

SUPREME COURT OF NEW HAMPSHIRE

In re LaRocque

164 N.H. 148 (2012) · Decided August 31, 2012

SUMMARY

The New Hampshire Supreme Court reviewed a contempt finding and child-support arrearage calculation against George W. LaRocque. The court held that the parties had not agreed to waive arrearages or reduce support, and that life-insurance proceeds were includable as gross income under New Hampshire’s child-support statute. It vacated and remanded the support and arrearage calculations because the modification should have been effective when the older child turned eighteen and left school.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Conboy, J.; Dallanis, C.J.; Hicks, J.; Galway, J., specially assigned
JURISDICTION	New Hampshire
DECIDED	August 31, 2012
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Father appealed a family-division order finding him in contempt for failure to pay child support, determining arrearages, and modifying his child-support obligation.
STANDARD OF REVIEW	Contract formation was reviewed as a factual question and the trial court's finding would not be disturbed absent a lack of evidentiary support. Laches was reviewed for abuse of discretion or legal error. Whether life-insurance proceeds constituted gross income was reviewed de novo. Statutory interpretation was reviewed as a question of law.
PRECEDENTIAL VALUE	Published opinion
PARTIES	George W. LaRocque v. Mary Beth LaRocque

TOPICS

- child support
- life insurance litigation
- statutory interpretation
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the parties agreed to waive child-support arrearages and reduce Father's court-ordered child-support obligation.
2. Whether an unapproved agreement between the parties could modify the court-ordered child-support amount.
3. Whether laches barred Mother's claim for child-support arrearages.
4. Whether life-insurance proceeds constitute gross income under RSA 458-C:2, IV for purposes of calculating child support.
5. Whether the effective date of the child-support modification was the date Father filed his motion or the date the older child turned eighteen and was no longer in school.

HOLDINGS

1. The trial court's finding that the parties did not agree to waive child-support arrearages or reduce child support was supported by the evidence and would not be disturbed.
2. Even if the parties had entered an agreement to modify child support, the agreement would be unenforceable absent court approval.
3. Laches did not bar Mother's claim because Father failed to prove unreasonable delay and resulting prejudice.
4. Life-insurance proceeds are encompassed within the definition of gross income in RSA 458-C:2, IV and may be included in calculating child support.
5. The modification was effective June 22, 2010, when the older child turned eighteen and was no longer in school, rather than January 7, 2011, when Father moved to modify support.

KEY QUOTATIONS

“Moreover, the trial court correctly observed that even if the parties had entered into an agreement to modify the child support amount, such an agreement would be unenforceable absent court approval.” (151)

“We, therefore, conclude that the definition of gross income in RSA 458-C:2, IV encompasses life insurance proceeds.” (153)

“Accordingly, we vacate the court’s order and remand for the court to recalculate the Father’s on-going child support obligation, as well as his arrearages, in light of this opinion.” (154)

FACTUAL BACKGROUND

The parties divorced in 2000, and their decree required Father to pay \$3,593 per month in child support for two children, along with alimony and medical coverage. Father unilaterally reduced his child-support payments after the older child turned eighteen, while Mother denied agreeing to waive arrearages or modify support. After

Father's second wife died, he received \$500,000 in life-insurance proceeds. The family court found Father in contempt, calculated arrearages, and included the proceeds in determining his modified child-support obligation.

PROCEDURAL HISTORY

The parties divorced in February 2000 under a decree incorporating a permanent stipulation and uniform support order. Mother petitioned for contempt after Father reduced his child-support payments and allegedly failed to pay the full ordered amount. The Manchester Family Division rejected Father's asserted agreement to waive arrearages and modify support, found him in contempt, calculated arrearages at \$102,845.52, granted a prospective modification, and included Father's \$500,000 life-insurance proceeds in gross income. The Supreme Court affirmed in part, reversed in part, vacated in part, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must recalculate Father's ongoing child-support obligation and arrearages using June 22, 2010, as the effective date of modification and determine how Father's receipt of the life-insurance proceeds affects his support and arrearage obligations.

CASES CITED

- Glick v. Chocorua Forestlands Ltd. Partnership, 157 N.H. 240, 252 (2008)
- Guri (Cushing) v. Guri, 122 N.H. 552, 555 (1982)
- In the Matter of Laura & Scott, 161 N.H. 333, 336-337 (2010)
- In the Matter of Henry & Henry, 163 N.H. 175, 181 (2012)
- Premier Capital v. Skaltsis, 155 N.H. 110, 118 (2007)
- Thayer v. Town of Tilton, 151 N.H. 483, 486 (2004)
- In the Matter of Albert & McRae, 155 N.H. 259, 262 (2007)
- In the Matter of Fulton & Fulton, 154 N.H. 264, 266-267 (2006)
- In the Matter of State & Taylor, 153 N.H. 700, 704 (2006)
- In the Matter of Jerome & Jerome, 150 N.H. 626, 629 (2004)
- In the Matter of Feddersen & Cannon, 149 N.H. 194, 197 (2003)
- In the Matter of Nicholson & Nicholson, 164 N.H. 105 (2012)