

SUPREME COURT OF TENNESSEE

C.W.H. v. L.A.S.

538 S.W.3d 488 (Tenn. 2017) · No. No. E2015-01498-SC-R11-JV · Decided December 19, 2017

SUMMARY

The Tennessee Supreme Court reviewed a custody modification involving unmarried parents after the mother relocated with the children and concealed her residence and employment. The court held that the Court of Appeals improperly applied the standard of review, used the wrong version of Tennessee's best-interest statute, and ordered an immediate custody change without allowing review by the Supreme Court. The court reversed and remanded to the juvenile court for further proceedings.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Roger A. Page, J.; Jeffrey S. Bivins, C.J.; Cornelia A. Clark, J.; Sharon G. Lee, J.; Holly Kirby, J.
JURISDICTION	Tennessee
DECIDED	December 19, 2017
DOCKET	No. E2015-01498-SC-R11-JV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Father obtained permission to appeal under Tennessee Rule of Appellate Procedure 11 from the Tennessee Court of Appeals' reversal of a juvenile court order modifying the primary residential parent designation in a custody proceeding.
STANDARD OF REVIEW	A trial court's factual findings regarding a material change in circumstances and a child's best interests are reviewed de novo with a presumption of correctness unless the evidence preponderates otherwise. Parenting-plan and custody decisions are reviewed for abuse of discretion, and appellate courts should reverse only when the ruling falls outside the spectrum of reasonable results under the correct legal standards. Trial courts receive considerable deference because they observe witnesses and assess credibility.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	C.W.H. v. L.A.S.

TOPICS

child custody

relocation

standard of review

appellate procedure

statutory interpretation

PRACTICE AREAS

family law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Court of Appeals improperly rejected the juvenile court's factual findings and failed to apply the deferential standard of review applicable to custody and parenting-plan decisions.
2. Whether the juvenile court applied the correct version of Tennessee Code Annotated section 36-6-106 in conducting the best-interest analysis.
3. Whether the Court of Appeals erred by ordering an immediate change of custody without allowing Father an opportunity to seek review in the Tennessee Supreme Court.
4. Whether Father's claim for attorney's fees was preserved for review.

HOLDINGS

1. The Court of Appeals improperly failed to defer to the juvenile court's factual findings and improperly usurped the trial court's role in assessing witness credibility and parenting-plan facts.
2. The juvenile court's finding of a material change in circumstances based on Mother's hostility toward Father was an unappealed finding that supported proceeding to the best-interest analysis.
3. The 2014 version of Tennessee Code Annotated section 36-6-106 governed the juvenile court's best-interest analysis because the amendment was procedural rather than substantive.
4. The Court of Appeals erred by ordering an immediate transfer of custody without allowing Father an opportunity to seek review in the Tennessee Supreme Court, absent allegations or evidence of danger to the children or another compelling reason for expedited issuance.
5. Father's claim for attorney's fees was waived because he did not raise the issue in his Rule 11 application or brief before the Supreme Court.

KEY QUOTATIONS

“A trial court’s determinations of whether a material change in circumstances has occurred and whether modification of a parenting plan serves a child’s best interests are factual questions.” (538 S.W.3d at 692)

“Appellate courts should not overturn a trial court’s decision merely because reasonable minds could reach a different conclusion.” (538 S.W.3d at 693)

“The evidence does not preponderate against this finding.” (538 S.W.3d at 11)

FACTUAL BACKGROUND

The unmarried parties had two children and an agreed parenting plan designating Mother as the primary residential parent after Mother relocated to Ohio. Father later learned that Mother had secretly relocated with the

children to Nevada and had been working as a prostitute, facts she had not disclosed during a 2013 settlement conference. The juvenile court found a material change in circumstances based in part on Mother's hostility toward Father, deceit, and former occupation, and concluded after a best-interest analysis that Father should become the primary residential parent.

PROCEDURAL HISTORY

The Hamilton County Juvenile Court found a material change in circumstances and designated Father as the primary residential parent. The Court of Appeals initially vacated and remanded for a best-interest analysis. After the juvenile court reaffirmed its ruling and conducted the analysis, the Court of Appeals reversed, ordered the children transferred to Mother within twenty days, and denied rehearing. The Tennessee Supreme Court granted Father's Rule 11 application, reversed the Court of Appeals, and remanded to the juvenile court for an expeditious return of the children to Father's physical custody.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Hamilton County Juvenile Court to effect an expeditious return of the children to Father's physical custody in a manner least disruptive to their welfare.

CASES CITED

- Armbrister v. Armbrister, 414 S.W.3d 685, 692-93, 697, 705-06 & n.22 (Tenn. 2013)
- Massey-Holt v. Holt, 255 S.W.3d 603, 607 (Tenn. Ct. App. 2008)
- Suttles v. Suttles, 748 S.W.2d 427, 429 (Tenn. 1988)
- Eldridge v. Eldridge, 42 S.W.3d 82, 85, 88 (Tenn. 2001)
- Gonsewski v. Gonsewski, 350 S.W.3d 99, 105 (Tenn. 2011)
- Kelly v. Kelly, 445 S.W.3d 685, 691-93, 696 (Tenn. 2014)
- Hodge v. Craig, 382 S.W.3d 325, 333-35 (Tenn. 2012)
- Boyer v. Boyer, 238 S.W.3d 249, 260 (Tenn. Ct. App. 2007)
- Woods v. TRW, Inc., 557 S.W.2d 274, 275 (Tenn. 1977)
- Cates v. T.I.M.E., DC, Inc., 513 S.W.2d 508, 510 (Tenn. 1974)
- Saylors v. Riggsbee, 544 S.W.2d 609, 610 (Tenn. 1976)
- Kee v. Shelter Ins., 852 S.W.2d 226, 228 (Tenn. 1993)
- Brooks v. Carter, 993 S.W.2d 603, 610-11 & n.6 (Tenn. 1999)
- Keisling v. Keisling, 92 S.W.3d 374, 380 (Tenn. 2002)
- In re Adoption of Female Child, 896 S.W.2d 546, 548 (Tenn. 1995)
- C.W.H. v. L.A.S., No. E2015-01498-COA-R3-JV, 2016 WL 6426731, at *3, *4-11, *16 (Tenn. Ct. App. Oct. 31, 2016)

