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Vaile v. Porsboll, 133 Nev. Adv. Op. 30 (June 22, 2017)

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Nevada Law Journal

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FAMILY LAW: CHILD SUPPORT AND DIVORCE
CIVIL PROCEDURE: JURISDICTION

Summary

Nevada child support order controls Norway order when the parents filed for divorce in Nevada, even though the children reside in Norway. Additionally, the Nevada Supreme Court has jurisdiction to hold the parent in contempt and to impose sanctions for failure to meet his or her child support obligations.

Background

Appellant Robert Scotlund Vaile and respondent Cisilie Porsboll were married in Utah in 1990 and filed for divorce in Nevada in 1998. Vaile is a citizen of the United States and Porsboll is a citizen of Norway. They have children who habitually live in Norway.

Following the divorce, the district court of Nevada issued an order imposing statutory penalties against Vaile for child support arrearages.² Vaile appealed, and the Nevada Supreme Court held that the district court lacked subject matter jurisdiction to modify the child support arrangement pursuant to the Uniform Interstate Family Support Act (“UIFSA”) and that setting the child support at a fixed amount constituted a modification.³ There, the Court noted that there was no other child support order from another jurisdiction, and accordingly, the Nevada order controlled.⁴ On remand, the district court determined that while Norway entered a child support order it lacked jurisdiction to modify the Nevada order, thus the Nevada order controlled.

Two appeals, which the Court consolidated for this opinion, followed. In one, Vaile challenged a district court order, addressing his child support arrearages and penalties, that found him in contempt of court. In the second appeal, Vaile challenged the court imposed sanctions for his failure to appear and failure to pay child support. On appeal, the Nevada Court of Appeals concluded that the Nevada child support order controlled over Norway’s and that it lacked jurisdiction to hear Vaile’s challenge to the contempt findings.⁵ Upon rehearing, the Court of Appeals clarified its previous order and affirmed that the Norway lacked jurisdiction to modify the Nevada decree, as well as that the Nevada child support Order controlled.⁶ Subsequently, Vaile filed a petition for review.

Discussion

¹ By Stephanie Glantz

² See *Vaile v. Porsboll* (Vaile II), 128 Nev. 27, 268 P.3d 1272 (2012).

³ *Id.* at 33-34, 269 P.3d at 1276-77.

⁴ *Id.* at 31, 268 P.3d at 1275.

⁵ See *Vaile v. Vaile*, Docket Nos. 61416 & 62797 (Order Affirming in Part, Dismissing in Part, Reversing in Part, and Remanding, Dec. 29, 2015).

⁶ See *Vaile v. Vaile*, Docket Nos. 61416 & 62797 (Order Granting Rehearing in Part, Denying Rehearing in Part, and Affirming, Apr. 14, 2016).

Whether the Nevada child support order controls

The UIFSA, which is codified in the Nevada Revised Statutes Chapter 130, provides a procedure for determining which child support order controls when parties have competing child support orders from Nevada and a foreign country. It states, in relevant part, that Nevada must apply the following rules to determine which order controls:

“(1) if only one of the tribunals would have continuing and exclusive jurisdiction under [NRS Chapter 130], the order of that tribunal controls; (2) if more than one of the tribunals would have continuing and exclusive jurisdiction, . . . an order issued by a tribunal in the current home state of the child controls, or if an order has not been issued in the current home state of the child, the order most recently issued controls; and (3) if none of the tribunals would have continuing and exclusive jurisdiction, . . . the tribunal of Nevada shall issue a child-support order which controls.”⁷

Additionally, Nevada has continuing and exclusive jurisdiction to modify a child support order if “(1) a court in this state issued the order consistent with the laws of this state; (2) the order is the controlling order; and (3) either state is the residence of one of the parties or of the child, or the parties have consented to the court’s continuing jurisdiction.”⁸

Here, the Norway order did not establish Norway’s continuing and exclusive jurisdiction under NRS Chapter 130. Additionally, both parties did not consent to Norway’s continuing and exclusive jurisdiction. Accordingly, the Nevada order controls. Even though the district court did not apply the same analysis, the Court still affirmed because the result was ultimately the same.

Whether the Nevada Supreme Court lacked jurisdiction to consider the contempt challenges

The Nevada Supreme Court had jurisdiction to consider one of the two contempt challenges because those sanctions arose from the underlying child support order, and Vaile could appeal a special order entered after a final judgment. However, the Court did not have jurisdiction to hear the sanctions from the order appealed from the other underlying cases because the order solely concerned contempt and thus was not appealable. But, Vaile failed to assert coherent arguments and provide relevant authority in support of his claims that were appealable. As a result, the Court did not consider Vaile’s contempt challenges.

Conclusion

Pursuant to NRS 130.20, the Nevada child support order controls. Additionally, although the Court had jurisdiction to hear challenges to the contempt findings and sanctions in one of the appealed orders, the Court declined to do so for lack of cogent arguments or relevant authority.

⁷ Vaile v. Porsboll, 133 Nev. Adv. Op. 30, at 7 (June 22, 2017) (internal quotations omitted).

⁸ NEV. REV. STAT. 130.205(1)