

SUMMARY STATEMENT

Raber v. Raber

Docket No. 52309

Michael Raber (“Father”) appealed and Elizabeth Corey Raber (“Mother”) cross-appealed from a custody order awarding joint legal and physical custody of their minor child on a two-week-on/two-week-off rotation between Father’s home in Idaho and Mother’s home in Texas. During a divorce proceeding, Mother sought to relocate with the minor to her home-state of Texas. Following a trial, the magistrate court provided the parents with two parenting plan options and directed the parents to choose one. Under the first option, the parents would share a week-on/week-off parenting schedule as long as each parent resided in the Coeur d’Alene area. The second option envisioned Mother residing in Texas and provided a two-week-on/two-week-off parenting schedule, in which the child would fly with the custodial parent between Texas and Idaho twice a month. The parents were given fourteen days to choose a plan.

About ten days later, Mother filed a motion to make additional findings and/or to reconsider, noting that the magistrate court had not made complete findings of fact, reached any conclusions of law, or issued what appeared to be a final decision. The magistrate court denied the motion and subsequently issued a supplemental memorandum decision ordering different custody schedules based on where the parents chose to reside: (1) if both parents continued to reside in the Coeur d’Alene area, the magistrate court ordered a week-on/week-off parenting schedule as set forth under option one of its original decision; (2) but, if Mother relocated to Texas, the magistrate court ordered the parents to follow the two-week-on/two-week-off schedule outlined in option two of its original decision. Mother relocated to Texas, and the magistrate court entered its judgment adopting the two-week-on/two-week-off schedule. Father appealed directly to the Idaho Supreme Court; Mother cross-appealed.

On appeal, Father argued the magistrate court abused its discretion by failing to properly analyze the best interest of the child factors under Idaho Code section 32-717, failing to make any determination that a specific parenting schedule is in the best interest of child, and permitting the child to relocate to Texas without considering any factors to support a relocation or making a determination that relocation was in the best interest of the child. The Idaho Supreme Court vacated the custody judgment and remanded the case for further proceedings.

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