

Supreme Court of South Dakota

In re Cleopatra Cameron Gift Trust

931 N.W.2d 244 (2019)

In a California divorce proceeding, a California family court imposed interim child support obligations on Cleopatra Cameron, and joined the trustee to facilitate the payment of these support obligations. The family court subsequently ordered the trustee to make direct child support payments to her ex-husband out of her trust. The trust originally had a California trustee, was governed under the California law, was discretionary as to the distributions, and had a spendthrift provision prohibiting the trustee from making payments to creditors of the beneficiary. However, California law provides for an exception to spendthrift protections in the case of child support, which is not the case in South Dakota. The trustee made the payments for a period of time, but stopped making payments after Cleopatra transferred the trust situs to South Dakota, viewing them as contradictory to the trust's spendthrift provision and the Legislature's intent regarding the creditors' rights under the South Dakota law.

Subsequently, the trust beneficiary, Cleopatra, asked the South Dakota circuit court to declare whether the trust's spendthrift provision prohibited direct payments of her child support obligation to her ex-husband. The court concluded that it did because the measures of enforcing child support obligation are determined by the law of the forum, and absent such laws in South Dakota, the California family court's order was not entitled to full faith and credit. The ex-husband appealed.

On appeal, the South Dakota Supreme Court considered whether the California payment order is entitled to the protections of the Full Faith and Credit Clause of the United States Constitution. The Court opined that generally, a judgment rendered by a court with jurisdiction over the subject matter and persons, qualifies for recognition throughout the United States. However, citing the United States Supreme Court, the Court held that a state need not "adopt the *practices* of other States regarding the time, manner, and mechanisms for enforcing judgments," that "[e]nforcement measures do not travel with the sister state judgment as preclusive effects do," and that "such measures remain subject to the control of the forum law." *Baker by Thomas v. Gen. Motors Corp.*, 522 U.S. 222, 235, 118 S. Ct. 657, 665, 139 L. Ed. 2d 580 (1998) (emphasis added). Simply put, the enforcement of foreign judgment depends on the laws of the forum.

In South Dakota, the Legislature enacted statutes explicitly preventing creditors, including child support creditors, from piercing the trust and reaching trust funds protected by a spendthrift provision, unlike in California, where making child support payments out of the trust was a *measure to enforce* the child support obligation against a beneficiary of a trust. Therefore, because South Dakota laws expressly prohibit such *measures of enforcing* the California judgment, no full faith and credit can be recognized. However, the Court recognized that its holding in no way invalidates Cleopatra's legal obligation to pay child support via other means—the ones that do not implicate her trust.

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