

SUPREME COURT OF VERMONT

Penland v. Warren

194 A.3d 755 (Vt. 2018) · No. 2018-004 · Decided July 13, 2018

SUMMARY

The Vermont Supreme Court held that a trial court has jurisdiction under Vermont Rule of Civil Procedure 60(b)(6) to consider modifying a final divorce property-division order after the divorce has become absolute. The parties jointly sought to modify the division of a pension because of the husband's serious health and financial circumstances, but the trial court denied the motion for lack of jurisdiction. The Supreme Court reversed and remanded for the trial court to exercise its discretion and determine whether extraordinary circumstances warranted relief.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Reiber, C.J.; Skoglund, J.; Robinson, J.; Carroll, J.; Morris, Supr. J. (Ret.), specially assigned
JURISDICTION	Vermont
DECIDED	July 13, 2018
DOCKET	2018-004
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Husband appealed the trial court's denial of the parties' joint Vermont Rule of Civil Procedure 60(b)(6) motions to modify their final divorce order's property division.
STANDARD OF REVIEW	The authority to exercise discretion under Vermont Rule of Civil Procedure 60(b)(6) is reviewed de novo; a trial court's discretionary decision denying Rule 60(b)(6) relief is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	John W. Warren, Jr. v. Sandra L. Penland (Warren)

TOPICS

- family law procedure
- divorce
- equitable distribution
- motion for reconsideration
- remedies

PRACTICE AREAS

family law

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether a trial court has jurisdiction under Vermont Rule of Civil Procedure 60(b)(6) to modify a final divorce property-division order after the order has become absolute when the parties jointly agree to the modification.
2. Whether the trial court should grant the requested modification under Rule 60(b)(6).

HOLDINGS

1. A trial court has jurisdiction and authority under Vermont Rule of Civil Procedure 60(b)(6) to consider modifying a final property-division order after a divorce order has become absolute.
2. The Supreme Court did not decide whether the modification should be granted; the trial court must exercise its discretion and determine whether extraordinary circumstances justify relief to prevent hardship or injustice.

KEY QUOTATIONS

“We hold the court does have jurisdiction, and accordingly we reverse and remand.” (¶ 1)

“Rule 60(b)(6) is available and appropriately used to provide relief from a final property-division order where “extraordinary circumstances” justify relief “to prevent hardship or injustice.”” (¶ 8)

“We do not decide here whether the trial court should grant the requested relief.” (¶ 10)

FACTUAL BACKGROUND

The parties divorced in 2011 under a stipulated property division giving each spouse fifty percent of husband's Vermont Teachers Retirement System pension. Husband later received a medical diagnosis that prevented employment and shortened his life expectancy, increasing his need for the full pension income and creating a risk that wife would not receive the full anticipated value of her pension interest. The parties agreed that husband would pay wife one-half of the actuarial value remaining in the pension from his share of his mother's trust, while wife would restore the full pension to husband through modification of the QDRO and divorce order.

PROCEDURAL HISTORY

The parties' 2011 divorce order stipulated a division of husband's Vermont Teachers Retirement System pension, with wife receiving a half-interest through a QDRO. After husband's medical diagnosis and resulting financial and life-expectancy concerns, the parties jointly sought to modify the property division by exchanging wife's pension interest for a lump-sum payment. The Superior Court, Windsor Unit, Family Division, denied two joint motions, concluding that it lacked jurisdiction to modify the final property division and that the parties could instead enter an independent contract. The Vermont Supreme Court reversed and remanded for the trial court to exercise its discretion under Rule 60(b)(6).

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must exercise its discretion and consider whether extraordinary circumstances justify modifying the final property division to prevent hardship or injustice. It should consider the parties' stipulated agreement, their mutual need for the change, and whether they can create an adequate contractual remedy given that the pension is tied to husband's life and distributed through a QDRO.

CASES CITED

- Richwagen v. Richwagen, 153 Vt. 1, 3-4, 568 A.2d 419, 420-21 (1989)
- Youngbluth v. Youngbluth, 2010 VT 40, ¶¶ 9-10, 188 Vt. 53, 6 A.3d 677
- Olio v. Olio, 2012 VT 44, ¶ 14, 192 Vt. 41, 54 A.3d 510
- Rule v. Tobin, 168 Vt. 166, 174, 719 A.2d 869, 874 (1998)
- John A. Russell Corp. v. Bohlig, 170 Vt. 12, 24, 739 A.2d 1212, 1222 (1999)
- Wilson v. Wilson, 2011 VT 133, ¶¶ 3-6, 191 Vt. 560, 38 A.3d 50

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