

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

T. T.	:	
Plaintiff	:	
	:	
v.	:	No. 98-21,489
	:	
N. A.,	:	
Defendant	:	

*Opinion issued May 17, 2001*

**OPINION and ORDER**

In this case the court is called upon to apply the provisions of the Uniform Child Custody Jurisdiction Act (UCCJA), 42 Pa.C.S. §5341 et seq. The father, T.T., has filed a petition to modify a custody order entered in Lycoming County. The mother, N.A., has asked this court to relinquish jurisdiction. After hearing and argument, we find that the mother's motion should be granted, as Bradford County is the more appropriate forum to hear this case.

**Factual Background**

The parties agree that the child, K.T., has lived primarily with her mother in Bradford County since January 31, 1995. Father has had partial custody, exercised in Lycoming County, every other weekend. The child has attended school only in Bradford County, and is involved with religious activities and extracurricular activities in Bradford County. All of the child's living grandparents reside in Lycoming County.

The parties' divorce was entered in Lycoming County. There is only one existing custody order, entered in Lycoming County on 30 October 1998, which addressed the Father's emergency petition asking for custody of the child so that she could attend her

grandmother's funeral.

### **Discussion**

The Uniform Child Custody Jurisdiction Act was enacted in order to prevent custody tug-of-war conflicts between courts located in different states or different counties.<sup>1</sup> The Act envisions cases where more than one court has the ability to exercise jurisdiction, and provides guidance for determining which forum is more appropriate.

We begin with §5344(a)(i), which states that a court has jurisdiction to make a custody determination if the court is located in the home county of the child. Bradford County is clearly the child's home county; thus Bradford County has jurisdiction under this subsection.

We next look to §5344(2), which provides alternative bases for jurisdiction. Unlike §5344(a)(i), this section begins with the statement that a court may make a determination on custody if "it is in the best interest of the child that a court of this Commonwealth assume jurisdiction." Clearly, this limiting language indicates that home county status is the preferred basis for jurisdiction.

Even assuming that Lycoming County *may* exercise jurisdiction under the "significant contacts" provision, §5344(2)(i), the court must examine whether we *ought* to do so. We also note that under the Act, once a court has entered a custody order, a court of another jurisdiction may not modify it unless the first court no longer has

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<sup>1</sup> The Act clearly applies to intrastate disputes as well as interstate conflicts. §5364(a). Therefore, in discussing the statute, this court will replace the term "home state" with "home county."

jurisdiction or has declined to exercise jurisdiction. §5355(a). Either way, we end up at §5348, which lists the factors to consider in determining whether we should decline to exercise jurisdiction.

After considering these factors, Bradford County unquestionably prevails. First, it is the child's home county. Second, it has a closer connection with the child and her family, which includes her stepfather, and with one of the contestants, her mother. The child has lived in Bradford County for the last five years. All of her school records and teachers are located there. All of the extracurricular activities she participates in occur there. Friends and neighbors who would be called as witnesses live there. These same facts apply to the third consideration, that substantial evidence concerning the child's present or future care, protection, training and personal relationships is more readily available in Bradford County. The fourth consideration does not apply to this case, as the parties have not agreed on another forum that is no less appropriate. And finally, the exercise of jurisdiction in Bradford County would not contravene any of the purposes stated in §5342. In fact, the purposes would unquestionably be better served if the case is litigated in Bradford County. Principally, the purpose expressed in §5342(a)(3), which states that the Act strives to:

Assure that litigation concerning the custody of a child takes place ordinarily in the [county] with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training and personal relationships is most readily available, and that courts of this Commonwealth decline the exercise of jurisdiction when the child and his family have a closer connection with another [county].

The father has made much of the fact that the mother did not object to jurisdiction

in 1998, when the father filed his emergency custody petition. We see no reason why that makes any difference, and we note that the order resulting from that petition addressed only a very limited issue—granting the father custody in order to take the child to her grandmother’s funeral. We are shocked to think that such a court order would ever be necessary, and we sincerely hope that these parents have, in the meantime, learned to be more reasonable and mature in dealing with one another.

**ORDER**

AND NOW, this \_\_\_\_\_ day of May, 2001, for the reasons stated in the foregoing opinion, this court declines to exercise jurisdiction over this custody matter. The Prothonotary is ordered to transfer this case to Bradford County, which is the more appropriate county under 23 Pa.C.S.A. §5341 et seq.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Jacques, Esq., Law Clerk  
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