

A09-787

STATE OF MINNESOTA

IN COURT OF APPEALS

JULIE ANN GRIMME (f/k/a HILL), AND THE STATE OF MINNESOTA,

Respondent,

vs.

BRIAN ANTHONY HILL,

Appellant.

RESPONDENT'S BRIEF AND APPENDIX

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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LEGAL ISSUE

- I. Does a Minnesota court have the authority to modify the duration of child support from an order originally issued in Mississippi where Minnesota has continuing, exclusive jurisdiction?

The trial court ruled it did not.

Authorities:

Minn. Stat. Ann. § 518C.611 (West 2009)

Miss. Code Ann. § 93-11-65(8)(a)(i) (West 2008)

C.K. v. J.M.S., 931 So.2d 724 (Ala. Civ. App. 2005)

STATEMENT OF FACTS

The parties have three joint children: Renee M. Hill, born February 16, 1982; David A. Hill, born September 1, 1983; and Mary A. Hill, born September 2, 1988. The parties were granted a judgment and decree of marriage dissolution dated January 22, 1990 in the state of Mississippi. The decree provided that Appellant would pay child support of \$1,000 per month effective August 1, 1989, to Respondent “and continuing thereafter until either by subsequent decree of this court, emancipation of the children, or by the terms of the agreement and the support obligation is changed.” (Appellant Br. App. at 105.)

In October 1995, pursuant to the Uniform Interstate Family Support Act (U.I.F.S.A.), Minn. Stat. Ann. § 518C.101 (West 2009) et seq., an interstate child support collection case was initiated in the State of Minnesota to collect Brian Hill’s child support ordered by the State of Mississippi. Pursuant to an Order dated May 23, 2003 the Mississippi Final Decree was deemed registered in the State of Minnesota for enforcement and modification purposes.

In October 2003, there was a modification hearing before Hennepin County child-support magistrate, Sangeeta Jain, which set the monthly charging amount at \$1,182.50 plus an additional \$300 per month for arrears. (Resp’t Br. App. at 2-3.)

In 2004, Appellant moved to the State of Arkansas. Pursuant to an October 24, 2004 order, Appellant’s arrearages were found to total \$35,028.00, and basic support was set at \$1,259.75 per month beginning September 1, 2003 increasing to

\$1,519.00 per month beginning July 1, 2004 and decreasing to \$1,324.00 per month beginning January 1, 2005. Mr. Hill appealed the increase in his support obligation that resulted from the application of Minnesota child support guidelines. In a 2006 unpublished opinion, the Minnesota Court of Appeals held that Minnesota has continuing, exclusive jurisdiction (CEJ) over the Mississippi Final Decree. Minnesota v. Hill, No.A05-781 (Minn. App. 2006).

In June of 2007, Mary A. Hill graduated from high-school and was 18 years old. Thereafter, she has been attending college on a full-time basis. On September 2, 2008 Mary A. Hill attained the age of 20 years. Respondent, Julie Grimme, continues to reside in Minnesota.

On October 1, 2008, Mr. Hill moved to have his basic support terminated due to the emancipation of his youngest child Mary A. Hill.¹ At the November 28, 2008 hearing, Magistrate Brian Moehn ruled that under U.I.F.S.A., duration of child support could not be modified, even in the state with CEJ. The Magistrate ruled that charging should continue under Minnesota law while the duration of child support would be controlled by the issuing state of Mississippi. (Appellant Br. App. At 18.)

¹ Minn. Stat. Ann. § 518A.26 (subd. 5) (West 2009) defines a child as “an individual under 18 years of age, an individual under age 20 who is still attending secondary school . . .”. Based on his understanding of this provision, Mr. Hill believes that his daughter Mary A. Hill emancipated at age 20 on September 2, 2008.

ARGUMENT

I. MINNESOTA DOES NOT HAVE THE AUTHORITY TO MODIFY THE DURATION OF A CHILD SUPPORT OBLIGATION WHERE MISSISSIPPI LAW WOULD NOT PERMIT MODIFICATION.

Although the Appellant raised additional issues in his affidavits and appellate brief, the only issue set forth in his original motion for modification dated October 1, 2008 is the termination of his child support obligation due to the emancipation of his youngest child. On appeal, the court may only consider issues that were presented to and considered by the lower court. Thompson v. Barnes, 200 N.W.2d 921, 927 (Minn. 1972). Therefore, this responsive brief will only address modification due to emancipation. The text of Minn. Stat. § 518C.611(c), caselaw, and the policy behind the statutory provision all support applying Mississippi law regarding the duration of Appellant's child support obligation.

