

SUPREME COURT OF THE STATE OF MONTANA

In re the Marriage of Cheryle A. Cook, a/k/a Smith, Gladden, and
Curtis A. Smith

2002 MT 40N (Supreme Court of the State of Montana 2002) · No. No. 99-565 · Decided March 5, 2002

SUMMARY

The Montana Supreme Court affirmed the Thirteenth Judicial District Court’s order amending the final parenting plan for the parties’ minor children. The court declined to reach the merits because the pro se appellant failed to support her arguments with legal authority and did not establish that the District Court abused its discretion.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Karla M. Gray, Chief Justice
JURISDICTION	Montana
DECIDED	March 5, 2002
DOCKET	No. 99-565
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Thirteenth Judicial District Court amending the final parenting plan and awarding custody of the parties' minor children to Curtis Smith.
STANDARD OF REVIEW	A district court's decision is presumed correct, and the appellant bears the burden of establishing error. The court characterized the challenged parenting-plan decision as subject to abuse-of-discretion review but did not reach the merits.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Cheryle A. Cook, a/k/a Smith, Gladden v. Curtis A. Smith

TOPICS

- child custody
- family law procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the District Court abused its discretion by entering findings of fact, conclusions of law, and an order amending the final parenting plan.

HOLDINGS

1. The court did not reach the merits of the alleged abuse of discretion because Cheryle failed to comply with appellate briefing requirements and failed to support her argument with legal authority; the judgment was therefore affirmed.

KEY QUOTATIONS

“It is not this Court's obligation to locate authorities or formulate arguments for a party in support of positions taken on appeal.” (¶ 9)

FACTUAL BACKGROUND

Cheryle Cook and Curtis Smith divorced in 1994 and had three minor children. After the Montana Department of Public Health and Human Services received numerous reports alleging neglect and physical and sexual abuse, the Department removed the children from Cheryle's home and placed them with a relative in foster care. Curtis sought to amend the final parenting plan, received interim custody, and ultimately obtained a revised final parenting plan after a district court hearing.

PROCEDURAL HISTORY

The parties' marriage was dissolved in 1994, with Cheryle Cook granted sole care, custody, and control of the three minor children and Curtis Smith granted visitation. After the Montana Department of Public Health and Human Services received reports of neglect and abuse and removed the children from Cheryle's home, Curtis moved to amend the final parenting plan. The District Court granted Curtis interim custody, later adopted his proposed final parenting plan after a hearing, and entered findings of fact, conclusions of law, and an order on August 5, 1999. The Montana Supreme Court affirmed without reaching the merits because Cheryle failed to support her appellate arguments with legal authority.

DISPOSITION

affirmed

CASES CITED

- In re M.J.W., 1998 MT 142, ¶ 18, 289 Mont. 232, 961 P.2d 105
- In re B.P., 2001 MT 219, ¶ 41, 306 Mont. 430, 35 P.3d 291