

SUPREME COURT OF NEBRASKA

Armknecht v. Armknecht

300 Neb. 870 (2018) · No. No. S-17-377 · Decided August 24, 2018

SUMMARY

The Nebraska Supreme Court affirmed a district court order modifying child custody and child support after one child began living with the father. The court upheld the use of the parties' earning capacities rather than disputed current earnings, the exclusion of speculative income and benefits, and the calculation of credits for the father's subsequent children.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Urbom, District Judge; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Derr, District Judge
JURISDICTION	Nebraska
DECIDED	August 24, 2018
DOCKET	No. S-17-377
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jason L. Armknecht appealed a district court order modifying a dissolution decree and calculating his child support obligation.
STANDARD OF REVIEW	Modification of a dissolution decree and modification of child support are reviewed de novo on the record and affirmed absent an abuse of discretion. The appellate court makes independent factual determinations but may give weight to the trial court's opportunity to observe witnesses when evidence conflicts.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential
PARTIES	Jason L. Armknecht v. Alita M. Armknecht, now known as Alita M. Reynolds

TOPICS

- child support
- dissolution of marriage
- family law procedure
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by calculating child support using the parties' earning capacities, including historical income, rather than their asserted current incomes.
2. Whether the district court erred by adopting proposed child support calculations prepared by Alita's counsel instead of making independent findings and calculations.
3. Whether the district court abused its discretion in calculating Jason's deduction or credit for his two subsequent children.

HOLDINGS

1. The district court did not abuse its discretion by using the parties' earning capacities rather than their asserted current incomes because the evidence concerning current income was conflicting and controlled by their respective spouses.
2. The district court did not err by directing Alita's counsel to prepare calculations after the court made findings establishing each party's monthly income and then adopting the proposed findings and worksheet.
3. The district court did not abuse its discretion in calculating the subsequent-child credit because its method considered the support obligations of both families and did not benefit one family at the expense of the other.

KEY QUOTATIONS

“As a general matter, the parties’ current earnings are to be used in calculating child support.” (878)

“Use of earning capacity to calculate child support is useful when it appears that the parent is capable of earning more income than is presently being earned.” (879)

“No precise mathematical formula exists for calculating child support when subsequent children are involved, but the court must perform the calculation in a manner that does not benefit one family at the expense of the other.” (882)

FACTUAL BACKGROUND

Jason and Alita Armknecht divorced in 2007, with Alita receiving physical custody of their three children and Jason ordered to pay child support. In 2016, one child began living with Jason, and the parties stipulated that a split-custody calculation would apply retroactively. The parties' current incomes were disputed because each worked for a current spouse, and Jason also had two subsequent children. The district court used earning-capacity figures, excluded speculative income and benefits attributed to Alita, and applied a subsequent-child credit.

PROCEDURAL HISTORY

The Gage County District Court modified the parties' dissolution decree after a change in physical custody of one child and calculated modified support using the parties' earning capacities and credits for Jason's subsequent children. Jason challenged the income determinations, the court's adoption of proposed calculations prepared by Alita's counsel, and the calculation of the subsequent-child credit. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Johnson v. Johnson, 290 Neb. 838, 862 N.W.2d 740 (2015)
- Becher v. Becher, 299 Neb. 206, 908 N.W.2d 12 (2018)
- Connolly v. Connolly, 299 Neb. 103, 907 N.W.2d 693 (2018)
- Peter v. Peter, 262 Neb. 1017, 637 N.W.2d 865 (2002)
- Freeman v. Groskopf, 286 Neb. 713, 838 N.W.2d 300 (2013)
- Gangwish v. Gangwish, 267 Neb. 901, 678 N.W.2d 503 (2004)
- Gress v. Gress, 274 Neb. 686, 743 N.W.2d 67 (2007)
- Brunges v. Brunges, 260 Neb. 660, 619 N.W.2d 456 (2000)
- Schwarz v. Schwarz, 289 Neb. 960, 857 N.W.2d 802 (2015)