A. Standard of Review

Statutory interpretation is a matter of law which the appellate court reviews *de novo*. Hibbing Educ. Ass'n v. Pub. Employment Relations Bd., 369 N.W.2d 527, 529 (Minn.1985).

B. Relevant Law

The enforcement and modification of foreign child-support orders is controlled by the U.I.F.S.A., which has been codified in all fifty states. Gulian v.

Gulian, 790 A.2d 1116, 1121 (Vt. 2001). The U.I.F.S.A. recognizes “that only one valid support order may be effective at any one time.” U.I.F.S.A., Prefatory Note II.B.3 (amended 1996), 9 U.L.A. 287 (2005). The U.I.F.S.A.’s one-order system is based on the principle of “continuing, exclusive jurisdiction,” which “ensure[s] that a state that obtains jurisdiction keeps it during the life of the order unless a valid reason exists to transfer jurisdiction to another forum.” U.S. Commission on Interstate Child Support’s Report to Congress, *Supporting Our Children: A Blueprint for Reform* 36 (1992). A state has CEJ over a child support order as long as the state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued. Minn. Stat. Ann. § 518C.205(a)(1) (West 2009).

Since 1994, Minnesota has followed the U.I.F.S.A. codified at Minn. Stat. § 518C. Under this law, Minnesota received CEJ over the parties’ child support order in May 2003. CEJ grants Minnesota sole authority to modify the controlling support order. However, U.I.F.S.A. limits this modification authority. Minnesota “may not modify any aspect of a child support order that may not be modified under the law of the issuing state.” Minn. Stat. Ann. § 518C.611(c) (West 2009). The original support order was issued in the state of Mississippi, and Minnesota may only modify aspects of the order that could be modified under Mississippi law. Id. Duration of a child support order is non-modifiable in Mississippi unless specified circumstances are present. Miss. Code Ann. § 93-11-65(8)(a) (West 2008). Mississippi law states that emancipation occurs at the age of 21 years

provided the child is a continuous full-time student, and that no special circumstances listed in the statute exist. Id. None of the special circumstances listed are present in this case.

C. Plain Statutory Text

The Appellant argues that Minnesota law should apply to the duration of his child support obligation because Minnesota law was deemed controlling as to the amount of child support owed. Minnesota v. Hill, No. A05-781(Minn. App. 2006). Appellant's interpretation ignores the statutory language in Minn. Stat. § 518C.611(c) rendering the entire provision superfluous. A statute should be interpreted to give meaning to all of its provisions. Eagan Econ. Dev. Auth. v. U-Haul Co. of Minn., 765 N.W.2d 403, 409 (Minn.App. 2009). The language of Minn. Stat. § 518C.611(c) is a clear prohibition on modification by a state with CEJ of aspects of a child support order that would not be modifiable in the issuing state. The "issuing state" is defined as "the state in which a tribunal issues a support order." Minn. Stat. Ann. § 518C.101(i) (West 2009). In this case, Mississippi is the issuing state as the support order was included in the parties' 1990 divorce decree ordered by Washington County, Mississippi. (Appellant Br. App. At 105.) Based on the plain text of the statute, Mississippi law regarding duration of a child support obligation should be applied.

D. Caselaw

The Minnesota courts have not addressed the issue of support duration modification in a U.I.F.S.A. controlled case. Uniform statutes are enacted to

produce like results in all adopting states. Minn. Stat. Ann. § 645.22 (West 2009). Therefore, the court should give great weight to other states' interpretation of uniform laws. State v. Vail, 274 N.W.2d 127, 132 n. 9 (Minn.1979). The Alabama court of appeals addressed the issue of modification of duration of a support order holding that Mississippi law, the law where the obligation originated, applied despite Alabama gaining CEJ over the parties' child support obligation. C.K. v. J.M.S., 931 So.2d 724, 730 (Ala. Civ. App. 2005). The court held in C.K. v. J.M.S. that the child would not emancipate until 21 years of age per Mississippi law, as opposed to the Alabama law, which allows emancipation at 19 years. Id. at 728.

