

**IN THE COURT OF APPEALS OF IOWA**

No. 1-441 / 10-2055  
Filed July 27, 2011

**IN RE THE MARRIAGE OF RONALD  
MILLER JR. AND MARCIA ANN MILLER**

**Upon the Petition of  
RONALD MILLER JR.,**  
Petitioner-Appellant,

**And Concerning  
MARCIA ANN MILLER, a/k/a  
MARCIA A. YUNG, ANNIE  
YUNG, MARCIA A. MORRISSEY  
and k/n/a MARCIA A.  
MORRISSEY-SMITH,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Dallas County, Terry Rickers,  
Judge.

A father appeals from the district court's dismissal of his petition regarding  
child support. **REVERSED AND REMANDED.**

Ronald E. Miller, Jr., Luther, appellant pro se.

Marcia A. Morrissey-Smith, Loudonville, New York, appellee pro se.

Considered by Vogel, P.J., Vaitheswaran, J., and Huitink, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

**VOGEL, P.J.**

Ronald Miller Jr. appeals from the district court's dismissal of his petition requesting an order of satisfaction of child support. He argues that the court incorrectly determined it did not have jurisdiction. We find that under Iowa Code chapter 252K (2011) (Uniform Interstate Family Support Act), Iowa issued the child-support order and the obligor remained residing in Iowa. Therefore, Iowa retained jurisdiction with respect to child support. We reverse and remand.

**I. Background Proceedings.**

Ronald Miller Jr. and Marcia Miller were residents of New York when they married in 1984 and had three children, who were born in 1986, 1988, and 1992. The parties separated in September 1998, after which Ronald and the oldest child moved to Iowa. In July 1999, the parties signed an "Opting Out and Separation Agreement" that incorporated various provisions of New York law. The agreement memorialized the division of the parties' assets and debts and provided for child custody and support. The parties agreed to joint legal custody of the children, with Ronald having "residential care" of the oldest child and Marcia having "residential care" of the two younger children. The parties calculated that under New York law, Ronald's monthly child support obligation was \$385.03 and Marcia's was \$223.03. Therefore, Ronald was to pay the offsetting monthly amount of \$162.00.

In November 1999, Marcia filed a custody action in New York. In December 1999, Ronald filed a petition for dissolution of marriage in Iowa. On January 19, 2000, a joint telephone hearing was held between the Iowa and New York courts. The courts agreed that Iowa would have jurisdiction over the oldest

child and New York would have jurisdiction over the two younger children. In February 2000, a New York court granted Marcia “legal custody” and “residential care” of the two younger children, with the parties to mutually agree as to visitation. In March 2000, a New York court ordered Ronald to pay Marcia \$162 per month in child support.

In June 2000, the Iowa District Court issued a decree dissolving the parties’ marriage. The decree acknowledged the joint telephone hearing held between the Iowa and New York courts and stated it had jurisdiction to determine custody of the oldest child. The parties were then awarded joint legal custody and Ronald was awarded physical care of the oldest child. As to child support, the court incorporated the parties’ separation agreement, ordering that Ronald pay \$162 per month. The district court recognized there was a New York court order regarding where the support was to be paid.

After the dissolution decree was entered, Ronald filed for enforcement of the decree in New York, seeking to enforce the sibling visitation provision. A hearing was held on June 29, 2000, during which the New York court found it had sole jurisdiction of custody and visitation of the two younger children and would not honor the Iowa decree regarding visitation of the two younger children.

In August 2000, Ronald filed for enforcement of the decree in Iowa and a hearing was held. On October 12, 2000, the district court issued its ruling, stating,

The Iowa Decree of Dissolution was apparently filed in the State of New York by petitioner. New York will not enforce the order. In addition, there is a pending visitation order in place from the New York court. This court cannot force New York to take action. The court declines to exercise jurisdiction concerning the two minor

children residing in New York with their mother. Petitioner's motion is therefore denied.

There was no further litigation in Iowa until 2010.

On October 25, 2010, Ronald filed a "Motion for Immediate Stay of Child Support" and a "Motion for Order of Satisfaction of Child Support" in Iowa. The district court found that in the October 12, 2000 order, the court declined to exercise jurisdiction over the children residing in New York. Further, observing that the order was not appealed, the court determined it was the "law of the case." Therefore, the district court denied Ronald's motion.

Ronald filed a motion to reconsider. He argued that two child support modification actions were commenced in New York in 2005, both of which were dismissed by New York courts for lack of jurisdiction. As evidence, he attached documents from the two separate modification actions initiated and dismissed in New York. A hearing on the first action had been held on March 1, 2005, at which time Marcia sought to terminate her child support obligation for the oldest child. The New York court noted that the child support order was from an Iowa decree and Ronald remained in Iowa. The court found that "any proceeding to modify that order has to be made in the State of Iowa" and dismissed the petition. Similarly, in June 2005, the Department of Social Services of New York filed a petition for modification of the Iowa support order. That petition recited that Ronald was ordered to pay \$162 per month in February 2000 and requested a modification because the younger two children were now receiving Medicaid benefits. In an October 2005 ruling, the New York court found that the controlling child support order was part of the Iowa dissolution decree and Ronald continued

to reside in Iowa. Again, the New York court found it did not have jurisdiction to modify the Iowa child support order and dismissed the petition.

