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Matkulak v. Davis, 138 Nev. Adv. Op. 61 (Sept. 01, 2022)

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Recommended Citation

Pope, Sam, "Matkulak v. Davis, 138 Nev. Adv. Op. 61 (Sept. 01, 2022)" (2022). *Nevada Supreme Court Summaries*. 1533.

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CHILD SUPPORT: NEVADA LAW CAPS UPWARD ADJUSTMENTS MADE IN CHILD SUPPORT CASES AND PROVIDES BROAD DISCRETION TO DISTRICT COURTS WHEN AWARDING ATTORNEY FEES.

Summary

Deviations from the Nevada Administration Code’s framework for calculating a parent’s base child support obligations may not exceed the party’s total obligation. Furthermore, a district court’s decision to award reasonable attorney fees and costs will stand absent an abuse of discretion. Here, the district court deviated from NAC 425.150(1)’s framework and increased the appellant’s child support obligation by nearly \$2,000 per month over NAC 425.140’s base child support obligation. This deviation exceeded the appellant’s monthly total obligation which the district court calculated to \$823.04. Therefore, the Supreme Court of Nevada reversed the district court’s decision and remanded with instructions to reduce the appellant’s monthly child support obligation to no more than an additional \$824.04 per month above the base child support obligation. The district court also awarded attorney fees to the respondent. This decision was not an abuse of discretion because the appellant used his superior wealth to unnecessarily increase litigation costs.

Background

In May 2018, Appellant, Tony Matkulak, and Respondant, Kourtney Davis, had a child (hereinafter B.M.) out of wedlock. Two years later, Davis petitioned the district court for child support. After Matkulak voluntarily agreed to pay Davis approximately \$1,850 per month in child support, Davis sought an upward adjustment to Matkulak’s child support obligation. Matkulak made approximately \$38,000 a month whereas Davis made approximately \$5,000. The district court granted Davis’ request in addition to requiring Matkulak to pay 100% of B.M.’s childcare and medical expenses, 75% of B.M.’s extracurricular expenses, and \$3,500 per month in child support. Finally, the district court awarded Davis her attorney fees. Matkulak then appealed the decision.

Discussion

The upward adjustment to Matkulak’s child support obligation

¹ By Sam Pope.

Here, the Supreme Court of Nevada addressed whether the district court improperly increased the The appellant's monthly child support. The appellant argued that NAC 425.150(1) had a precondition that required the adjustment in child support to address a specific need of the child. The Court rejected this argument. The Court ruled that an adjustment under NAC 425.150(1) is not contingent on the child having a specific need for that adjustment. The Court then reviewed the district court's application of the eight factors under NAC 425.150(1) and found that the district court erred in one respect – NAC 425.150(1)(f) does not permit the district court to increase the appellant's base montly obligation amount by over 200 percent. Instead, NAC 425.150(1)(f) capped any upward adjustment by the total obligation of the other party.² In other words, an upward adjustment in total monthly child support could not be more than 100 percent of the base child support obigation. Here, the appellant's base montly child support obligation was \$823.04. So an upward adjustment could not be more than \$823.04. The Supreme Court of Nevada reversed the district court's decision and remanded with instructions to “reduce [the appellant's] monthly child support obligation to no more than an additioanl \$823.04 per month above the base child support obligation.”

Attorney fees

Here, the Supreme Court of Nevada addressed whether the district court properly awarded the respondant her attorney fees. The appellant argued that the district court should not have punished him for using negotiation tactics to increase litigation costs and pressure the respondent into acceptting a settlement. The Court rejected this argument stating – “NRS 125C.250 gives the district court broad discretion in a child custody action to order reasonable attorney fees and costs determined by the court.” This discretion will stand absent an abuse of discretion.³

Conclusion

The Supreme Court of Nevada reversed the district court's upward adjustment and remanded with instructions to “reduce [the appellant's] monthly child support obligation to no more than an additioanl \$823.04 per month above the base child support obligation.” Finally, the Supreme Court of Nevada upheld the district court's decision to awarded the respondent her attorney fees.

² Nev. Admin. Code § 425.150 (2022).

³ See *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005).