

STATE OF MICHIGAN
COURT OF APPEALS

PAUL C. WILLIAMS,

Plaintiff-Appellant,

v

JODY M. ROBINSON, a/k/a JODY M.
WILLIAMS,

Defendant-Appellee.

UNPUBLISHED
October 10, 2000

No. 223139
Oakland Circuit Court
Family Division
LC No. 99-618446-DC

Before: McDonald, P.J., and Sawyer and White, JJ.

PER CURIAM.

Plaintiff appeals as of right from the family court's order dismissing his complaint for custody. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff and defendant were divorced in Kentucky. The judgment of divorce granted the parties joint legal and physical custody of their son, Dylan (DOB 6-26-95). Plaintiff returned to Michigan, his native state, and filed a verified complaint for custody of Dylan. He asserted that the family court had jurisdiction of the custody matter under the Uniform Child Custody Jurisdiction Act (UCCJA), MCL 600.651 *et seq.*; MSA 27A.651 *et seq.*, on the grounds that he and Dylan were present in and had substantial ties to Michigan, and that it would be in Dylan's best interests to have the matter decided in Michigan. After issuing an ex-parte order granting custody to plaintiff the family court set aside the order, concluding that it did not have jurisdiction. In Kentucky, defendant filed a motion for primary custody. Plaintiff filed a motion in Kentucky seeking to modify the joint custody arrangement.

The family court commenced an evidentiary hearing on plaintiff's complaint, but adjourned the matter to allow the Kentucky court to determine if it would retain jurisdiction over the custody dispute. After the Kentucky court concluded that it would retain jurisdiction, the family court dismissed plaintiff's complaint.

We review a trial court's exercise of jurisdiction de novo. *Specht v Citizens Ins Co*, 234 Mich App 292, 294; 593 NW2d 670 (1999).

Pursuant to the UCCJA, which has been adopted in every state, when a child custody dispute is presented, the court must engage in a multistep procedure to determine whether to exercise jurisdiction. First, the court must determine whether it has jurisdiction under the provisions of MCL 600.653; MSA 27A.653. Next, the court must determine if another state has jurisdiction under MCL 600.653; MSA 27A.653. If the court concludes that another state also has jurisdiction, it must then determine if it should actually proceed with the case. MCL 600.656; MSA 27A.656; *Braden v Braden*, 217 Mich App 331; 551 NW2d 467 (1996).

Plaintiff argues that the family court erred by dismissing his complaint for custody. We disagree and affirm. MCL 600.664(1); MSA 27A.664(1) provides that if a court in another state has entered a custody decree or judgment, a Michigan court “shall not” modify that decree unless it appears to the Michigan court that the court that entered the decree does not have jurisdiction substantially in accordance with the provisions of MCL 600.651; MSA 27A.651 through MCL 600.673; MSA 27A.673 of the UCCJA, or has declined to modify the decree. The judgment of divorce entered in Kentucky contained a custody decree. Plaintiff has not shown that the Kentucky court did not have jurisdiction substantially in accordance with the provisions of §§ 651-673. The Kentucky court did not decline to exercise jurisdiction over the custody matter. Pursuant to § 664(1), the family court correctly declined to exercise jurisdiction and dismissed plaintiff’s complaint.

Affirmed.

/s/ Gary R. McDonald

/s/ David H. Sawyer

/s/ Helene N. White