

SUPREME JUDICIAL COURT OF MAINE

Mark Belliveau v. Janet Whelan

2019 ME 122 (2019) · No. Yor-18-509 · Decided July 30, 2019

SUMMARY

The Maine Supreme Judicial Court affirmed the dismissal of Mark Belliveau’s divorce complaint because he and Janet Whelan did not satisfy Maine’s statutory requirements for a valid marriage. The court declined to adopt either the putative spouse doctrine or marriage by estoppel, concluding that doing so would improperly intrude on the Legislature’s policy-making function and create uncertainty in Maine marriage law.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Jabar, J.; Saufley, C.J.; Alexander, J.; Mead, J.; Gorman, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	July 30, 2019
DOCKET	Yor-18-509
DISPOSITION	affirmed
PROCEDURAL POSTURE	Belliveau appealed from the District Court’s dismissal of his complaint for divorce on the ground that the parties were never legally married.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review; it reviews the District Court’s dismissal and the legal question whether the parties were legally married.
PRECEDENTIAL VALUE	precedential
PARTIES	Mark Belliveau v. Janet Whelan

TOPICS

marriage divorce family law procedure statutory interpretation legislative intent

PRACTICE AREAS

family law marriage divorce appellate procedure

QUESTIONS PRESENTED

1. Whether Maine should recognize the putative spouse doctrine to treat the parties as married despite their failure to satisfy statutory marriage requirements.
2. Whether Maine should recognize the doctrine of marriage by estoppel under the circumstances presented.
3. Whether the District Court properly dismissed the complaint for divorce because the parties were never legally married.

HOLDINGS

1. Maine does not recognize common-law marriage, and the court declined to adopt either the putative spouse doctrine or the doctrine of marriage by estoppel as an end-run around Maine's statutory requirements for a valid marriage.
2. The complaint for divorce was properly dismissed because Belliveau and Whelan were never legally married under Maine law.

KEY QUOTATIONS

“On this basis, we have declined to recognize common law marriage and have continuously left policy decisions regarding marriage and divorce to the Legislature.” (¶ 5)

“Because the adoption of either of these doctrines by us would be an infringement on the Legislature’s function and “would only introduce new uncertainties into our law,” we decline to do so.” (¶ 6)

FACTUAL BACKGROUND

In 1992, Belliveau and Whelan traveled to England to marry but were denied a marriage license because they did not meet the residency requirement. They nevertheless held a ceremony officiated by a friend who was not authorized to solemnize marriages, and they later held a reception in Maine without obtaining a Maine marriage license or taking other steps to create a valid marriage. For twenty-six years, they held themselves out as married, filed joint tax returns, signed insurance documents as spouses, and executed a property agreement referring to them as husband and wife.

PROCEDURAL HISTORY

Belliveau and Whelan participated in a wedding ceremony in England after being denied a marriage license because they did not satisfy the residency requirement. They did not obtain a marriage license in Maine or otherwise comply with Maine's marriage requirements. After Belliveau filed for divorce, Whelan sought dismissal, and the Biddeford District Court dismissed the complaint. Belliveau timely appealed, and the Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Patterson, 2004 ME 79, ¶ 13, 851 A.2d 521
- Pierce v. Sec'y of U.S. Dep't of Health, Educ. & Welfare, 254 A.2d 46, 47 (Me. 1969)
- Miliano v. Miliano, 2012 ME 100, ¶ 21, 50 A.3d 534
- Grishman v. Grishman, 407 A.2d 9, 12 (Me. 1979)
- Williams v. Williams, 97 P.3d 1124, 1126, 1128-29 (Nev. 2004)
- Lowenschuss v. Lowenschuss, 579 A.2d 377, 381-82, 386 (Pa. Super. Ct. 1990)
- Xiong v. Xiong, 648 N.W.2d 900, 905-06 (Wis. Ct. App. 2002)
- Martin v. Coleman, 19 S.W.3d 757, 760-61 (Tenn. 2000)
- Chrismond v. Chrismond, 52 So. 2d 624, 628-29 (Miss. 1951)
- Hill v. Bell, 747 S.E.2d 791, 791-93 (S.C. 2013)
- Watts v. Watts, 405 N.W.2d 303, 309 (Wis. 1987)
- Goldin v. Goldin, 426 A.2d 410, 412-13 (Md. Ct. Spec. App. 1981)

OPINION

JABAR, J.

MAINE SUPREME JUDICIAL COURT Reporter of Decisions Decision: 2019 ME 122 Docket: Yor-18-509 Argued: June 25, 2019 Decided: July 30, 2019 Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ. MARK BELLIVEAU v. JANET WHELAN JABAR, J. [¶1] Mark Belliveau appeals from the District Court's (Biddeford, Sutton, J.) dismissal of his complaint for divorce from Janet Whelan because the parties were never legally married.

Belliveau argues that the court erred by declining to adopt the putative spouse doctrine or the doctrine of marriage by estoppel. We affirm the judgment. I. BACKGROUND [¶2] The following facts were found by the court following a hearing on September 17, 2018, and are fully supported by the record.

