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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

DEBORAH KIDD, *Petitioner/Appellee*,

v.

NICHOLAS FIRTH, *Respondent/Appellee*,

JOAN PARKINSON, *Intervenor/Appellant*.

No. 1 CA-CV 17-0420 FC
FILED 7-31-18
AMENDED PER ORDER FILED 9-5-18

Appeal from the Superior Court in Maricopa County
No. FC2013-055065
The Honorable Cynthia Bailey, Judge

AFFIRMED

COUNSEL

Deborah Kidd, Taylor, MI
Petitioner/Appellee

Nicholas Firth, Phoenix
Respondent/Appellee

Joan Parkinson, Phoenix
Intervenor/Appellant

MEMORANDUM DECISION

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge James B. Morse Jr. and Judge Lawrence F. Winthrop joined.

C A T T A N I, Judge:

¶1 Joan Parkinson (“Grandmother”) appeals from the superior court’s order finding that (1) the court no longer had continuing exclusive jurisdiction over custody issues relating to her grandson, C.F., and (2) Michigan is C.F.’s home state. For reasons that follow, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 In 2010, a California court entered a child support and visitation order (the “California Order”) for Deborah Kidd (“Mother”) and Nicholas Firth (“Father”) regarding their child, C.F. In early 2013, after Father was incarcerated for drug offenses, Mother and C.F. moved to Arizona to live with Grandmother, who is Father’s mother. But in October 2013, after Father’s release from custody, Mother and C.F. moved to Michigan, near Mother’s extended family, citing Father’s use of narcotics and narcotics-related criminal convictions as the reason for the move.

¶3 In December 2013, pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”), Ariz. Rev. Stat. (“A.R.S.”) §§ 25-1001 to -1067, Father registered the California Order in Arizona and moved for a temporary order for modification of legal decision-making and parenting time in Maricopa County Superior Court. After conferring with the superior court in California, the Arizona court concluded that Arizona had exclusive jurisdiction of the matter. In 2014, the Arizona court retained jurisdiction over the case when Grandmother petitioned for, and the superior court awarded, third-party visitation of C.F.

¶4 In March 2017, Grandmother filed a petition to enforce visitation, asserting that Mother had not permitted phone calls and visitation with C.F. as authorized in the third-party visitation order. The petition to enforce was assigned to Commissioner Richard Hinz. In April 2017, Father filed a petition to modify legal decision-making, parenting time, and child support, and Grandmother was granted intervenor status. Father’s petition to modify was assigned to Judge Cynthia Bailey.

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Responding to both petitions, Mother asserted that Arizona no longer had jurisdiction over the matter because she and C.F. no longer lived in Arizona and had been in Michigan for several years.

¶5 Addressing Father’s petition to modify decision-making and parenting time, Judge Bailey noted a concern regarding whether Arizona had exclusive and continuing jurisdiction to *modify* the existing orders given C.F. and Mother’s residency in Michigan. After noting that *enforcement* issues relating to previously-issued orders regarding parenting time and/or grandparent visitation would be addressed by Commissioner Hinz, Judge Bailey addressed the jurisdiction issue relating to Father’s petition, and after hearing evidence from the parties, found that “Mother and child do not have a significant connection to Arizona” and that substantial evidence regarding the child’s care, protection, training, and personal relationships was no longer available in Arizona. Accordingly, the court concluded that Arizona no longer had exclusive continuing jurisdiction for purposes of *modifying* the California Order, and that Michigan was the child’s home state. The court further directed Father to file any future modification petitions in the child’s home state of Michigan.

¶6 Grandmother (but not Father) filed a notice of appeal from Judge Bailey’s ruling on Father’s petition to modify. Grandmother then filed an emergency petition to enforce grandparent visitation with Commissioner Hinz. Commissioner Hinz dismissed the emergency petition to enforce, finding that “Mother and the child do not have a significant connection to Arizona,” and “Michigan is the home state of the child.” Grandmother has not appealed from that order.

¶7 For purposes of this appeal, we assume – without deciding – that Grandmother’s status as an intervenor gives her standing to appeal Judge Bailey’s ruling, and in light of Grandmother’s timely notice of appeal, we have jurisdiction under A.R.S. § 12-2101(A)(2) to address that ruling. We do not have jurisdiction, however, to consider issues addressed in Commissioner Hinz’s ruling, which has not been appealed.

DISCUSSION

¶8 Grandmother raises several issues relating to the merits of Father’s petition to modify. She also requests that Mother be sanctioned for alleged litigation misconduct. Because the issues raised in the petition to modify were rendered moot by the superior court’s jurisdictional ruling,

we address only that ruling, along with Grandmother's request for sanctions.¹

I. The Child's Home State.

¶9 Grandmother argues that the superior court erred by determining that Michigan, rather than Arizona, was the child's home state. We review jurisdiction under the UCCJEA de novo. *Mangan v. Mangan*, 227 Ariz. 346, 350, ¶ 16 (App. 2011).

¶10 Before conducting a proceeding concerning legal decision-making or parenting time, the superior court must first "confirm its authority to do so to the exclusion of any other state." A.R.S. § 25-402(A). Under the UCCJEA, once Arizona confirms jurisdiction to the exclusion of any other state, it retains "exclusive, continuing jurisdiction over the determination until either of the following is true":

1. A court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training and personal relationships.
2. A court of this state or a court of another state determines that the child, the child's parents and any person acting as a parent do not presently reside in this state.

A.R.S. § 25-1032(A).

¶11 With few exceptions, the decision to discontinue jurisdiction is left to the court exercising it. *See Melgar v. Campo*, 215 Ariz. 605, 607, ¶ 11 (App. 2007). Here, the superior court did not err by determining, under A.R.S. § 25-1032(A)(1), that there are no longer sufficient contacts with Arizona to retain jurisdiction over this matter. Mother and C.F. had been away from Arizona for approximately three and a half years before Father filed his petition to modify. And during that time, C.F. attended school in

¹ Mother did not file an answering brief. Nevertheless, because the appeal raises an issue of whether Arizona courts have jurisdiction to consider the underlying issues, and in an exercise of our discretion, we decline to treat Mother's failure to file an answering brief as a concession of error.

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Michigan, and his doctor, dentist, counselor, friends, and maternal family were in Michigan. C.F.'s only connection to Arizona was his Grandmother and Father, which is not a "sufficient connection" given the limited amount of time C.F. spends in Arizona and the lack of people in Arizona who are familiar with his day-to-day needs—something Grandmother does not dispute.

¶12 Grandmother nevertheless argues that the superior court erred because (1) it might be difficult for her to establish grandparent's rights in Michigan, (2) initiating proceedings in Michigan will be financially and practically difficult, and (3) Mother relocated to Michigan without approval of the superior court in California. But these arguments do not address the factors set forth in A.R.S. § 25-1032(A), and given the absence of any significant connection between C.F. and Arizona, the superior court did not err by declining jurisdiction over Father's petition to modify.

II. Sanctions.

¶13 Grandmother requests that we impose sanctions for litigation misconduct under A.R.S. § 25-415(A), arguing that Mother "knowingly lied . . . about filing in Michigan and also that paternal family can come to Michigan at any time and see this child." But Grandmother raises this issue for the first time on appeal; thus we deny her request for sanctions. *See Bible v. First Nat. Bank of Rawlins*, 21 Ariz. App. 54, 56 (App. 1973).

CONCLUSION

¶14 For the foregoing reasons, we affirm.

