

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Robert W. v. Paulette W.

Robert W. · No. No. 15-1010 · Decided May 20, 2016

SUMMARY

The West Virginia Supreme Court of Appeals affirmed a circuit court order approving the mother's relocation with the parties' children from West Virginia to Louisiana. The Court held that the mother presented sufficient evidence under West Virginia Code § 48-9-403(d)(1) to establish a legitimate and reasonable purpose for relocation, including joining the father of her younger children and maintaining the children's relationship with their half-siblings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	May 20, 2016
DOCKET	No. 15-1010
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed the Circuit Court of Braxton County's order reversing the Family Court of Braxton County and approving the mother's relocation of the parties' children to Louisiana.
STANDARD OF REVIEW	The Supreme Court reviews family-court factual findings under the clearly erroneous standard, the application of law to facts under an abuse-of-discretion standard, and questions of law de novo.
PRECEDENTIAL VALUE	Memorandum decision; the source metadata identifies the opinion as published, but the opinion itself states that it is a memorandum decision under West Virginia Rule of Appellate Procedure 21.
PARTIES	Robert W. v. Paulette W.

TOPICS

relocation

child custody

appellate procedure

standard of review

hearsay

PRACTICE AREAS

Family law

Appellate procedure

Evidence

QUESTIONS PRESENTED

1. Whether the mother's evidence was sufficient under West Virginia Code § 48-9-403(d)(1) to establish that the proposed relocation had a legitimate purpose and was reasonable in light of that purpose.
2. Whether the circuit court properly affirmed the relocation based on the mother's testimony concerning her partner's Louisiana employment opportunity.

HOLDINGS

1. The mother's testimony was sufficient to establish a legitimate purpose for relocating the children to Louisiana and that the relocation was reasonable in light of that purpose.
2. The circuit court did not commit reversible error in reversing the family court and approving the relocation.

KEY QUOTATIONS

"We concur with the circuit court's findings and agree that respondent mother proffered sufficient evidence to establish a legitimate purpose for relocation, that the relocation was reasonable in light of that purpose, and that the relocation is in the best interest of the parties' children as it would allow them to remain with their half-siblings." (3)

FACTUAL BACKGROUND

Robert W. and Paulette W. divorced in 2013 and have two children who lived with Paulette, the residential parent, in West Virginia. Paulette sought to relocate the children to Louisiana to live near R.C., the father of her two younger children, who had a Louisiana-based employment opportunity that would provide a higher income and more time with the family. Paulette testified about R.C.'s employment opportunity, but R.C. did not testify and no documentary evidence concerning the opportunity was presented. The family court denied relocation, while the circuit court found Paulette's testimony sufficient and approved the move.

PROCEDURAL HISTORY

The parties divorced in 2013, with the mother designated as the residential parent. After the mother filed a notice of relocation to Louisiana, the family court denied the request following a hearing, finding that the statutory prerequisites were not satisfied. The circuit court reversed without holding a hearing and approved the relocation. The father appealed to the Supreme Court of Appeals of West Virginia, which affirmed the circuit court.

DISPOSITION

affirmed

CASES CITED

- In re K.H., 235 W. Va. 254, 773 S.E.2d 20 (2015)
- In re Jeffrey R.L., 190 W. Va. 24, 435 S.E.2d 162 (1993)
- State v. Edward Charles L., 183 W. Va. 641, 398 S.E.2d 123 (1990)
- Mayle v. Mayle, 229 W. Va. 179, 727 S.E.2d 855 (2012)

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