

CANADA / JUDGMENT

Hokhold v. Gerbrandt

2016 BCCA 159

COURT

British Columbia Court of Appeal

DECIDED

15 April 2016

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2016 BCCA 159 Hokhold v. Gerbrandt COURT OF APPEAL FOR BRITISH COLUMBIA Citation: Hokhold v. Gerbrandt, 2016 BCCA 159 Date: 20160415 Docket: CA42288 Between: Andrew Nicholas Hokhold Appellant (Plaintiff) And Laurie Darlene Gerbrandt Respondent (Defendant) Before: The Honourable Madam Justice Newbury The Honourable Mr. Justice Tysoe The Honourable Mr. Justice Savage Supplementary Reasons to Hokhold v. Gerbrandt, 2015 BCCA 268. Appellant on application to reopen appeal: A.N. Hokhold Counsel for the Respondent on application to reopen appeal: L.A. Kahn, Q.C. Written Submissions received: November 26, 2015, February 24, March 3, 11, 16, 18, 24, 30, 2016 Date of Supplementary Judgment: April 15, 2016 Supplementary Reasons of the Court Summary: Leave to reopen appeal denied. Supplementary Reasons for Judgment of the Court:

- [1] We have had the opportunity to review the extensive materials filed by the appellant Dr. Hokhold in support of his application for this court's reopening of his appeal (from a so-called "mobility order" with respect to his children) following our dismissal thereof. In our earlier reasons (see 2015 BCCA 268), we concluded: Having heard from both Dr. Hokhold and Mr. Kahn, we formed the view that Dr. Hokhold had not provided any "convincing explanation" as to why he remains in arrears with respect to the Supreme Court orders relating to support. In the circumstances of this case, the administration of justice would be called into disrepute by our hearing an appeal at the request of a person who has exhibited disdain for the judicial process and continues to use this process to overwhelm his former partner. [At para. 13.]
- [2] Since then, Dr. Hokhold has successfully appealed the order which had found him in contempt with respect to his payment of a child and spousal support order made in 2012. (See 2016 BCCA 6.) This court remitted the contempt application to the Supreme Court of British Columbia "for determination at the instance of the Director [of Family Maintenance Enforcement]". The Director subsequently advised Dr. Hokhold that he will not be seeking to remit the matter to Supreme Court, although he stands by his original position that Dr. Hokhold was in contempt of the 2012 order.

- [3] Dr. Hokhold has filed voluminous materials which contain new evidence and lengthy arguments that are largely irrelevant to the question of whether the appeal should be reopened. He was granted two extensions of deadlines set by the Registrar. The filings of course required responses from counsel for the respondent Ms. Gerbrandt. Not surprisingly, Mr. Kahn objected to additional evidence being submitted, and suggested that Dr. Hokhold must return to Supreme Court to vary the arrears of spousal and child support. (Dr. Hokhold had originally appealed the support orders but later abandoned his appeal.) Mr. Kahn stated that Dr. Hokhold had "egregiously breached" the concept of proportionality, with the result that he was causing extreme financial hardship to Ms. Gerbrandt.
- [4] On March 21, 2016, the Registrar wrote to Dr. Hokhold and Mr. Kahn directing that any further submissions should be of a summary nature and that although they were permitted to refer to evidence, evidence and affidavits should not be filed unless the Court agreed to reopen the appeal. Undeterred, Dr. Hokhold then filed 58 additional pages of submissions including further evidence and arguments. Mr. Kahn again objected, observing that the submissions represented Dr. Hokhold's view of the evidence and had nothing to do with the underlying reasons for judgment of this court dated June 11, 2015 dismissing the mobility appeal. He added that without incurring substantial legal fees, he was unable to rebut the new submissions of Dr. Hokhold.
- [5] We view this situation as very unfortunate. From the material, it appears that Dr. Hokhold is still in arrears (as to a very substantial amount) with respect to spousal support and the payment of certain expenses; yet, having discontinued his appeal of the support order, has not sought any variation of that order in the Supreme Court. This fact (which Dr. Hokhold has not attempted to explain), together with his continued 'stonewalling' of the Court by filing obviously irrelevant material and flouting of the Registrar's directions, lead us to the conclusion that we should not exercise our discretion in favour of reopening the appeal.
- [6] Accordingly, the application is dismissed. We also order that Dr. Hokhold pay special costs of this application to reopen, to be assessed by the Registrar in such manner as he shall direct, and with or without an oral hearing. "The Honourable Madam Justice Newbury" "The Honourable Mr. Justice Tysoe" "The Honourable Mr. Justice Savage"

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