

SUMMARY STATEMENT

Gray v. Gray

Docket No. 49666

This appeal concerned a divorced parent's decision to unilaterally relocate her child to Costa Rica without prior notice to the other parent or leave of the magistrate court. Carla Gray appealed the magistrate court's order that modified the existing custodial arrangement and required her to return the child to the United States. Carla appealed directly to the Idaho Supreme Court on three grounds: (1) that the magistrate court's application of the burden of proof under *Roberts v. Roberts*, 138 Idaho 401, 64 P.3d 327 (2003) was improper; (2) that the magistrate court abused its discretion in its best interest of the child analysis; and (3) that the magistrate court's application of the burden of proof violated her right to due process.

The Idaho Supreme Court affirmed the decision of the magistrate court. The Court first held that the magistrate court applied the correct burden of proof, clarifying that under *Roberts*, "when a party's relocation of a child effectively frustrates an existing custodial arrangement, and the move is either opposed by or occurs without reasonable notice to the noncustodial parent, the relocating party must bear the burden of proving the move is in the child's best interests." The Court further held that the magistrate court did not abuse its discretion in weighing the best interests of the child and concluded that Carla's due process argument was improper since it was raised for the first time in her reply brief.

******This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.******