

Court of Appeals, State of Michigan

ORDER

Sarah Noelle Hammond v Carl Miller Jr.

Docket No. 307189

LC No. 98-017458-DS

Joel P. Hoekstra
Presiding Judge

Jane E. Markey

Jane M. Beckering
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the Court VACATES the November 3, 2011 order denying defendant's motion to decline jurisdiction because the probate court had continuing jurisdiction of the child custody matter only until it determined that neither of the parents nor the child lived in Michigan. MCL 722.1202(1)(b). The parties and the court acknowledged that to be so at the December 17, 2010 hearing on defendant's initial motion asking the court to decline jurisdiction, and so, the court lost jurisdiction over the matter at that point. The probate court did not regain jurisdiction merely because plaintiff moved back to Michigan from Arizona after the December 17, 2010 hearing because that is insufficient to establish the requisite "significant connection" under MCL 722.1202(1)(a) and *White v Harrison-White*, 280 Mich App 383, 394; 760 NW2d 691 (2008). The probate court did not have jurisdiction to determine whether Michigan is an inconvenient forum because it is "[a] court of this state that has jurisdiction under this act to make a child-custody determination" who "may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum." MCL 722.202(2) and MCL 722.207(1).

The case is REMANDED with direction that the probate court enter an order declining jurisdiction over this child custody matter. We do not retain jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

DEC 17 2012

Date


Chief Clerk