Appellant relies on Mathews v. Mathews, 244 S.W.3d 660 (Ark. 2006) to support the proposition that the duration of child support should be determined by the laws of the state with CEJ. (Appellant Br. at 7.) The Mathews v. Matthews case addresses issues of venue and jurisdiction, not choice of law regarding duration of child support. Mathews, 244 S.W.3d at 661. Alternatively, the following cases are directly on point and have interpreted the U.I.F.S.A. to base modification of duration on the issuing states' law: In re Marriage of Doetzl, 65 P.3d 539, 543 (Kan. App.2d 2003) (holding the duration of child support was non-modifiable unless the circumstances specified in the issuing state's law were present); Kerr v. Kerr, 100 S.W.3d 912, 914 (Mo. Ct. App. 2003) (reversing the trial court which violated Oklahoma law by altering the duration of a support agreement originating from that state); Holbrook v. Cummings, 750 A.2d 724, 729

(2000) (applying New York law, that of the original issuing state, which defined the age of majority as 21 years rather than the forum state's law of 18 years); In re the Marriage of Cooney, 946 P.2d 305, 307 (Or. App. 1997) (refusing to extend support where the issuing state law of Nevada defined the majority age as 18 years).

E. Legislative Intent

The intent of Minn. Stat. § 518C.611(c) further supports the interpretation that duration of support is non-modifiable by a Minnesota court. The goal of statutory interpretation is to effectuate the legislature's intent. Minn. Stat. Ann. § 645.16 (West 2009). When this intent is unclear from the language of the statute, other sources may be used including legislative and administrative interpretations of the statute. Id. The official comments regarding section 611(c) state:

However, subsection (c) prevents the modification of any final, nonmodifiable aspect of the original order. For example, if child support was ordered through age 21 in accordance with the law of the issuing State and the law of the forum State ends the support obligation at 18, modification by the forum tribunal may not affect the duration of the support order to age 21.

U.I.F.S.A. §611 cmt. (1996). The policy behind this provision is to prevent forum shopping and relocation merely to alter the duration of a child support obligation. Robdau v. Com, 543 S.E.2d 602, 605 (Va.App., 2001).

In 2001, the National Conference of Commissioners on Uniform State Laws approved amendments to U.I.F.S.A. However, there is no federal law requiring states to adopt these amendments. Minnesota has not yet adopted the

2001 amendments, but Mississippi has enacted the amendments. Miss. Code Ann. § 93-25-101 (West 2008). To clarify the statute's intent, the 2001 amendment changes U.I.F.S.A. § 611(c) to read "a tribunal of this State may not modify any aspect of a child support order that may not be modified under the law of the issuing State, *including the duration of the obligation of support.*" (emphasis added) U.I.F.S.A. § 611(c) (2001). The amendment clarifies rather than substantively altering U.I.F.S.A. Therefore, even though Minnesota has not enacted the amendment, duration is still governed by the issuing state's law. See Marchak v. Weser, 915 A.2d 613, 616 (N.J. Super. A.D. 2007) (determining that the 2001 U.I.F.S.A. amendment in question did not change the existing version of the U.I.F.S.A. in New Jersey, but only clarified it).

Ms. Grimme's relocation to Minnesota should not alter the length of time she receives support for Mary A. Hill. The legislature did not want to encourage or discourage relocation based on their enactment of U.I.F.S.A. See Robdau, 543 S.E.2d at 605. U.I.F.S.A § 611(c) was included to satisfy this purpose. U.I.F.S.A. §611 cmt. (1996). Appellant attempts to use the family's relocation to reduce his child support in express violation of the legislature's intent.

CONCLUSION

The district court decision should be affirmed. Minn. Stat. § 518C.611(c) controls this issue, and the statutory language, supporting caselaw, and legislative intent all support the application of the issuing state's law regarding duration of child support obligations. Mississippi law providing for emancipation at the age

of 21 years applies. Appellant's current support obligation should continue until September 2, 2009 when his youngest child, Mary A. Hill, attains 21 years of age. Thereafter, Appellant should continue to pay the current charging amount of basic support and the additional \$300 ordered by Magistrate Jain (Resp't Br. App. at 3), until his arrears are paid in full. Minn. Stat. Ann. § 518A.60(d) (West 2009). As a matter of law, Appellant's request should be denied.

DATED: July 17, 2009

Respectfully submitted,

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A09-787
STATE OF MINNESOTA
IN COURT OF APPEALS

Brian Anthony Hill

Appellant,

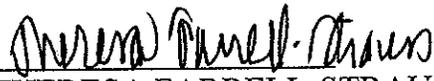
vs.

CERTIFICATION OF
BRIEF LENGTH
A09-787

Julie Ann Grimme (f/k/a Hill) and State of Minnesota,
Respondent.

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subds.1 and 3, for a brief produced with a proportional font. The length of this brief is 2, 132 words. This brief was prepared using Microsoft Word 2003, Times New Roman font face size 13.

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