

SUMMARY STATEMENT

Shepherd v. Shepherd, Docket No. 42938

In an appeal from Kootenai County, the Supreme Court affirmed the decision of the district court affirming the magistrate court's order granting in part and denying in part Nancy Shepherd's motion to modify a decree of divorce. Nancy argued the district court erred in not setting aside John Shepherd's child visitation rights under the divorce decree because the magistrate court lacked subject matter jurisdiction to give a non-parent custody rights and the child's biological father, Ralph Bartholdt, was not a party to the divorce.

The Supreme Court concluded that Nancy's claim of legal error did not render the divorce decree and child custody determination void for lack of subject matter jurisdiction and that Nancy lacked standing to claim the judgment was void as a violation of Ralph's constitutional right to due process. The Supreme Court found Nancy's appeal to be frivolous and awarded attorney fees and costs on appeal to John.