

SUPREME COURT OF THE STATE OF MONTANA

Boechler v. St. Clair-Vorce

2010 MT 173N (2010) · No. DA 10-0008 · Decided August 9, 2010

SUMMARY

The Montana Supreme Court affirmed the District Court’s denial of Dan Conrad Boechler’s motions to increase child support, impose late fees, and obtain an accounting of assets allegedly belonging to the parties’ son. The Court held that the inheritance-related claims belonged in a separate action outside the dissolution proceeding and concluded that the District Court did not abuse its discretion. The memorandum decision was designated noncitable under the Montana Supreme Court’s Internal Operating Rules.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Patricia O. Cotter; Patricia O. Cotter; Mike McGrath; W. William Leaphart; Brian Morris; James C. Nelson
JURISDICTION	Montana
DECIDED	August 9, 2010
DOCKET	DA 10-0008
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dan Conrad Boechler appealed the District Court's denial of his motions to increase child support, obtain late fees, and obtain an accounting of assets allegedly belonging to the parties' son.
STANDARD OF REVIEW	A district court's decision to modify child support is reviewed for abuse of discretion. Conclusions of law in the dissolution context are reviewed for correctness.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Dan Conrad Boechler v. Nelda Ann St. Clair-Vorce

TOPICS

- child support
- family law procedure
- appellate procedure
- trusts
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the District Court erred in denying Boechler's request for an accounting of assets allegedly held by St. Clair-Vorce for the benefit of their son.
2. Whether the District Court erred in denying Boechler's motion to increase child support.
3. Whether the District Court erred in denying Boechler's request for late fees or contempt-related relief based on alleged untimely child-support payments.

HOLDINGS

1. The District Court did not err in refusing to adjudicate the alleged inheritance and accounting claims in the post-dissolution proceeding; those property-inheritance issues belonged in a separate action outside the dissolution proceeding.
2. The District Court did not abuse its discretion in denying Boechler's motion to increase child support.
3. The District Court did not err in denying late fees and related relief because the parties' course of dealing reflected an agreement concerning the timing and amount of payments, and St. Clair-Vorce had paid her fair share and often more than required.

KEY QUOTATIONS

“the following memorandum decision shall not be cited as precedent” (§ 1)

FACTUAL BACKGROUND

Dan Boechler and Nelda Ann St. Clair-Vorce's marriage was dissolved in 1997, and Boechler became the custodial parent of their son, while St. Clair-Vorce paid child support. The parties gradually increased the support amount by agreement, reaching \$975 per month in February 2008, with payments made twice monthly through payroll withholding and resulting in two extra half-payments each year. Boechler also claimed that assets inherited from St. Clair-Vorce's father, including a truck, riding lawnmower, and Wyoming real property, had been left for their son and sought an accounting. The District Court found no merit in the late-fee and increased-support claims and concluded that the inheritance issues were outside the dissolution court's jurisdiction.

PROCEDURAL HISTORY

The marriage was dissolved in the Thirteenth Judicial District Court in 1997. After post-dissolution proceedings concerning child support, alleged late payments, and inherited assets, the District Court denied Boechler's motions and concluded that the inheritance issues belonged in a separate action. Boechler appealed, and the Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Marriage of Williams, 2009 MT 282, ¶ 14, 352 Mont. 198, 217 P.3d 67

OPINION

Boechler v. St.Clair-Vorce

2010 MT 173N

PER CURIAM.

August 9 2010 DA 10-0008

IN THE SUPREME COURT OF THE STATE OF MONTANA

2010 MT 173N

DAN CONRAD BOECHLER,

Petitioner and Appellant, v.

