NORTH DAKOTA SUPREME COURT

F.R.S. v. Erickson

653 N.W.2d 659 (N.D. 2002) · Decided December 4, 2002

SUMMARY

The North Dakota Supreme Court affirmed an amended judgment increasing James Erickson's monthly child support obligation from $250 to $524. The court held that the district court's findings regarding Erickson's net income were not clearly erroneous and that excluding losses from discontinued out-of-state custom harvesting operations was proper under the child support guidelines. The court also held that Erickson could not challenge the treatment of earlier harvesting gains because he had not provided sufficiently detailed financial information.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Maring, Justice; Gerald W. VandeWalle, C.J.; William A. Neumann, Justice; Dale V. Sandstrom, Justice; Carol Ronning Kapsner, Justice
JURISDICTION	North Dakota
DECIDED	December 4, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	James Erickson appealed an amended judgment increasing his monthly child support obligation from $250 to $524.
STANDARD OF REVIEW	Child support determinations present questions of law reviewed de novo, findings of fact reviewed under the clearly erroneous standard, and limited discretionary matters reviewed for abuse of discretion. Findings are clearly erroneous if induced by an erroneous view of the law, unsupported by evidence, or if the appellate court is left with a definite and firm conviction that a mistake was made.
PRECEDENTIAL VALUE	published, precedential North Dakota Supreme Court opinion
PARTIES	James Erickson v. F.R.S., a minor child, through her custodial mother

TOPICS

child support · family law procedure · standard of review · appellate procedure

PRACTICE AREAS

family law | child support | appellate procedure

QUESTIONS PRESENTED

1. Whether the district court clearly erred in determining Erickson's net income for child support purposes.
2. Whether the district court properly applied the North Dakota child support guidelines by excluding losses from an out-of-state custom harvesting business that was expected to cease while retaining reported historical income.
3. Whether the district court abused its discretion by using Erickson's reported 1997 and 1998 tax-return income without excluding alleged gains attributable to out-of-state custom harvesting.

HOLDINGS

1. The district court's findings that Erickson had monthly net income of $2,961 were not clearly erroneous.
2. The district court properly excluded the past losses from Erickson's out-of-state custom harvesting operation because that operation would not continue on a substantially similar scale and the losses were not accurate predictors of future income.
3. Erickson could not establish error from the district court's use of the income reported on his 1997 and 1998 tax returns because he failed to provide information separating out-of-state custom-harvesting income and expenses from local custom-harvesting income and expenses.

KEY QUOTATIONS

> *"It is inherently inconsistent and unfair to, on the one hand, include income from a business under N.D. Admin. Code § 75-02-04.1-05(5) and, on the other hand, reject losses from that same business under N.D. Admin. Code § 75-02-04.1-02(8) on the basis the losses "are very likely to change in the near future.""* (653 N.W.2d at 661, ¶ 6)

> *"The guidelines specifically authorize the court to take such circumstances into consideration when self-employed operations in the future will not be "on a substantially similar scale" and when "circumstances that materially affect the child support obligation are very likely to change in the near future.""* (653 N.W.2d at 662, ¶ 6)

FACTUAL BACKGROUND

Erickson was a self-employed farmer and custom harvester. His custom harvesting business expanded to several states in 1999 and 2000, incurred tax losses during those years, and was expected to cease out-of-state operations in 2002. At the same time, Erickson had expanded his farming operation from approximately 400 acres to about 2,000 acres after taking over his father's farm. The district court calculated monthly net income of $2,961 using available historical farming and local custom-work data, excluded the out-of-state harvesting losses as poor predictors of future income, and set child support at $524 per month.

PROCEDURAL HISTORY

Erickson was adjudicated the father of F.R.S. and was ordered to pay $250 per month in child support under a November 4, 1998 judgment. At the request of the custodial mother, the Grand Forks Regional Child Support Unit moved to modify support based on Erickson's income. After a hearing, the district court found monthly net income of $2,961 and entered an amended judgment setting support at $524 per month. Erickson appealed.

DISPOSITION

affirmed

CASES CITED

- Minar v. Minar, 2001 ND 74, ¶ 10, 625 N.W.2d 518
- Geinert v. Geinert, 2002 ND 135, ¶ 7, 649 N.W.2d 237
- Christl v. Swanson, 2000 ND 74, ¶ 7, 609 N.W.2d 70
- Anderson v. Anderson, 504 N.W.2d 569, 571 (N.D. 1993)

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