In May 1992, Belliveau and Whelan traveled to England to be married. Upon arriving, they attempted to obtain a marriage license from the local town hall, but were denied a license because they did not meet the residency requirement. Despite 2 this, Belliveau and Whelan went ahead with their planned wedding ceremony, which was officiated by a friend who was neither a minister nor an official authorized to solemnize marriages there.

Upon their return to Maine, Belliveau and Whelan held a "wedding reception," but did not seek or obtain a marriage license in Maine, nor did they take any other steps to create a valid marriage. [¶3] Over the next twenty-six years, Belliveau and Whelan held themselves out to others as a married couple. Their son, now twenty, has believed, and continues to believe, that Belliveau and Whelan are married.

Belliveau and Whelan filed joint income taxes, signed medical insurance documents as a married couple, and signed and had notarized a “Property Ownership Agreement” that characterizes them as “husband and wife.” This agreement indicates that, in the event of a divorce, Whelan would retain exclusive ownership of the property. [¶4] In March 2017, Belliveau filed a complaint for divorce.

In response, Whelan asserted that the parties were never legally married and sought a dismissal of the complaint. After holding an interim hearing, the court agreed with Whelan and dismissed the complaint. Belliveau timely appealed. 3 II. DISCUSSION [¶5] In Maine, the requirements for a valid marriage are provided by statute. See 19-A M.R.S. §§ 650-753 (2018).

On this basis, we have declined to recognize common law marriage and have continuously left policy decisions regarding marriage and divorce to the Legislature. See *State v. Patterson*, 2004 ME 79, ¶ 13, 851 A.2d 521 (“Maine does not recognize common law marriage.”); *Pierce v. Sec’y of U.S. Dep’t of Health, Educ. & Welfare*, 254 A.2d 46, 47 (Me. 1969) (“Sound public policy dictates that there be a minimum of uncertainty as to whether or not a [valid] marriage exists.

The meeting of statutory requirements has this desirable effect.”); *Miliano v. Miliano*, 2012 ME 100, ¶ 21, 50 A.3d 534; *Levy*, *Maine Family Law* § 7.13 at 7-80 (8th ed. 2013). [¶6] There is no dispute that Belliveau and Whelan did not comply with the statutory requirements to enter into a valid marriage. See 19-A M.R.S. §§ 651-52, 654-56. Belliveau asks us to create an end-run around those requirements by adopting one, or both, of two equitable doctrines—the putative spouse doctrine or the doctrine of marriage by estoppel.

See *Williams v. Williams*, 97 P.3d 1124, 1126 (Nev. 2004) (describing the putative spouse doctrine); *Lowenschuss v. Lowenschuss*, 579 A.2d 377, 381-82 (Pa. Super. Ct. 4 1990) (describing the doctrine of marriage by estoppel).¹ Because the adoption of either of these doctrines by us would be an infringement on the Legislature’s function and “would only introduce new uncertainties into our law,” *Grishman v. Grishman*, 407 A.2d 9, 12 (Me.

1979), we decline to do so. The entry is: Judgment affirmed. Dana E. Prescott, Esq. (orally), Prescott Jamieson Murphy Law Group, LLC, Saco, for appellant Mark Belliveau James B. Smith, Esq. (orally), Woodman Edmands Danylik Austin Smith & Jacques, P.A., Biddeford, for appellee Janet Whelan Biddeford District Court docket number FM-2017-125 FOR CLERK REFERENCE ONLY 1 Other jurisdictions vary in their treatment of these doctrines.

In some states, the legislature has adopted the putative spouse doctrine, or some version of it, by statute. See, e.g., Alaska Stat. § 25.05.051 (LEXIS through 2019 SLA, ch. 5); Cal. Fam. Code § 2251 (Deering, LEXIS through Ch. 1-6, 18, 22-23 of 2019 Reg. Sess.); Colo. Rev. Stat. § 14-2-111 (LEXIS through 2018 Legis. Sess.); Minn. Stat. § 518.055 (LEXIS through ch. 2 of 2019 First Special Sess.); Tex. Fam.

Code Ann. § 8.060 (LEXIS through 2019 Sess.); see also Unif. Marriage & Divorce Act § 209 (Unif. Law Comm'n 1973). In other states, courts have judicially adopted one or both of the doctrines. See, e.g., *Williams v. Williams*, 97 P.3d 1124, 1128-29 (Nev. 2004); *Xiong v. Xiong*, 648 N.W.2d 900, 905-06 (Wis. Ct. App. 2002); *Martin v. Coleman*, 19 S.W.3d 757, 760-61 (Tenn. 2000); *Lowenschuss v. Lowenschuss*, 579 A.2d 377, 381-82, 386 (Pa. Super. Ct. 1990); *Chrismond v. Chrismond*, 52 So. 2d 624, 628-29 (Miss. 1951). Yet, in other states, courts have declined to adopt the doctrines in deference to the legislature's policy-making function. See, e.g., *Hill v. Bell*, 747 S.E.2d 791, 791-93 (S.C. 2013); *Watts v. Watts*, 405 N.W.2d 303, 309 (Wis. 1987); *Goldin v. Goldin*, 426 A.2d 410, 412-13 (Md. Ct. Spec. App. 1981).