

2006

Monte Bambrough v. Maria Bambrough : Reply Brief of Appellant

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

MONTE BAMBROUGH,)	
)	REPLY BRIEF OF THE APPELLANT
Petitioner/Appellee,)	
)	
vs.)	Court of Appeals No. 20061176-CA
)	
MARIA BAMBROUGH,)	Second District Court No. 900902374
)	
Respondent/Appellant.)	Priority Category No.

REPLY BRIEF OF APPELLANT

Appeal from a Decree of Divorce Entered by the
Second Judicial District Court, State of Utah, Weber County,
Honorable Ernie W. Jones, District Court Judge

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ARGUMENT

I. UTAH CODE ANNOTATED §78-45-7(3)(a-h) IS APPLICABLE

Ms. Bambrough’s argument at trial was to deviate from the Base Combined Child Support Obligation Table, (hereinafter “Child Support Guidelines”) which established her child support at \$826.00. This amount is the highest child support obligation pursuant to the Utah Code Annotated §78-45-7.14, for one child. Mr. Bambrough argues Utah Code Annotated §78-45-7(3)(a-h) does not apply because the incomes are in excess of the statutory guidelines. In this case, the parties incomes were in excess of the combined total of \$10,001.00 and \$, 10,100.00; however, the court ordered child support was based on the Child Support Guidelines at \$826.00 which can be rebutted. At trial, Ms.

Bambrough argued this amount was insufficient to meet the reasonable needs of the minor child and offered evidence sufficient for the trial court to deviate from the Child Support Guidelines. (Tr. Feb. 21, 2007; 3:21-25, 4:1-2 and 4:5).

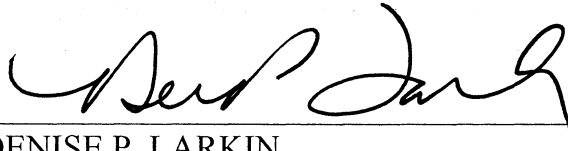
In Rehn v. Rehn, 974 P.2d 306, 312, (Utah Ct.App. 1999), it states, “In deviating from the guidelines, the trial court must at least consider the seven factors listed in Utah Code Ann. §78-24-7(3) (1996) and enter findings on all of these factors.” In this case, the trial court erred when it failed to consider the seven factors and make specific findings on each factor.

Because Ms. Bambrough did not have the opportunity to introduce key evidence for the trial court to make sufficient findings on whether or not that evidence would justify a deviation from the Child Support Guidelines amount of \$826.00 as required by Utah Code Ann. §78-45-7(3)(a-h), the findings of the trial court were insufficient to keep the Child Support Guidelines child support obligation at \$826.00. The trial court had insufficient evidence to make findings that the private school or vehicle were not needed because the trial court failed to consider the seven factors in light of the private school and vehicle. By the trial court’s failure to address the seven factors, the findings from the trial court are insufficient.

CONCLUSION

In conclusion, the trial court failed to address the seven factors as required by Utah Code Annotated §78-45-7(3)(a-h). In this case, Ms. Bambrough argues to deviate from the Child Support Guidelines of \$826.00. The trial court must consider the seven factors which Judge Jones did not. This case should be remanded for further findings.

DATED this 20 day of Nov, 2007.



DENISE P. LARKIN
Attorney for the Respondent-Appellant
Maria Bambrough

CERTIFICATE OF SERVICE

I, Denise P. Larkin, certify that on the 20 day of November, 2007, I served a copy of the attached Reply Brief of the Appellee upon Martin W. Custen, the counsel for appellee in this matter, by mailing to him by first class mail with sufficient postage prepaid to the following address:

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