

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN GELLER,

Plaintiff-Appellant,

v

RUTH HILL,

Defendant-Appellee,

and

SHATOYA COLLINS and LEODIS ELLIOTT,

Appellees.

UNPUBLISHED

August 2, 2002

No. 230937

Wayne Circuit Court

LC No. 00-018441-PC

Before: Talbot, P.J., and Cooper and D. P. Ryan*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order setting aside a prior order and dismissing the case. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action to affirm a marriage between his ward and defendant. Pursuant to stipulation of the parties, the court found that the probate court had concurrent jurisdiction and transferred the action to that court pursuant to MCL 700.1303. While the matter was pending before that court, the circuit court granted Collins' motion to set aside the transfer order and dismiss the case.

MCL 700.1303(2) provides:

If the probate court has concurrent jurisdiction of an action or proceeding that is pending in another court, on the motion of a party to the action or proceeding and after a finding and order on the jurisdictional issue, the other court may order removal of the action or proceeding to the probate court. If the action or proceeding is removed to the probate court, the other court shall forward to the probate court the original of all papers in the action or proceeding. After that

* Circuit judge, sitting on the Court of Appeals by assignment.

transfer, the other court shall not hear the action or proceeding, except by appeal or review as provided by law or supreme court rule, and the action or proceeding shall be prosecuted in the probate court as a probate court proceeding.

Apart from the question whether Collins had standing to challenge an order entered in an action to which she was not a party and which failed to directly concern her, because the case had been transferred to the probate court, the circuit court lacked jurisdiction and the authority to hear Collins' motion.

Reversed.

/s/ Michael J. Talbot

/s/ Jessica R. Cooper

/s/ Daniel P. Ryan