refinery Corp.*, 139 Idaho 761, 765, 86 P.3d 475, 479 (2004)
- *Nab v. Nab*, 114 Idaho 512, 757 P.2d 1231 (Ct. App. 1988)
- *Humbird v. Humbird*, 42 Idaho 29, 243 P. 827 (1926)
- *Simpson v. Simpson*, 51 Idaho 99, 4 P.2d 345 (1931)