

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JONNA M. BALL, Plaintiff	: NO. 00-21,286 : :
vs.	: CIVIL ACTION - LAW : Custody
JAY E. JONES, Defendant	: :

OPINION AND ORDER

Before the Court is Plaintiff's Petition for Emergency Relief/Removal from Jurisdiction and Petition to Assume Jurisdiction, filed August 18, 2000. Argument and the presentation of facts as a case stated was heard August 29, 2000.

It appears the parties, who are the parents of one (1) minor child, Janelle, born December 21, 1995, entered into an agreement in June of 1999, while residing in California, which agreement was incorporated into an Order in Humboldt County, California in November 1999. Mother moved to Pennsylvania in June of 1999 and father moved to Oregon in November 1999. According to the terms of the parties' agreement, Father has primary custody of Janelle and mother has custody during the summer (beginning in the year 2000) and from November 16th to January 16th each year. Thus, the child remained in California with father after mother moved to Pennsylvania and then moved with father to Oregon in November 1999. The child visited with mother from mid-November 1999 through mid-January 2000 and again from June 21, 2000 through the present, the visit scheduled to end on August 31, 2000. Mother has now filed the instant petition seeking to modify the California Order, asking this Court to take jurisdiction of the matter in Order to effect such a modification.

Upon review of the Uniform Child Custody Jurisdiction Act, specifically 23 Pa.C.S. Section 5344, it appears this Court does not have jurisdiction over the matter, and, in fact, jurisdiction probably lies in Oregon at this time as the child has resided there for over six

(6) months, the visits with mother in Pennsylvania being considered as temporary absences under the definition of “home state”. 23 Pa.C.S. Section 5343¹.

ORDER

AND NOW, this 1st day of September, 2000, for the foregoing reasons, this Court declines to accept jurisdiction of the matter and Plaintiff’s Petition for Emergency Relief/Removal from Jurisdiction and Petition to Assume Jurisdiction is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: Jeff Yates, Esq.
Joy McCoy, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson

¹The Court rejects Plaintiff’s argument that the Court has jurisdiction under Section 5344(a)(3)(ii), which depends on a finding that the child has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent. The evidence offered by Plaintiff in support of that claim is woefully insufficient.