

SUPREME COURT OF MONTANA

Heinle v. Fourth Judicial District Court, 260 Mont. 489

861 P.2d 171 (1993) · No. No. 93-353 · Decided October 5, 1993

SUMMARY

The Montana Supreme Court held that a Montana district court lacked personal jurisdiction over a nonresident father when it modified a California child-support decree, because the record did not establish sufficient minimum contacts with Montana. The court concluded that the resulting default child-support judgment was void and granted a writ of certiorari, vacating the child-support and arrearage judgments. The court also held that the lack of an adequate appellate remedy did not bar certiorari relief from a void judgment.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Trieweiler, Justice; Trieweiler; Turnage; Harrison; Hunt; Gray; Nelson; Weber
JURISDICTION	Montana
DECIDED	October 5, 1993
DOCKET	No. 93-353
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Howard R. Heinle petitioned for a writ of certiorari challenging a Montana district court's default judgment modifying a California dissolution decree and increasing child support. The Supreme Court of Montana granted the writ and vacated the child-support provisions of the default judgment and the later arrearage judgment.
STANDARD OF REVIEW	Certiorari review is limited to the lower court's record to determine whether the tribunal had jurisdiction to perform the challenged act, enter the order, or render the judgment.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion
PARTIES	Howard R. Heinle v. Fourth Judicial District Court of the State of Montana, in and for Missoula County, Douglas G. Harkin, District Judge

TOPICS

child support

personal jurisdiction

default judgment

writ of certiorari

family law procedure

PRACTICE AREAS

family law

civil procedure

constitutional law

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the Montana district court had a constitutional basis to exercise personal jurisdiction over a nonresident parent and enter a child-support money judgment.
2. Whether Heinle's failure to make a timely personal-jurisdiction objection waived the jurisdictional defect under Rule 12(h), Montana Rules of Civil Procedure.
3. Whether a writ of certiorari was available despite the general availability of an appeal from an order modifying child support.

HOLDINGS

1. A Montana court must have in personam jurisdiction over a nonresident parent before entering a judgment ordering that parent to pay child support. Because the record showed no statutory or constitutional basis for personal jurisdiction over Heinle, the child-support default judgment was void.
2. The question of waiver under Rule 12(h) was immaterial because the controlling issue was whether Montana constitutionally acquired personal jurisdiction over Heinle and whether the judgment was valid and binding.
3. Certiorari was a proper remedy because the district court exceeded its jurisdiction and Heinle had no plain, speedy, and adequate remedy through appeal; a party need not appeal from a judgment that is void for lack of jurisdiction.

KEY QUOTATIONS

“Therefore, the default judgment entered against Howard with respect to child support is void.” (174)

“There is no need to appeal from a judgment that is void.” (175)

FACTUAL BACKGROUND

A California dissolution decree required Howard Heinle to pay \$180 per month for support of the parties' two children. After the children's mother and the children moved to Montana, she petitioned the Montana district court to modify child support and visitation. Heinle was personally served in California, but the record contained no facts showing that he had sufficient contacts with Montana or otherwise consented to personal jurisdiction. The Montana court entered a default judgment increasing support to \$602 per month and later entered a \$6,656 arrearage judgment.

PROCEDURAL HISTORY

A California court dissolved the parties' marriage in 1987 and ordered Heinle to pay \$180 per month in child support. After Verleen Heinle and the children moved to Montana, the Montana district court entered a default

judgment increasing support to \$602 per month and modifying visitation, despite no evidence establishing personal jurisdiction over Heinle. The court later reduced arrearages to a judgment, denied Heinle's motion challenging jurisdiction and service, and denied reconsideration. Heinle then sought certiorari in the Montana Supreme Court.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The provisions of the 1991 default judgment ordering Heinle to pay \$602 per month in child support, and the subsequent judgment reducing arrearages to a stated amount, were vacated.

CASES CITED

- City of Helena v. Buck (1991), 247 Mont. 313, 806 P.2d 27
- Lay v. District Court (1948), 122 Mont. 61, 198 P.2d 761
- Prentice Lumber Company v. Spahn (1970), 156 Mont. 68, 474 P.2d 141
- Marriage of Blaskovich (1991), 249 Mont. 248, 815 P.2d 581
- Shields v. Pirkle Refrigerated Freight Lines, Inc. (1979), 181 Mont. 37, 591 P.2d 1120
- Marriage of Appleton (1988), 234 Mont. 345, 763 P.2d 658
- Edsall Construction Co. v. Robinson (1991), 246 Mont. 378, 804 P.2d 1039
- Simmons Oil v. Holly Corp. (1990), 244 Mont. 75, 796 P.2d 189
- Nelson v. San Joaquin Helicopters (1987), 228 Mont. 267, 742 P.2d 447
- Kulko v. California Superior Court (1978), 436 U.S. 84, 98 S. Ct. 1690, 56 L. Ed. 2d 132
- State ex rel. Gates v. District Court (1923), 69 Mont. 322, 221 P. 543