

SUPREME COURT OF NORTH DAKOTA

Richardson v. Richardson

2022 ND 185 (2022) · No. 20220163 · Decided November 10, 2022

SUMMARY

The North Dakota Supreme Court affirmed the denial, without a hearing, of Reuben Richardson’s motion to modify residential responsibility because he failed to establish a prima facie case showing a material change in circumstances that adversely affected the child. The court also affirmed the denial of his motion for reconsideration, concluding that he did not meet the requirements of North Dakota Rules of Civil Procedure 59(j) or 60(b).

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jon J. Jensen, Chief Justice; Jon J. Jensen, C.J.; Daniel J. Crothers; Lisa Fair McEvers; Jerod E. Tufte; Allan L. Schmalenberger, S.J.
JURISDICTION	North Dakota
DECIDED	November 10, 2022
DOCKET	20220163
DISPOSITION	affirmed
PROCEDURAL POSTURE	Reuben Richardson appealed from an order denying his motion to modify residential responsibility without a hearing and from the subsequent denial of his motion for reconsideration.
STANDARD OF REVIEW	Whether a movant established a prima facie case for modification is reviewed de novo. Denial of a motion to reconsider is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Reuben M. Richardson v. Kimberly R. Richardson, State of North Dakota, statutory real party in interest

TOPICS

- child custody
- family law procedure
- motion for reconsideration
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Richardson established a prima facie case requiring modification of primary residential responsibility.
2. Whether the district court abused its discretion by denying Richardson's motion for reconsideration.

HOLDINGS

1. A party seeking modification of primary residential responsibility must establish a material change in circumstances and that the change adversely affected the child. Richardson failed to present prima facie evidence satisfying that requirement, so the district court properly denied modification without a hearing.
2. The district court did not abuse its discretion in denying reconsideration because Richardson neither invoked nor argued grounds available under N.D.R.Civ.P. 59(j) or 60(b), but merely reargued his entitlement to an evidentiary hearing.

KEY QUOTATIONS

“To establish a prima facie case justifying modification of primary residential responsibility, a movant must show there has been a material change in circumstances and “the change in circumstances has adversely affected the child[.]” (¶ 2)

“If properly written and argued, this Court treats requests for reconsideration as motions to alter or amend a judgment under N.D.R.Civ.P. 59(j) or motions for relief from a judgment under N.D.R.Civ.P. 60(b).” (¶ 3)

FACTUAL BACKGROUND

Reuben Richardson sought to modify primary residential responsibility for the parties' child. The district court found he had not provided prima facie evidence of a material change in circumstances that adversely affected the child and denied the motion without a hearing. Richardson then sought reconsideration, but he did not identify grounds under the applicable civil rules and instead reargued his entitlement to an evidentiary hearing.

PROCEDURAL HISTORY

The district court of Ward County concluded Richardson had not established a prima facie case that a material change in circumstances adversely affected the child and denied modification without an evidentiary hearing. It later denied Richardson's motion for reconsideration. The North Dakota Supreme Court affirmed both rulings.

DISPOSITION

affirmed

CASES CITED

- Gomm v. Winterfeldt, 2022 ND 172, ¶ 30

- Klundt v. Benjamin, 2021 ND 149, ¶ 8, 963 N.W.2d 278
- Johnshoy v. Johnshoy, 2021 ND 108, ¶ 9, 961 N.W.2d 282
- Rath v. Rath, 2018 ND 138, ¶¶ 9-10, 911 N.W.2d 919
- Schmidt v. Hageness, 2022 ND 179, ¶¶ 7-9
- Hanson v. Hanson, 2003 ND 20, ¶ 5, 656 N.W.2d 656
- Fonder v. Fonder, 2012 ND 228, ¶ 10, 823 N.W.2d 504
- Shull v. Walcker, 2009 ND 142, ¶ 14, 770 N.W.2d 274

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