

SUPREME COURT OF GEORGIA

Grove v. Grove

296 Ga. 435 (2015) · No. S14F1887 · Decided January 20, 2015

SUMMARY

The Georgia Supreme Court affirmed a divorce judgment awarding paternal grandparents visitation as a substitute for the father’s visitation schedule. The court held that the wife waived objections to the grandparents’ failure to intervene and to the absence of written findings of fact by failing to raise those issues below and by approving the judgment as to form.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Benham, Justice
JURISDICTION	Georgia
DECIDED	January 20, 2015
DOCKET	S14F1887
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wife appealed the final judgment and decree of divorce, challenging the award of visitation rights to the paternal grandparents.
STANDARD OF REVIEW	Abuse of discretion was the standard asserted for the challenge to the grandparent-visitation award; the Supreme Court resolved the issues on waiver, consent, and estoppel grounds.
PRECEDENTIAL VALUE	precedential
PARTIES	Wife v. Husband

TOPICS

- grandparent rights
- visitation
- waiver
- preservation of error
- family law procedure

PRACTICE AREAS

- family law
- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the trial court erred by awarding the paternal grandparents visitation when they had not filed a petition to intervene.
2. Whether the final judgment had to be reversed because it lacked the specific written findings of fact required for a grandparent-visitation award.

HOLDINGS

1. Wife waived any objection based on the grandparents' failure to intervene because she did not raise that objection in the trial court and instead participated in litigating the visitation issue.
2. Wife was estopped from challenging the absence of findings of fact because her counsel approved the final judgment as to form and she did not object to the lack of findings in the trial court.

KEY QUOTATIONS

““After approving the form of the order, a party cannot complain of the court’s failure to include findings of fact and conclusions of law.”” (section 2)

FACTUAL BACKGROUND

The parties agreed that Wife would have primary physical custody of their two-year-old child and that the husband's visitation would be supervised because of his substance-abuse problems and residence in a rehabilitation facility. Wife raised concerns about the paternal grandparents' ability to protect the child, notice of visits, visits to the husband's rehabilitation facility, and unpaid child support. Those concerns were addressed at the hearing, and Wife's counsel approved the final judgment as to form even though it awarded the grandparents visitation as a substitute for the husband's visitation.

PROCEDURAL HISTORY

At the final divorce hearing, the parties resolved all issues except the husband's visitation with their two-year-old child. The trial court adopted a parenting plan, signed by counsel for both parties and incorporated into the final judgment, that awarded the paternal grandparents visitation as a substitute for the husband's visitation. Wife appealed, arguing that the grandparents had not intervened and that the judgment lacked required findings of fact.

DISPOSITION

affirmed

CASES CITED

- Francis v. Francis, 279 Ga. 248, 248-249 (611 S.E.2d 45) (2005)
- Rude v. Rude, 241 Ga. 454 (1) (246 S.E.2d 311) (1978)
- Hunter v. Carter, 226 Ga. App. 251, 252-253 (485 S.E.2d 827) (1997)
- Gant v. Gant, 254 Ga. 239, 240 (3) (327 S.E.2d 723) (1985)
- Hargett v. Dickey, 304 Ga. App. 387 (2) (696 S.E.2d 335) (2010)

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