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Summary of Gonzales-Alpizar v. Griffith, 130 Nev. Adv. Op. 2

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FAMILY LAW: INTERNATIONAL MARITAL DECREES

Summary

The Court determined two issues: (1) whether the Uniform Interstate Family Support Act (UIFSA) allows for the enforcement of a foreign support order; and (2) whether a foreign support order is enforceable under the doctrine of comity.

Disposition

Foreign support orders are not enforceable in Nevada unless the foreign nation meets the specific requirements of UIFSA as enacted in Nevada.² Furthermore, the doctrine of comity will only apply when the foreign nation has laws substantially similar to the state in which the party is attempting to enforce the order in.

Factual and Procedural History

Edwin Griffith, a citizen of Nevada, and Gabriela Gonzales-Alpizar, a citizen of Costa Rica, married in 1999. Prior to the marriage, the two parties entered into a premarital agreement which, *inter alia*, waived any claim for alimony or child support. The premarital agreement also declared that Nevada law would govern the premarital agreement's execution and performance. In 2005, the couple divorced. Griffith failed to answer the complaint in a Costa Rican court and the court entered a default judgment against him, ordering him to pay child support and spousal support. Ms. Gonzales-Alpizar allegedly did not provide accurate information in regard to her financial situation and the existence of the couple's premarital agreement.

Discussion

The 2005 Costa Rican support order is not enforceable under UIFSA

Under Nevada law, UIFSA will apply if the foreign state meets certain provisions. To be considered a "state," the foreign country must either: (1) be declared a foreign reciprocating country under federal law, (2) the state's attorney general has declared the country a "state" because it has reciprocal provisions ensuring the enforcement of support orders, or (3) the country has enacted law or established procedures for enforcing support orders that are substantially similar to those under UIFSA.³ Neither party disputed that Costa Rica is not a foreign reciprocating country under federal law. Furthermore, the Attorney General has not declared Costa Rica to be a foreign country in which reciprocal provisions will be made to ensure the enforceability of foreign support orders.⁴ Lastly, it was not shown that Costa Rica has laws or procedures that allow for a foreign judgment to be recognized, i.e., laws on reciprocity,

¹ By Michael Paretti.

² NEV. REV. STAT. Ch. 130. (2013).

³ NEV. REV. STAT. § 130.10179(2) (2013).

⁴ See NEV. REV. STAT. § 130.035(1) (2013).

and that those laws are “substantially similar” to UIFSA.⁵ Therefore, UIFSA does not apply to the Costa Rican court order.

The spousal support provision of the 2005 Costa Rican support order is not enforceable under the doctrine of comity

The doctrine of comity is a legal courtesy in which “the courts of one jurisdiction may give effect to the laws and judicial decisions of another jurisdiction out of deference and respect.”⁶ The Court adopted the Restatement (Third) of Foreign Relations Law of the United States, which considers the following: (a) jurisdiction of the court rendering judgment; (b) proper notice; (c) whether the judgment was obtained by fraud; (d) whether the cause of action is repugnant to public policy; (e) whether the judgment conflicts with another judgment; (f) whether the proceeding in the foreign court is contrary to an agreement between the parties to submit the controversy on which the judgment is based to another forum.⁷ The Court reasoned that these factors are consistent with Nevada jurisprudence because Nevada courts will refuse to recognize a judgment or order of a sister state if “there is a showing of fraud, lack of due process, or lack of jurisdiction in the rendering state.”⁸ The Court found that although Griffith was properly served, Gonzales-Alpizar failed to disclose the enforceable premarital agreement, and thus the Court declined to recognize and enforce the 2005 Costa Rican spousal support order under the doctrine of comity.

The child support portion of the 2005 Costa Rican support order might be entitled to enforcement under the doctrine of comity

The Nevada Supreme Court, however, found that failure to disclose the premarital agreement would not necessarily prevent the district court from enforcing the child support order because the agreement contained no provision concerning child support. Because the district court deferred ruling on Griffith's parental status, the Court was unable to determine whether comity should be granted or denied to the child support award. Therefore, the Court remanded this issue to make factual and legal findings to determine whether the child support portion of the 2005 Costa Rican support order should be enforced as a matter of comity.

Conclusion

The Nevada Supreme Court determined that a Costa Rican spousal support order was unenforceable under Nevada law because Costa Rica does not meet the specific criteria to be recognized as a sister state under UIFSA. Furthermore, the doctrine of comity did not apply to the spousal support order because an existing premarital agreement existed. Because the premarital agreement did not contain provisions for child support, this issue was remanded for findings of fact to determine whether the doctrine of comity would apply.

⁵ See NEV. REV. STAT. § 130.10179(2) (2013); *see also* Haker– Volkening v. Haker, 143 N.C.App. 688, 547 S.E.2d 127, 131 (2001).

⁶ *Mianecki v. Second Jud. Dist. Ct.*, 99 Nev. 93, 98, 658 P.2d 422, 424–25 (1983).

⁷ Restatement (Third) of Foreign Relations Law of the United States §482(1) (1987).

⁸ *Rosenstein v. Steele*, 103 Nev. 571, 573, 747 P.2d 230, 231 (1987).

