

SUPREME COURT OF THE STATE OF DELAWARE

Green v. Green

Green · No. No. 259, 2016 · Decided December 12, 2016

SUMMARY

The Delaware Supreme Court affirmed the Family Court’s dismissal of Jane G. Green’s second petition for alimony. The Court held that the petition was barred by res judicata because the Family Court had previously denied alimony after determining that Green failed to establish dependency. The Court also held that 13 Del. C. § 1512(d) limits the duration of alimony eligibility but does not authorize serial petitions after an alimony request has been denied.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	James T. Vaughn, Jr.; Valihura, Justice; Vaughn, Justice; Seitz, Justice
JURISDICTION	Delaware
DECIDED	December 12, 2016
DOCKET	No. 259, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wife appealed the Family Court's dismissal of her second petition for alimony as barred by res judicata. The Supreme Court also considered Husband's motion to strike Wife's untimely reply brief.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Factual findings are reviewed for clear error. The Supreme Court reviews both the law and the facts in a Family Court decision.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order; no reporter citation appears in the source.
PARTIES	Jane G. Green v. Daniel D. Green

TOPICS

alimony res judicata statutory interpretation appellate procedure family law procedure

PRACTICE AREAS

family law appellate procedure civil procedure statutory interpretation

QUESTIONS PRESENTED

1. Whether the Supreme Court should strike Wife's reply brief as untimely.
2. Whether 13 Del. C. § 1512(d) permits a party whose alimony request was denied for failure to prove dependency to file a new alimony petition during the statutory eligibility period.
3. Whether res judicata barred Wife's second alimony petition.

HOLDINGS

1. A good-faith mistake by counsel does not excuse failure to comply with the briefing schedule and Supreme Court Rule 15(a)(iii); the untimely reply brief was stricken.
2. Section 1512(d) defines the maximum period for which an otherwise eligible party may receive alimony; it does not authorize a party whose alimony request was denied for failure to prove dependency to file serial petitions during that period.
3. Res judicata barred Wife's April 8, 2016 alimony petition because the Family Court had jurisdiction, the parties and issue were the same, the alimony issue had been decided adversely to Wife, and the February 1, 2016 order was final.

KEY QUOTATIONS

“Section 1512(d) defines how long a party may receive alimony if they meet the other criteria of Section 1512—it does not authorize an unsuccessful party to file serial applications for alimony until one of the petitions is successful.” (at 7)

“Section 1512 is not ambiguous and did not authorize the Wife’s April 8, 2016 alimony petition.” (at 7)

FACTUAL BACKGROUND

The parties married in 1999, separated in 2014, and divorced in 2015. The Family Court awarded Wife interim alimony but denied her request for permanent alimony after the final ancillary hearing because she failed to present evidence of dependency. Without appealing that denial, Wife filed another alimony petition during the statutory eligibility period, and the Family Court dismissed it as barred by res judicata.

PROCEDURAL HISTORY

After the parties divorced, Wife sought interim and permanent alimony. The Family Court awarded interim alimony but denied permanent alimony in its February 1, 2016 ancillary order because Wife failed to present evidence of dependency, and Wife did not appeal that judgment. Wife later filed another alimony petition, which the Family Court dismissed as barred by res judicata. The Supreme Court struck the late reply brief and affirmed.

DISPOSITION

affirmed

CASES CITED

- Mundy v. Devon, 906 A.2d 750, 752 (Del. 2006)
- LaPoint v. Amerisource Bergen Corp., 970 A.2d 185, 191 (Del. 2009)
- Dover Historical Soc'y, Inc. v. City of Dover Planning Comm'n, 902 A.2d 1084, 1092 (Del. 2006)
- Eliason v. Englehart, 733 A.2d 944, 946 (Del. 1999)
- Spielberg v. Slate, 558 A.2d 291, 293 (Del. 1989)
- LeVan v. Independence Mall, Inc., 940 A.2d 929, 933 (Del. 2007)
- Newton Vill. Serv. Corp. v. Newtowne Rd. Dev. Co., 772 A.2d 172, 175 (Del. 2001)

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