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2002 Survey of Rhode Island Law: Cases: Appellate Procedure

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Appellate Procedure. *Codd v. Barrett*, 798 A.2d 954 (R.I. 2002). The Rhode Island Supreme Court will review an order holding a defendant in civil contempt of court for failure to pay child support only by writ of certiorari. A party cannot avoid this procedure by including other findings and conclusions in the order.

FACTS AND TRAVEL

In 1992, the plaintiff and defendant were divorced.¹ The couple had one child, for whom the defendant was in arrears in his child support obligations under the divorce decree.² In January 1998, the defendant filed a complaint seeking to modify both child support and visitation.³ In response to the defendant's complaint, the plaintiff filed a contempt motion for the defendant's failure to pay child support.⁴ The defendant was warned at an initial hearing, before a family court magistrate, that if he did not satisfy the requirements of the divorce decree, he would be held in contempt of court.⁵ The defendant failed to pay and the family court magistrate held the defendant in civil contempt of court.⁶

The defendant appealed and the plaintiff responded by filing a motion to dismiss the appeal.⁷ The family court magistrate dismissed the appeal because article I, rule 11(F) of the Rhode Island Supreme Court Rules of Appellate Procedure requires writ of certiorari for review of family court orders relating to a finding of contempt for failure to pay child support.⁸ The defendant then filed a notice of appeal, arguing the supreme court has jurisdiction to hear his case because the magistrate's order encompassed other issues beyond those related to the finding of contempt.⁹

BACKGROUND

Section 14-1-52(b) of the Rhode Island General Laws provides that:

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1. *Codd v. Barrett*, 798 A.2d 954, 955 (R.I. 2002).
 2. *Id.*
 3. *Id.*
 4. *Id.*
 5. *Id.*
 6. *Id.* at 955-56.
 7. *Id.* at 956.
 8. *Id.* (citing R.I. SUP. CT. R. APP. P. 11(F)).
 9. *Id.*

Every person aggrieved by any decree, judgment, order, decision, or verdict of the family court relating to modification of alimony or child support, or a finding of contempt for failure to pay alimony or child support, may, within twenty days after entry of the decree, judgment, order, decision, or verdict, seek review of questions of law in the supreme court by petition for writ of certiorari in accordance with the procedure contained herein.¹⁰

ANALYSIS AND HOLDING

The Rhode Island Supreme Court noted that section 14-1-52(b) provides that writ of certiorari, not an appeal, is the appropriate avenue of review for those persons aggrieved by a family court order for failure to pay child support.¹¹ The supreme court found that the defendant's argument regarding other findings and conclusions bundled into the order did not have merit.¹² The fact that other issues, which might otherwise be appealable to the supreme court are included in the order, does not eliminate the need for a writ of certiorari.¹³ Also, the defendant's failure to purge himself of the contempt, or at least attempt to do so, allows an additional basis for the supreme court to deny review.¹⁴

CONCLUSION

The Rhode Island Supreme Court will review an order of civil contempt for failure to pay child support only upon a writ of certiorari. This is so even if other findings or conclusions, which might otherwise be appealable, are contained in that order.

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10. R.I. GEN. LAWS § 14-1-52(b) (2002).

11. *Codd*, 798 A.2d at 956.

12. *Id.*

13. *Id.*

14. *Id.* at 957.