

STATE OF MICHIGAN
COURT OF APPEALS

GALAREE SHAMPANE LEGRO,

Petitioner-Appellee,

v

ELLIOTT MARTIN LECHNER,

Respondent-Appellant.

UNPUBLISHED

June 24, 2019

No. 347149

Lapeer Circuit Court

Family Division

LC No. 18-051541-DC

Before: MURRAY, C.J., and STEPHENS and SHAPIRO, JJ.

PER CURIAM.

Respondent-father appeals the circuit court's order enforcing a Massachusetts child custody judgment in favor of petitioner-mother pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), MCL 722.1101 *et seq.* We affirm.

The parties, who are unmarried, lived together in Massachusetts from the minor child's birth in 2011 until 2015. In June 2015, respondent and the child moved to Michigan after petitioner allegedly assaulted respondent. Petitioner filed a complaint for custody in Massachusetts in November 2015. Respondent was served with an amended complaint in May 2016, but chose not to participate in the proceedings. In October 2016, the Massachusetts court awarded petitioner sole physical and legal custody. Respondent, though, refused to return the child to petitioner.

In February 2018, petitioner registered the Massachusetts child custody determination in the circuit court and filed a petition requesting enforcement of that judgment under the UCCJEA. Initially, the circuit court denied the request for enforcement and ordered respondent to file a complaint for custody, which he did. However, petitioner then filed a motion for reconsideration and a motion for summary disposition, maintaining that Massachusetts, not Michigan, had jurisdiction over this case. Eventually, the parties reached an agreement that respondent would file a motion for relief from judgment in Massachusetts to determine whether Massachusetts would continue to exercise jurisdiction over the child. The Massachusetts court denied respondent's motion.

In October 2018, the parties appeared again before the circuit court and confirmed that the Massachusetts court had denied respondent's motion for relief from judgment. Petitioner renewed her motions for summary disposition and for reconsideration, and the parties submitted supplemental briefing at the court's request.

In December 2018, the court held a final hearing on petitioner's continued motions for reconsideration and for summary disposition. The court concluded that Massachusetts had jurisdiction and entered an order enforcing the Massachusetts custody judgment under the UCCJEA.

Respondent contends on appeal that the circuit court erred in enforcing the Massachusetts custody judgment and declining to take jurisdiction over the child. We disagree.¹

The UCCJEA provides in part that a Michigan court is required to

recognize and enforce a child-custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with this act or the child-custody determination was made under factual circumstances meeting the jurisdictional standards of this act and the child-custody determination has not been modified in accordance with this act. [MCL 722.1303(1).]

Thus, if the Massachusetts court exercised jurisdiction in "substantial conformity" with the UCCJEA, then the circuit court was required to enforce the judgment awarding petitioner sole legal and physical custody upon registration. See MCL 722.1304(3)(a) ("A registered child-custody determination is enforceable as of the date of the registration in the same manner as a child-custody determination issued by a court of this state.").

Massachusetts has not adopted the UCCJEA. Instead, it relies on the Massachusetts Child Custody Jurisdiction Act (MCCJA), which "is similar, but not identical, to the [UCCJEA.]" *In re Adoption of Yvette*, 71 Mass App 327; 881 NE2d 1159, 1166 n 11 (2008). Under the MCCJA, a Massachusetts court may exercise jurisdiction to make an initial child custody determination when Massachusetts

(i) is the home state of the child on the commencement of the custody proceeding, or (ii) had been the child's home state within six months before the date of the commencement of the proceeding and the child is absent from the commonwealth because of his or her removal or retention by a person claiming his or her custody or for other reasons, and a parent or person acting as parent continues to reside in the commonwealth[.] [Mass Gen Laws ch 209B § 2(a)(1) (1983).]

¹ We review questions of law, such as whether a court has subject-matter jurisdiction or issues of statutory interpretation, de novo. *Cheesman v Williams*, 311 Mich App 147, 150; 874 NW2d 385 (2015).

That provision roughly reflects MCL 722.1201(1)(a), which provides that a Michigan court has jurisdiction to make an initial custody determination when Michigan

is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state. [MCL 722.1201(1)(a).]

Both Michigan and Massachusetts define “home state” as the state in which a child lived with a parent for at least six consecutive months immediately before the commencement of the child custody proceeding. MCL 722.1102(g); Mass Gen Laws ch 209B § 1 (1983).

Thus, the pertinent provisions of the UCCJEA and the MCCJA provide a court with jurisdiction to make an initial custody determination under the same circumstances. Respondent’s argument that the MCCJA provision is different in that it automatically relinquishes jurisdiction over a child six months after the child leaves the state is without merit. The MCCJA provides only that a court has jurisdiction to make the initial custody determination if Massachusetts was the child’s home state within six months before commencement of the proceedings. Mass Gen Laws ch 209B § 2(a)(1)(ii). If that jurisdictional requirement is satisfied when the action is filed, then the initial custody determination is enforceable regardless of where the child lives thereafter. Accordingly, an exercise of jurisdiction under the MCCJA is in substantial conformity with the UCCJEA.

Further, we conclude that the Massachusetts court properly exercised jurisdiction to make the initial custody determination in this case. Massachusetts was the child’s home state since his birth in 2011. When respondent and the child left Massachusetts in June 2015, petitioner had six months to commence child custody proceedings in Massachusetts, where she continued to reside. She met that requirement by filing a complaint for custody on November 4, 2015.² In sum, because the Massachusetts court properly exercised jurisdiction over this case in substantial conformity with the UCCJEA, the circuit court correctly concluded that it was required to enforce the Massachusetts custody determination. MCL 722.1303(1).

We note that a Michigan court may modify another state’s custody determination if Michigan has jurisdiction to make an initial determination under MCL 722.1201 and either (1) the court of the other state concludes that it no longer has “exclusive, continuing jurisdiction” or that Michigan is a more convenient forum or (2) neither the child nor a parent continues to reside in the other state. MCL 722.1203. Neither of those conditions applies because petitioner

² It is irrelevant that respondent was not served with an amended complaint until May 2016 because the six-month period is based on the commencement of the action, i.e., the date of filing. See *Charara v Yatim*, 78 Mass App 325; 937 NE2d 490, 495-496 (2010) (referring to the commencement of the child custody proceeding as the date when the action was “filed.”). See also MCL 722.1102(e) (defining “commencement” as “filing of the first pleading in a proceeding.”).

continues to reside in Massachusetts and the Massachusetts court decided to retain jurisdiction over this matter.

Finally, respondent argues that the circuit court should have considered whether MCL 722.1201 provided it with jurisdiction to make an initial custody determination. Aside from the modification provision discussed above, whether the circuit court had jurisdiction to make an initial custody determination was irrelevant because a valid custody determination has already been entered in this case. Further, “a court of this state may not exercise its jurisdiction under this article if, at the time of the commencement of the proceeding, a child-custody proceeding has been commenced in a court of another state having jurisdiction substantially in conformity with this act” MCL 722.1206. Therefore, the Massachusetts court’s decision to retain jurisdiction precluded the circuit court from exercising jurisdiction over this case.

Affirmed.

/s/ Christopher M. Murray
/s/ Cynthia Diane Stephens
/s/ Douglas B. Shapiro