On November 17, 2010, the Iowa District Court ruled on Ronald's motion to reconsider. It found that the March 2005 New York modification proceeding regarded termination of child support for the older child, but the ruling was unclear as to whether it pertained to the younger children. Further, the court found the Iowa October 12, 2000 ruling was unequivocal that the New York courts retained jurisdiction over the younger two children.

Ronald appeals.<sup>1</sup> Our review is de novo. Iowa R. App. P. 6.907; see Iowa Code § 598.3 ("An action for dissolution of marriage shall be by equitable proceedings.").

## **II. Analysis.**

When Ronald petitioned the Iowa district court in 2010 to have his child support obligation satisfied, the court apparently confused the jurisdictional issue of child custody with the separate jurisdictional issue of child support. In 2000, *child support* was established by an Iowa order,<sup>2</sup> whereas *child custody* was established for the older child by an Iowa order and for the younger two children

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<sup>1</sup> Marcia did not file a brief, but did send a letter to the court filed June 8, 2011. We do not consider the letter as it is beyond the time frame for filing a responsive brief and does not comply with the rules of appellate procedure. See Iowa Rs. App. P. 6.901, 6.903 (setting forth the time and form requirements for appellate briefs); see also *Simmons v. Brenton Nat'l Bank of Perry*, 390 N.W.2d 143, 145 (Iowa Ct. App. 1986) ("We cannot permit substantial departures from statutory appellate procedures on the basis a lay person is handling his own appeal. . . . The ultimate result of that policy would be a chaotic breakdown in our judicial system."); *Inghram v. Dairyland Mut. Ins. Co.*, 215 N.W.2d 239, 239 (Iowa 1974) ("We dismiss this appeal because of wholesale failure to comply with our appellate rules."); *In re Estate of DeTar*, 572 N.W.2d 178, 181 (Iowa Ct. App. 1997) ("We are not bound to consider a party's position when the brief fails to comply with the Iowa Rules of Appellate Procedure.").

<sup>2</sup> No party ever challenged the initial Iowa child support order.

by a New York order. See Iowa Code § 598B.102 (providing that a child custody proceeding is one in which legal custody, physical custody, or visitation is at issue). In the October 12, 2000 ruling by the Iowa District Court, child support was not at issue. Rather, Ronald had sought to enforce visitation provisions, and the court found that it did not have jurisdiction with respect to custody and visitation of the younger two children living in New York.

Since the filing of the original dissolution of marriage decree in 2000, the only actions brought in an attempt to modify child support occurred in New York. Although the record is incomplete as to the entirety of the New York proceedings, it is clear that two child-support-modification proceedings were initiated in 2005. The first pertained to the oldest child residing in Iowa and was filed by Marcia in March 2005. The second pertained to the younger two children residing in New York and was filed by the Department of Social Services in June 2005. In both cases the New York courts found the controlling order for child support purposes was the Iowa dissolution decree and New York did not have jurisdiction to modify child support in either instance. See 28 U.S.C.A. § 1738B (Full Faith and Credit for Child Support Orders (FFCCSOA)); *In re Marriage of Carrier*, 576 N.W.2d 97, 98 (Iowa 1998) (“[T]he provisions of the FFCCSOA are binding on all states and supersede any inconsistent provisions of state law.”). Both actions were dismissed by the New York courts for want of jurisdiction. Consequently, the Iowa child-support order was never modified. When Ronald filed his “Motion for

Order of Satisfaction of Child Support” in October 2010, he continued to be obligated for \$162 in monthly child support payments.<sup>3</sup>

Iowa Code chapter 252K is the Uniform Interstate Family Support Act. Once a child-support order is issued in Iowa, the state retains continuing, exclusive jurisdiction over a child-support order as long as either the obligor, obligee, or child continues to reside in the state. Iowa Code § 252K.205(1)(a). In the present case, an Iowa court issued the initial child-support order and the order was not modified in any other state. See *id.* § 252K.205(2). Ronald remained residing in Iowa, and under the current circumstances it is irrelevant where the children resided. Therefore, Iowa retained jurisdiction over the child-support issue, which the New York courts recognized in their proceedings. We find the Iowa courts have jurisdiction to modify the child-support order and reverse the district court’s denial of Ronald’s petition and remand for a hearing.

Costs on appeal are assessed to Marcia.

**REVERSED AND REMANDED.**

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<sup>3</sup> Ronald alleged the child born in 1992 was emancipated and sought not only an order of satisfaction of child support payments but also an order for his alleged overpayments and costs of his action. These are matters to be sorted out on remand.