SUPREME COURT OF THE STATE OF MONTANA

In re the Marriage of Brenda Jeanette Cadena and Kevin John Fries

Marriage of Cadena v. Fries, 2015 MT 90 (2015) · No. DA 14-0455 · Decided March 24, 2015

SUMMARY

The Montana Supreme Court affirmed a qualified domestic relations order dividing a former husband's pension under the parties' marital settlement agreement. The court held that the agreement required equal division of the pension as of dissolution, including post-dissolution interest and gains or losses, and that the time-rule method adopted in the QDRO properly effectuated that division. The court also held that the prevailing former wife was entitled to reasonable attorney fees incurred on appeal and remanded for determination of those fees.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Michael E. Wheat; Michael E. Wheat; Mike McGrath; Patricia Cotter; Jim Rice; Beth Baker
JURISDICTION	Montana
DECIDED	March 24, 2015
DOCKET	DA 14-0455
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Kevin John Fries appealed from a qualified domestic relations order entered by the Montana Thirteenth Judicial District Court concerning division of his pension and attorney fees.
STANDARD OF REVIEW	Construction and interpretation of a dissolution agreement and conclusions of law regarding division of marital assets are reviewed for correctness. An award of attorney fees is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published opinion
PARTIES	Kevin John Fries v. Brenda Jeanette Cadena

TOPICS

qdro · equitable distribution · community property · spousal support · appellate procedure

PRACTICE AREAS

family law · appellate procedure · remedies

QUESTIONS PRESENTED

1. Whether the District Court correctly interpreted the settlement agreement and applicable law in adopting Cadena's time-rule method for dividing Fries's pension through a QDRO.
2. Whether either party was entitled to attorney fees, including whether Cadena could obtain fees incurred on appeal without filing a cross-appeal.

HOLDINGS

1. When spouses agree to divide a pension through a conscionable settlement agreement, they may use a valuation method other than the two methods recognized for equitable distribution. Fries's proposed method was properly rejected because it would not equally divide the pension as of dissolution. The time-rule method properly gave effect to the agreement by equally allocating the pension's vested value, accrued interest, and post-dissolution gains or losses attributable to the marital interest.
2. Cadena was entitled to reasonable attorney fees incurred on appeal under the settlement agreement's prevailing-party provision, even though she had not filed a cross-appeal. The amount and reasonableness of the fees had to be determined by the District Court.

KEY QUOTATIONS

> *"Instead, the parties are limited only to whatever conscionable methods they can agree upon."* (¶ 13)

> *"Equal division of an amount to be paid in deferred installments requires equal division of any interest that may accrue during deferral."* (¶ 16)

> *"Cadena is the party prevailing in this appeal. Pursuant to the settlement agreement, she is entitled to reasonable attorney fees on appeal."* (¶ 26)

FACTUAL BACKGROUND

Cadena and Fries married in 1980 and dissolved their marriage in 2000. Their settlement agreement, incorporated into the dissolution order, provided that Fries's Teamsters pension would be equally divided as of the date of dissolution. The pension had not fully vested or begun paying benefits when Cadena proposed a QDRO in 2013. Cadena's proposal used the time-rule method to allocate each future payment, while Fries's proposal would have limited Cadena's share to half of the pension's vested value calculated as of the dissolution date.

PROCEDURAL HISTORY

The parties' marriage was dissolved in 2000, and the District Court approved a settlement agreement providing that Fries's Western Conference of Teamsters pension would be equally divided as of the date of dissolution. In 2013, Cadena proposed a QDRO using the time-rule method; Fries proposed dividing only the vested value as of dissolution. The District Court adopted Cadena's proposed QDRO and did not award attorney fees to either party. The Montana Supreme Court affirmed the QDRO, held Cadena entitled to reasonable attorney fees incurred on appeal, and remanded for determination of those fees.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the District Court to determine the amount and reasonableness of Cadena's attorney fees incurred on appeal.

CASES CITED

- In re Marriage of Bushnell, 2014 MT 130, ¶¶ 7-9, 14, 375 Mont. 125, 328 P.3d 608
- In re Marriage of Mease, 2004 MT 59, ¶¶ 57-58, 320 Mont. 229, 92 P.3d 1148
- Rolfe v. Rolfe, 234 Mont. 294, 296, 298-300, 766 P.2d 223, 225-27
- In re Marriage of Swanson, 2004 MT 124, ¶¶ 21-23, 26, 321 Mont. 250, 90 P.3d 418
- In re Marriage of Hochhalter, 2001 MT 268, ¶ 32, 307 Mont. 261, 37 P.3d 665
- In re Marriage of Spawn, 2011 MT 284, ¶¶ 10-15, 362 Mont. 457, 269 P.3d 887
- Kortum-Managhan v. Herbergers NBGL, 2009 MT 79, ¶ 45, 349 Mont. 475, 204 P.3d 693
- In re Marriage of Hart, 2011 MT 102, ¶¶ 28-29, 360 Mont. 308, 258 P.3d 389
- Laudert v. Richland County Sheriff's Department, 2000 MT 218, ¶ 46, 301 Mont. 114, 7 P.3d 386
- Johnson v. Tindall, 195 Mont. 165, 169, 635 P.2d 266, 268
- Rouse v. Anaconda-Deer Lodge County, 250 Mont. 1, 9, 817 P.2d 690, 695
- Robertson v. Robertson, 180 Mont. 226, 232, 590 P.2d 113, 116-17
- City of Missoula v. Robertson, 2000 MT 52, ¶ 19, 298 Mont. 419, 998 P.2d 144
