

State ex rel. DES v. Pandola

Citation: No. CV-16-0240-PR, 2018 WL 560280 (Ariz. Jan. 26, 2018).

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Author: Justice Gould

Joined by: Chief Justice Bales, Vice Chief Justice Pelander, Justices Brutinel, Timmer, Bolick, and Lopez.

Facts: In 2004, Thomas Pandola received a child support order from Illinois. In August 2014, Pandola registered the 2004 child support order in Arizona. Pandola included a sworn statement that he was unaware of any arrears owed to Tiffany Taylor, the mother of their child, in the registration of the 2004 child support order. One month later, Taylor’s attorney accepted the service of the registration documents, which included Pandola’s statement of arrearages. In October, Pandola filed a proposed form of judgment stating the amount of arrears was “zero dollars.”¹ In November, Taylor requested a hearing to contest the amount of arrears in Taylor’s proposed judgment. Taylor filed the request for the hearing more than twenty days after her attorney accepted the service.

The family court determined that Taylor’s request was untimely. Therefore, Taylor was precluded from contesting Pandola’s statement regarding the amount of child support debt. Consequently, the court confirmed Pandola’s arrear, which was “zero dollars.”

Taylor appealed.

Procedural history: The case was before the Arizona superior court. Since the family court determined that Taylor’s request was untimely, it precluded Taylor from contesting Pandola’s statement regarding the amount in arrears.² The family court confirmed Pandola’s arrears as zero dollars through August 14, 2014.³

Taylor appealed.⁴ The Arizona Court of Appeals affirmed in part and reversed in part.⁵ The court unanimously agreed Taylor failed to timely object to Pandola’s arrears.⁶ However, the majority concluded that Taylor’s untimely objection barred her from contesting the amount of arrears in the Illinois support order, but it did not preclude her from contesting the

¹ State ex rel. DES v. Pandola, No. CV-16-0240-PR, 2018 WL 560280, at *1 (Ariz. Jan. 26, 2018).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

allegation in Pandola's arrears statement.⁷ The dissent reasoned that Arizona's Uniform Interstate Family Support Act (AUIFA) barred Taylor's untimely objection.⁸

The Arizona Supreme Court granted review.⁹

Issue: To contest the validity or enforcement of a foreign order under Arizona's Uniform Interstate Family Support Act, a party must request a hearing within twenty days of receiving notice of the order's registration. Can a non-registering obligee contest a registering obligor's arrears statement if the obligee failed to contest the statement within twenty days of receiving notice of the order's registration?

Holding: Yes, the obligee can contest the obligor's statement of child support arrears.

Disposition: The court of appeals' opinion is vacated, and the family court's decision denying plaintiff's request is reversed and remanded for further proceedings. Attorney's fees for both parties are denied.

Rule: An obligee can contest an obligor's statement of child support arrears notwithstanding the obligee's failure to request a hearing within twenty days of receiving notice of the order's registration.

Reasoning:

- **Statutory Interpretation:** The court began with an overview of case law regarding statutory interpretation. The Arizona Supreme Court reviews statutory interpretation de novo.¹⁰ The court interprets statutes to reflect the legislature's intent.¹¹ The court applies an unambiguous statute as it is written without resorting to other rules of statutory interpretation.¹² Statutes that relate to the same subject or general purpose should be read or construed in connection with each other, as if they constitute one law.¹³
- **Arizona's Uniform Interstate Family Support Act ("AUIFSA"):** The AUIFSA provides the framework for registering a foreign support order in Arizona.¹⁴ Under AUIFSA, a party must request a hearing "within twenty days of mailing or personal service of the notice" of the order's registration to contest its validity or enforcement.¹⁵ If a party fails to timely request a hearing, the party cannot contest

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 2; *see also* ARIZ. REV. STAT. ANN. §§ 25-1301 to -1308 (2018).

¹⁵ *Pandola*, 2018 WL 560280, at *2 (quoting §§ 25-1305(B)(2), -1306).

the foreign support order.¹⁶ In such instances, the court can “confirm the order,” which includes the alleged arrearages.¹⁷ However, the AUIFSA does not preclude all objections above the twenty-day period.¹⁸ The court determined that AUIFA’s preclusion is limited to the defenses listed in A.R.S. § 25-1307(A).¹⁹ Most of the defenses in § 25-1307(A) can be raised by either the obligor or an obligee, but some of the defenses apply only to obligors.²⁰

- **Comparison to *de Leon*:** The court then went on to examine *de Leon v. Jenkins*.²¹ In *de Leon*, the California Court of Appeal assessed California’s version of the Uniform Interstate Family Support Act (“UIFSA”) after a foreign support order was registered with the court and the obligee failed to timely request a hearing to contest an arrears statement.²² The *de Leon* court stated that none of the defenses under UIFSA “can fairly be read to encompass an objection that the amount of arrears listed on a registration statement is understated.”²³ Because California’s version of the UIFSA is identical to the AUIFSA,²⁴ the Arizona Supreme Court held that the obligee could not have objected to the statement of arrears because it was not one of the seven “narrowly defined defenses to registration” permitted under UIFSA.²⁵
- **Federal Law:** After discussing *de Leon*, the court examined how federal law supports the court’s interpretation of AUIFSA.²⁶ Federal law requires that each monthly support payment is entitled to full faith and credit; courts in other states must enforce these judgments.²⁷ Therefore, a court cannot retroactively vacate or modify foreign support orders.²⁸ The court applied this reasoning and determined that if Taylor’s objection was precluded, then it would “effectively vacate” the foreign support order in violation of Arizona’s duty to give these orders full faith and credit under federal law.²⁹
- **UIFSA Comments:** Pandola argued that the 2008 comments to the UIFSA support his construction of the AUIFSA.³⁰ The court did not find this argument persuasive.³¹ The court held that it did not need to resort to the 2008 comments since AUIFSA’s

¹⁶ § 25-1305(B)(3).

¹⁷ *Id.*

¹⁸ *Pandola*, 2018 WL 560280, at *2.

¹⁹ *Id.*

²⁰ *Id.*

²¹ 49 Cal. Rptr. 3d 145 (Ct. App. 2006).

²² *Pandola*, 2018 WL 560280, at *2.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at *3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

language is “clear and unambiguous.”³² Further, the court reasoned that the comment Pandola relied on was inconsistent with the statute’s explicit language and would effectively amend the statute from stating “full or partial payment has been made” to “full and partial payment has *or has not* been made.”³³

- **Reliance on *Tepper*:** *Tepper v. Hotch* involved the “ability of an obligor to contest an overstatement of arrears,”³⁴ while the issue here involves the ability of an obligor to contest an understatement of arrears.³⁵ Thus, since *Tepper* involved a different issue, Pandola’s reliance on *Tepper* was inapplicable.³⁶

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Tepper v. Hoch*, 536 S.E.2d 654 (N.C. Ct. App. 2000).

³⁶ *Pandola*, 2018 WL 560280, at *3.