

SUPREME COURT OF COLORADO

In re the Marriage of de Koning

2016 CO 2 (2016) · No. 14SC152 · Decided January 11, 2016

SUMMARY

The Colorado Supreme Court held that, when determining whether to award attorney fees under section 14-10-119, C.R.S., a trial court must assess the parties' financial resources as of the date of the dissolution decree or, if earlier, the hearing on disposition of property. The court rejected the view that financial circumstances must be updated through a later attorney-fee hearing. It reversed and remanded for reinstatement of the trial court's protective order and its order requiring each party to pay their own fees and costs.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Hood
JURISDICTION	Colorado
DECIDED	January 11, 2016
DOCKET	14SC152
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Husband petitioned for certiorari review of the Colorado Court of Appeals' decision reversing the trial court's protective order and attorney-fee ruling in a dissolution proceeding.
STANDARD OF REVIEW	The court reviews factual findings for clear error or abuse of discretion and reviews legal conclusions de novo. Decisions awarding attorney fees and costs are reviewed for abuse of discretion, while the legal conclusions forming the basis for those decisions are reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential Colorado Supreme Court opinion; decided en banc.
PARTIES	Kendrik Jon de Koning v. Melissa Christie de Koning

TOPICS

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QUESTIONS PRESENTED

1. For purposes of deciding whether to award attorney fees under section 14-10-119, should the trial court assess the parties' financial resources as of the later attorney-fee hearing or as of the decree of dissolution or property-disposition hearing?
2. Did the trial court properly issue a protective order barring discovery of financial information arising after the permanent-orders hearing?
3. Did the court of appeals err by reversing the trial court's order requiring each party to pay his or her own attorney fees and costs?

HOLDINGS

1. When deciding whether to award attorney fees under section 14-10-119 after entry of permanent orders, the trial court must consider the parties' financial resources as of the date of the decree of dissolution or, if earlier, the date of the hearing on disposition of property, rather than as of a later attorney-fee hearing.
2. The trial court properly limited discovery and consideration of financial resources to information existing at the permanent-orders hearing when the property division and other permanent financial orders were not being reopened.

KEY QUOTATIONS

"We hold that for the purpose of deciding whether to award attorney's fees under section 14-10-119, a trial court should consider the parties' financial resources as of the date of the issuance of the decree of dissolution or the date of the hearing on disposition of property, if such hearing precedes the date of the decree." (§ 4)

"Rule 16.2 indicates a preference for limiting discovery in time and in scope in order to further the efficient resolution of domestic relations cases." (§ 25)

"The centrality of property division to determining awards of maintenance and attorney's fees leads us to conclude that parties' financial circumstances must be assessed as of the date of the decree or the date of the hearing on disposition of property if such hearing precedes the date of the decree." (§ 28)

FACTUAL BACKGROUND

After an eleven-year marriage and the birth of three children, the parties incurred approximately \$180,000 in attorney fees and costs during their dissolution proceeding. The trial court entered a decree and permanent orders after the March 2012 hearing, dividing marital property and ordering child support and spousal maintenance, but postponed the attorney-fee determination. Before the later fee hearing, Wife sought updated financial discovery based on alleged improvement in Husband's financial circumstances, but the trial court issued a protective order and limited consideration to financial resources existing at the original permanent-orders hearing.

PROCEDURAL HISTORY

Following a permanent orders hearing, the trial court entered a decree dissolving the marriage and resolved parental responsibilities, child support, marital-property division, and spousal maintenance, but postponed attorney-fee determination. The trial court later entered a protective order barring discovery of post-hearing financial information and ordered each party to pay his or her own fees and costs. The court of appeals reversed and remanded for consideration of financial circumstances existing at the later fee hearing. The Colorado Supreme Court reversed the court of appeals and remanded with instructions to reinstate the trial court's orders.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the court of appeals and remand for reinstatement of the trial court's protective order and its order directing each party to pay his or her own attorney fees and costs.

CASES CITED

- E-470 Pub. Highway Auth. v. 455 Co., 3 P.3d 18, 22 (Colo. 2000)
- In re Marriage of Gallegos & Baca-Gallegos, 251 P.3d 1086, 1087 (Colo. App. 2010)
- In re Marriage of Huff, 834 P.2d 244, 248 (Colo. 1992)
- In re Marriage of Jones, 627 P.2d 248, 251-52 (Colo. 1981)
- In re Marriage of Hill, 166 P.3d 269, 272 (Colo. App. 2007)
- In re Marriage of Antuna, 8 P.3d 589, 595 (Colo. App. 2000)
- In re Marriage of Aldrich, 945 P.2d 1370, 1377-78 (Colo. 1997)
- In re Marriage of Ikeler, 161 P.3d 663, 669 (Colo. 2007)
- In re Marriage of Balanson, 25 P.3d 28, 43 (Colo. 2001)
- In re Marriage of Rieger, 827 P.2d 625, 626 (Colo. App. 1992)
- In re Marriage of Wells, 850 P.2d 694, 696 (Colo. 1993)
- In re Marriage of Renier, 854 P.2d 1382, 1386 (Colo. App. 1993)
- In re Marriage of de Koning, 2014 COA 4