ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY

STATE ex rel. DEP'T OF ECONOMIC SECURITY v. PANDOLA, CV-16-0240-PR

PARTIES:

Petitioners: Thomas Pandola ("**Father**") and Arizona Department of Economic Security

Respondent: Tiffany G. Taylor ("**Mother**")

FACTS:

Mother and Father had a child together in Illinois in 1999. In 2001, an Illinois court ordered Father to pay $3,000 per month in child support. Mother and child then moved to Arizona. In 2002, Mother attempted to domesticate (register) the 2001 Illinois support order in Arizona. After that, overlapping judicial proceedings in Arizona and Illinois followed.

In 2003, an Illinois court entered an order requiring Father to pay $6,000 in past due child support, also called "arrearages," and $2,000 per month in ongoing child support. In May 2004, the Illinois court again modified the order, reducing Father's monthly child support obligation to $1,200 per month (the "**2004 Illinois Order**").

In 2005, Father filed a request in Maricopa County Superior Court in Arizona seeking to reduce his monthly support obligation. From 2005 until 2014, the Maricopa County Superior Court exercised jurisdiction over the case as if the 2004 Illinois Order had been properly domesticated in Arizona. In 2006 and 2010, Father obtained more reductions in his monthly support obligations from the Maricopa County Superior Court.

In 2013, Father asked for another reduction and, because Mother had received food stamps, the Department of Economic Security ("**DES**") became involved. At that point, the court on its own indicated that it might not have jurisdiction over the case because the 2004 Illinois Order might not have been registered properly in Arizona. Mother, Father, and DES ultimately all agreed that 2004 Illinois Order had not been properly domesticated and the Arizona court lacked jurisdiction. The trial court agreed and dismissed Father's 2013 petition.

On August 14, 2014, Father filed a notice in superior court pursuant to Arizona Revised Statutes ("A.R.S.") § 25-1302, part of Arizona's Uniform Interstate Family Support Act, A.R.S. §§ 25-1201 to 25-1342 (2004). The notice attached (1) the 2004 Illinois Order, (2) a "Letter of Transmittal" requesting registration/domestication of the 2004 Illinois Order, and (3) Father's sworn statement indicating two things—that the 2004 Illinois Order was the most recent child support order and that Father did not owe any "arrearages" of child support to Mother.

Mother's counsel accepted service of Father's three documents on September 4, 2014. Mistakenly believing that the amount of arrearages was already at issue in the case, Mother's counsel did not object to Father's assertion that he owed Mother no child support arrearages within the twenty-day objection period provided for in A.R.S. § 25-1305(B)(2). Under the procedure in A.R.S. § 25-1305(A), the Maricopa County Superior Court Clerk's Office, as the "registering tribunal," mailed the three documents to Mother, along with a registration notice that said, in part:

> If you wish to contest the validity or enforcement of the registered order . . . or the alleged amount of the consolidated arrearage, you must file your petition within twenty (20) days from the date of mailing or of personal service of this notice. Failure to contest the validity or enforcement of the registered order . . . or the alleged amount of the consolidated arrearage within twenty (20) days will result in confirmation of the orders; prospective enforcement of the controlling order, and enforcement of the consolidated arrearages. This precludes further contest of the order with respect to any matter that could have been asserted.
>
> The party registering this support order alleges an arrearage and/or consolidated arrearage amount of $0.00.

On August 27, 2014, DES filed its own arrearages calculation, maintaining that Father owed $375,790.50 in child support. After Father objected, DES agreed with Father and filed an adjusted calculation showing that Father owed nothing through August 2014.

On October 1, Mother filed a response in support of DES's initial arrearage calculation. On November 5, Mother filed a written objection to Father's August 14 filing, arguing she had been improperly served and requesting a hearing on the matter.

After an evidentiary hearing, the superior court found that Mother had been properly served and had not timely filed an objection. The court affirmed the registration of the 2004 Illinois Order and found that Father owed no arrearages through August 2014. The superior court held that because Mother failed to timely object, she waived any objection both to confirmation of the 2004 Illinois Order and also to Father's statement that he owed nothing in support arrearages.

Court of Appeals Majority Opinion.

In a 2-1 decision, the court of appeals held that "the superior court erred in holding that Mother's failure to timely object to Father's Notice precluded her from contesting the amount of arrearages Father may currently owe" under the 2004 Illinois Order. *State ex rel. DES v. Pandola*, 240 Ariz. 543, 549 ¶ 30 (App. 2016). The majority reasoned that, pursuant to A.R.S. § 25–1306(B), "Mother's failure to timely object to the Notice plainly waived her right to contest confirmation of the *support order* Father sought to register," and, because the 2004 Illinois Order "was confirmed by operation of law," the Arizona courts had jurisdiction to enforce it. *Id.* ¶ 21.

However, the court held that "the statute does not impose the same consequences for a party's failure to object within twenty days to the other party's avowal about any *arrearages* purportedly due under the order submitted for registration." *Id.* ¶ 22 (emphasis added). Because A.R.S. § 25-1305(B)(2) provides only "that a hearing to contest the validity or enforcement of the

registered support order must be requested within twenty days," the statute "makes no references to any duty to seek a hearing to contest" the alleged arrearages. *Id.* ¶ 23.

Arizona obtains jurisdiction over a child support order through a "streamlined process" that is "aimed simply at determining the validity of the foreign order;" because the 2004 Illinois Order "does not establish an arrearage amount due and owing, [it] does not represent the foreign court's determination of arrearages" and therefore is not entitled to "full faith and credit" like that provided to the underlying order. *Id.* ¶ 25. Because the 2004 Illinois Order "reflects no arrearages as of that date," Mother's "failure to timely object results in confirmation that, *as of May 2004*, Father owed support in the amount of $1,200 per month," but her failure to object to Father's August 14, 2014 notice, "did not similarly bar her from contesting Father's avowal as to arrearages purportedly currently due." *Id.* ¶ 28.

Court of Appeals Dissenting Opinion.

According to the dissent, "Mother waived her opportunity to contest the arrears alleged by Father through the date of filing the registration documents." *Id.* ¶ 35 (Jones, J., dissenting). This is so because, once the 2004 Illinois Order was confirmed, Mother was "precluded from further contest of the order with respect to any matter that could have been asserted at the time of registration." *Id.* ¶ 36 (quoting A.R.S. §§ 25–1305(B)(3)). "Notably, 'the amount of any alleged arrearages' is a topic specifically identified as a matter that can be raised at a hearing to contest the enforcement of a registered support order." *Id.* (quoting A.R.S. § 25–1306(A)).

The dissent viewed the majority as "incorrectly interpret[ing] the phrase 'alleged arrears' . . . to mean only those arrears that have been documented in a foreign order and presented to the registering court for confirmation." *Id.* In the dissenting judge's view, this interpretation is "contrary to the commonly understood meaning of the word 'alleged,' which is used to describe assertions that have *not* been proven." *Id.* And, the majority's interpretation, "impermissibly disregards the direction of A.R.S. § 25-1308, which 'precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.'" *Id.* (quoting A.R.S. § 25-1308). The dissent would have affirmed "the orders of the trial court in their entirety." *Id.* ¶ 39.

ISSUE:

> Does the Arizona Uniform Interstate Family Support Act, A.R.S. §§ 25-1201 to 25-1342 (2004), and/or federal law, including the Federal Aid to Needy Families with Children statute, 42 U.S.C. § 666, require a court to confirm the alleged arrearages in a Notice of Registration if the non-registering party fails to timely object?