

SUPREME COURT OF MISSISSIPPI

Craig A. Southerland v. Susan Diane Shoemaker Southerland

816 So. 2d 1004 (Miss. 2002) · No. No. 2000-CT-00421-SCT · Decided April 11, 2002

SUMMARY

The Mississippi Supreme Court reviewed awards of child support, lump-sum alimony, and attorney's fees in a divorce proceeding. It affirmed the alimony and attorney's-fee awards but reversed and remanded the child-support award because the chancellor did not make adequate findings explaining why an amount exceeding the statutory guidelines was justified.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Mississippi                                                                                                                                                                                                                                                             |
| WRITING FOR THE COURT | McRae, P.J., for the Court; McRae, P.J.; Pittman, C.J.; Diaz, J.; Easley, J.; Graves, J.; Cobb, J.; Smith, P.J.; Waller, J.; Carlson, J.                                                                                                                                                 |
| JURISDICTION          | Mississippi                                                                                                                                                                                                                                                                              |
| DECIDED               | April 11, 2002                                                                                                                                                                                                                                                                           |
| DOCKET                | No. 2000-CT-00421-SCT                                                                                                                                                                                                                                                                    |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Craig Southerland appealed a divorce judgment awarding child support, lump-sum alimony, and attorney's fees. The Mississippi Court of Appeals affirmed, and the Mississippi Supreme Court granted certiorari to review the child-support award under the statutory guidelines.           |
| STANDARD OF REVIEW    | The dissent states that child-support and alimony determinations are reviewed for manifest error or abuse of discretion. The majority resolved the child-support issue primarily by reviewing the adequacy of the chancery court's statutory findings under Miss. Code Ann. § 43-19-101. |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Mississippi                                                                                                                                                                                                                       |
| PARTIES               | Craig A. Southerland v. Susan Diane Shoemaker Southerland                                                                                                                                                                                                                                |

TOPICS

- child support
- statutory interpretation
- writ of certiorari
- appellate procedure
- standard of review

## PRACTICE AREAS

family law

child support

appellate procedure

## QUESTIONS PRESENTED

1. Whether the chancery court adequately complied with Miss. Code Ann. § 43-19-101 when it awarded child support exceeding the statutory guideline amount.
2. Whether private-school tuition may be treated as part of the child-support obligation rather than as an extraordinary expense separate from child support.
3. Whether the awards of lump-sum alimony and attorney's fees were excessive or otherwise erroneous.

## HOLDINGS

1. When a child-support award exceeds the presumptive amount under Miss. Code Ann. § 43-19-101, the chancellor must make a written finding or specific finding on the record that applying the guidelines would be unjust or inappropriate. When the obligor's annual adjusted gross income exceeds \$50,000, the court must also make a written finding regarding the reasonableness of applying the guidelines.
2. Private-school tuition, including pre-college tuition, is part of the child-support obligation and should be considered together with the guideline support amount rather than automatically treated as a separate extraordinary expense.
3. A father's pre-divorce agreement that the child attend private school may be considered, but it is by itself an inadequate basis for awarding child support above the statutory guidelines.
4. The awards of lump-sum alimony and attorney's fees were properly affirmed.

## KEY QUOTATIONS

*“While a father's agreement prior to divorce to send a child to private school may be one legitimate factor to be considered, it is by itself an inadequate basis for an award of support in excess of that allowed by the statutory guidelines.”* (816 So. 2d at 1007)

## FACTUAL BACKGROUND

Craig and Susan Southerland were married in 1976 and had two children, one emancipated and one fourteen-year-old daughter at the time of trial. Craig earned approximately \$5,111 net per month, while Susan earned approximately \$903.66 net per month. The chancery court awarded \$1,000 per month in child support, in part because the parties had agreed before the divorce that their daughter would attend private school, and also awarded lump-sum alimony and attorney's fees.

## PROCEDURAL HISTORY

The chancery court entered a divorce judgment ordering Craig Southerland to pay \$1,000 per month in child support, \$50,000 in lump-sum alimony payable in monthly installments, and \$3,750 in attorney's fees. The Court of Appeals affirmed, with two judges dissenting in part as to child support. The Supreme Court affirmed the alimony and attorney's-fee awards but reversed and remanded the child-support issue.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand to the chancery court for further proceedings consistent with the opinion concerning the child-support award, including adequate findings under Miss. Code Ann. § 43-19-101. The lump-sum alimony and attorney's-fee awards remain affirmed.

## CASES CITED

- Southerland v. Southerland, 2001 WL 537895, at \*3 (Miss. Ct. App. 2001)
- Mizell v. Mizell, 708 So. 2d 55, 60 (Miss. 1998)
- Cupit v. Cupit, 559 So. 2d 1035, 1038 (Miss. 1990)
- Collins v. Collins, 722 So. 2d 596, 598-99 (Miss. 1998)
- Lahmann v. Hallmon, 722 So. 2d 614, 618 (Miss. 1998)
- Tanner v. Roland, 598 So. 2d 783, 786 (Miss. 1992)
- Knutson v. Knutson, 704 So. 2d 1331, 1335 (Miss. 1997)
- Thurman v. Thurman, 559 So. 2d 1014, 1017 (Miss. 1990)

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