NELDA ANN ST. CLAIR VORCE,

Respondent and Appellee. APPEAL FROM: District Court of the Thirteenth Judicial District, In and For the County of Yellowstone, Cause No. DR 97-0873 Honorable G. Todd Baugh, Presiding Judge COUNSEL OF RECORD: For Appellant: Dan Conrad Boechler (Self-Represented), Billings, Montana For Appellee: Shawn P. Cosgrove, Parker, Heitz & Cosgrove, PLLC, Billings, Montana Submitted on Briefs: June 23, 2010 Decided: August 9, 2010 Filed:

Clerk Justice Patricia O. Cotter delivered the Opinion of the Court. ¶1 Pursuant to Section I, Paragraph 3(d)(v), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2006, the following memorandum decision shall not be cited as precedent. It shall be filed as a public document with the Clerk of the Supreme Court and its case title, Supreme Court cause number and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports. ¶2 Appellant Dan Conrad Boechler (Dan) appeals from a Final Decision and Order of the Thirteenth Judicial District Court. The District Court denied Dan's motion to increase the amount of child support and for an award of late fees. Furthermore, the District Court rejected Dan's attempt to obtain an accounting of certain assets held by Nelda Ann St. Clair Vorce (Nelda) which Dan claimed belonged in part to their son Kenn Boechler (Kenn). We affirm. ¶3 The marriage of Dan and Nelda was dissolved by the District Court in August 1997. At the time their son Kenn was 6 years old. Kenn is now 19. After their dissolution, Dan and Nelda stipulated to a parenting plan. Nelda eventually moved to Nevada, while Dan and Kenn remained in Montana. Dan became the custodial parent and Nelda paid child support. ¶4 The District Court found that the amount of child support was gradually increased over the years by the agreement of the parties. In February 2008, the amount was increased to \$975 per month. Nelda paid Dan twice a month through withholding out of her paycheck. The District Court found that the parties had agreed to this course of 2 dealing over the years and that this system resulted in Dan receiving two extra half-payments each year. ¶5 In 1998, Nelda's father died in Billings, Montana. Dan claims that Nelda's father left

some assets to Kenn prior to his death, over which Nelda subsequently assumed control. These assets included a truck, a riding lawnmower, and real property located in Wyoming. Nelda eventually sold the real property and allegedly retained the proceeds of the sale. Beginning in March 2007, Dan, in a self-represented capacity, attempted to gain access to these assets and obtain an accounting of their disposition by reopening litigation in the dissolution matter, claiming the assets were held in trust of the benefit of Kenn. ¶6 The District Court informed Dan, both in written orders and via letter, that it did not have jurisdiction over these assets. The Court advised Dan that he could not pursue the inheritance matters on Kenn's behalf in post-dissolution proceedings, and suggested that Dan pursue the claims on Kenn's behalf—or that Kenn do so directly—in a separate proceeding. The District Court also advised Dan to consult a lawyer in this regard. ¶7 Dan had also sought to hold Nelda in contempt of court for her alleged failure to make timely child support payments, and sought an award of late fees. The District Court found no merit in the argument, noting that Nelda always paid her fair share of the child support, and often times paid more than required. Furthermore, the District Court found that any alleged delay in payments was part of a course of dealing between Dan and Nelda to which both parties implicitly agreed. ¶8 Dan appeals from the District Court's decision, arguing it erred in dismissing his request for an accounting of the assets allegedly held by Nelda, and in denying his motion 3 for increased child support and late fees. We generally review a district court's decision to modify an award of child support for an abuse of discretion. See *In re Marriage of Williams*, 2009 MT 282, ¶ 14, 352 Mont. 198, 217 P.3d 67. We review a district court's conclusions of law in the dissolution context to determine if they are correct. *In re Marriage of Williams*, ¶ 14. ¶9 We conclude the District Court did not err in denying Dan's motion for late fees, his motion to increase child support, and his various motions to gain access to, and an accounting of, the assets held by Nelda and allegedly belonging to Kenn. We concur with the District Court's determination that the property inheritance issues Dan wishes to pursue belong in a separate action outside the dissolution proceeding. We further conclude the Court did not err in denying the balance of Dan's motions, given the facts before the District Court. ¶10 We have determined to decide this case pursuant to Section 1, Paragraph 3(d) of our 1996 Internal Operating Rules, as amended in 2006, which provides for memorandum opinions. It is manifest on the record before us that the District Court did not err or abuse its discretion in denying Dan's various motions. Affirmed.

/S/ PATRICIA COTTER

We concur:

/S/ MIKE McGRATH

/S/ W. WILLIAM LEAPHART

/S/ BRIAN MORRIS

/S/ JAMES C. NELSON

