

SUPREME COURT OF FLORIDA

Russenberger v. Russenberger

639 So. 2d 963 (Fla. 1994) · No. No. 82587 · Decided July 7, 1994

SUMMARY

The Florida Supreme Court held that a trial court ordering psychological examinations of minor children under Florida Rule of Civil Procedure 1.360 must determine that the children's mental condition is in controversy and that good cause exists. The court also recognized that section 61.20, Florida Statutes, independently authorizes a psychological evaluation as part of a court-ordered social investigation without requiring compliance with Rule 1.360. The court approved the First District Court of Appeal's decision invalidating the trial court's order.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Grimes, C.J.; Overton, J.; Shaw, J.; Kogan, J.; McDonald, Senior Justice
JURISDICTION	Florida
DECIDED	July 7, 1994
DOCKET	No. 82587
DISPOSITION	approved
PROCEDURAL POSTURE	The Florida Supreme Court reviewed the First District Court of Appeal's decision on conflict jurisdiction after the district court granted the former wife's petition for writ of certiorari and quashed a trial court order compelling psychological examinations of the parties' minor children.
STANDARD OF REVIEW	Certiorari review for departure from the essential requirements of law.
PRECEDENTIAL VALUE	published, precedential Florida Supreme Court opinion
PARTIES	Ray Dean Russenberger v. Cynthia Russenberger

TOPICS

- family law procedure
- child custody
- discovery dispute
- writ of certiorari
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a trial court ruling on a motion under Florida Rule of Civil Procedure 1.360 to compel psychological examinations of minor children must determine that the condition to be examined is in controversy and that good cause exists.
2. Whether a trial court may order a psychological evaluation of a child under section 61.20, Florida Statutes, as part of a court-ordered social investigation without complying with Rule 1.360.
3. Whether the trial court improperly delegated its decisional authority concerning the children's psychological examinations to the former husband.

HOLDINGS

1. When a party files a motion under Florida Rule of Civil Procedure 1.360 to compel psychological examinations of minor children, the trial court must comply with the rule's requirements, including determining that the condition to be examined is in controversy and that good cause exists for the examinations.
2. A trial judge has discretion under section 61.20, Florida Statutes, to order a psychological evaluation of a child as part of a court-ordered social investigation in a custody proceeding, and need not comply with the requirements of Rule 1.360 when proceeding under that statutory authority.
3. A trial court may not evade the requirements governing a motion for psychological examination by delegating its decisional authority to a parent.

KEY QUOTATIONS

"We approve the decision of the district court below because we find that a trial court must comply with the requirements of Florida Rule of Civil Procedure 1.360 when a party files a motion to compel psychological examinations of minor children pursuant to that rule." (964)

"Section 61.20 gives the trial judge the discretion to order a social investigation in any action where the custody of a minor child is at issue." (965)

"Thus, while we acknowledge the broad discretion of the trial judge in this area, we caution that a psychological evaluation of a child should be ordered only where there is some showing that one is needed and would help the judge make a decision." (966)

FACTUAL BACKGROUND

The parties' divorce became final on January 5, 1993, and they shared parental responsibility for five minor children, with the former wife designated as custodial parent and the former husband given liberal and reasonable visitation. After the former wife decided to relocate from Florida to Suffern, New York, the former husband sought enforcement of the final judgment and moved under Rule 1.360 to compel psychological examinations of all five children. The trial court did not determine whether the children's mental condition was

in controversy or whether good cause existed; instead, it authorized the former husband to decide whether examinations were in the children's best interests and to schedule them.

PROCEDURAL HISTORY

After the parties' divorce, the former wife decided to move from Florida to New York. The former husband filed a petition to enforce the final judgment and later moved under Florida Rule of Civil Procedure 1.360 to compel psychological examinations of the five children. The trial court effectively granted the motion by designating the former husband as the parent responsible for the children's psychological care and allowing him to decide whether examinations should occur. The First District granted certiorari, finding that the order departed from the essential requirements of law. The Florida Supreme Court approved the district court's decision and addressed the separate statutory authority to order psychological evaluations as part of a social investigation.

DISPOSITION

approved

REMAND INSTRUCTIONS

The Supreme Court approved the First District's decision granting certiorari and rejecting the trial court's order. No separate remand instruction is stated.

CASES CITED

- Russenberger v. Russenberger, 623 So. 2d 1244 (Fla. 1st DCA 1993)
- Gordon v. Smith, 615 So. 2d 843 (Fla. 4th DCA 1993)
- Pariser v. Pariser, 601 So. 2d 291 (Fla. 4th DCA 1992)
- In re T.M.W., 553 So. 2d 260 (Fla. 1st DCA 1989)
- Schlagenhauf v. Holder, 379 U.S. 104, 118, 85 S. Ct. 234, 242-43, 13 L. Ed. 2d 152 (1964)