

SUPREME COURT OF NORTH DAKOTA

State of North Dakota and C.W.L. v. B.B. and A.T.H.

2013 ND 242 · No. 20130178 · Decided December 19, 2013

SUMMARY

The North Dakota Supreme Court affirmed a state court judgment establishing B.B. as the father of a child and ordering him to reimburse the State for past public assistance and pay future child support. The Court held that state court jurisdiction over paternity and support did not infringe the Standing Rock Sioux Tribe’s right of self-government, because B.B. was not a member of the Tribe, did not reside on the reservation, and the relevant conduct occurred off the reservation. The Court also held that the paternity and support claims could be bifurcated from the tribal court’s custody determination.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Dale V. Sandstrom, Justice; Dale V. Sandstrom; Daniel J. Crothers; Mary Muehlen Maring; Carol Ronning Kapsner; Gerald W. VandeWalle, Chief Justice
JURISDICTION	North Dakota
DECIDED	December 19, 2013
DOCKET	20130178
DISPOSITION	affirmed
PROCEDURAL POSTURE	B.B. appealed a state district court judgment adjudicating him the father of J.Z.T., ordering reimbursement for public assistance paid on the child's behalf, and imposing future child-support obligations.
STANDARD OF REVIEW	Subject matter jurisdiction is reviewed de novo when jurisdictional facts are undisputed. When jurisdictional facts are disputed, legal questions are reviewed de novo and factual findings are reviewed under the clearly erroneous standard.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	B.B. v. State of North Dakota, C.W.L.

TOPICS

- tribal jurisdiction
- paternity
- child support
- subject matter jurisdiction
- appellate procedure

PRACTICE AREAS

family law

tribal jurisdiction

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the North Dakota state court had subject matter jurisdiction to adjudicate paternity and child support after the Standing Rock Sioux Tribal Court had entered a custody order.
2. Whether exercising state-court jurisdiction over paternity and support infringed the Standing Rock Sioux Tribe's right of self-government.
3. Whether the paternity and support claims could be bifurcated from the tribal-court custody proceeding.

HOLDINGS

1. The state court had subject matter jurisdiction to adjudicate paternity and impose reimbursement and future child-support obligations; the tribal court did not have exclusive jurisdiction over those claims.
2. The custody proceeding could be bifurcated from the paternity and support claims, permitting the state court to exercise jurisdiction over the latter claims while the tribal court retained jurisdiction over custody-related matters.

KEY QUOTATIONS

“On the undisputed facts as found by the district court in this case, we conclude as a matter of law the tribal court does not have exclusive subject matter jurisdiction over this paternity and support action.” (¶ 12)

“We conclude that under Kelly, the paternity and support claims brought against B.B. in state court can be bifurcated from the custody action brought in Standing Rock Sioux Tribal Court.” (¶ 16)

FACTUAL BACKGROUND

The child was born in 2003, and the Standing Rock Sioux Tribal Court awarded custody to the child's maternal grandmother in July 2003. The State later sued B.B. in state court for an adjudication of paternity, reimbursement of public assistance, and future child support. Genetic testing showed a 99.99 percent probability that B.B. was the father; the relevant events concerning conception and paternity occurred off the Standing Rock Sioux Reservation, B.B. was not a member of the Standing Rock Sioux Tribe, and he did not reside on the reservation.

PROCEDURAL HISTORY

The State of North Dakota filed a state-court action seeking paternity, future child support, and reimbursement of public assistance paid to the child's custodial grandmother. B.B. moved to dismiss for lack of subject matter jurisdiction, arguing that the Standing Rock Sioux Tribal Court had exclusive jurisdiction because it had previously entered a custody order. The district court held that the tribal court retained jurisdiction over residential responsibility and parenting time but that the state court had jurisdiction over paternity and support, entered judgment for the State, and the North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Harshberger v. Harshberger, 2006 ND 245, ¶ 16, 724 N.W.2d 148
- Escobar v. Reisinger, 64 P.3d 514, 516 (N.M. Ct. App. 2003)
- Wigginton v. Wigginton, 2005 ND 31, ¶ 13, 692 N.W.2d 108
- Kelly v. Kelly, 2011 ND 167, ¶ 12, 806 N.W.2d 133
- Shirado v. Foote, 2010 ND 136, ¶ 7, 785 N.W.2d 235
- Roe v. Doe, 2002 ND 136, 649 N.W.2d 566
- McKenzie County Social Services Bd. v. V.G., 392 N.W.2d 399 (N.D. 1986)
- In re M.L.M., 529 N.W.2d 184 (N.D. 1995)
- McKenzie County Social Service Bd. v. C.G., 2001 ND 151, 633 N.W.2d 157
- Williams v. Lee, 358 U.S. 217 (1959)
- Fisher v. District Court, 424 U.S. 382, 387-89 (1976)
- Skillen v. Skillen, 1998 MT 43, ¶ 73, 956 P.2d 1
- Kelly v. Kelly, 2009 ND 20, ¶ 22, 759 N.W.2d 721