

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

MICHELLE LONGARZO and **NICHOLAS ALEX DANALUK**,
Appellants,

v.

SANDY YOUNG,
Appellee.

No. 4D21-1151

[October 20, 2021]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Michael Heisey, Judge; L.T. Case No. 562021DR000043A.

Oscar Syger of Law Offices of Oscar Syger, P.A., Boca Raton, for appellants.

Elizabeth R. Berkowitz of Law Offices of Elizabeth R. Berkowitz, P.A., North Palm Beach, for appellee.

PER CURIAM.

Appellants challenge a final order of dismissal entered after the trial court granted a motion to dismiss their adoption petition with prejudice. Although we disagree with the trial court's conclusion that it lacked subject matter jurisdiction, we conclude that the trial court correctly dismissed the petition because California was properly exercising jurisdiction over this custody dispute. However, the dismissal on this ground should have been without prejudice. *See R.A.B. v. Steinberg*, 685 So. 2d 1305, 1305 (Fla. 2d DCA 1995) ("The fact that Florida is not the child's home state for purposes of either the Uniform Child Custody Jurisdiction Act, §§ 61.1302-.1348, Fla. Stat. (1993), or the Parental Kidnapping Protection Act, 28 U.S.C. § 1738A (1988), may be a valid reason for the circuit court to stay [an adoption] proceeding, to dismiss it without prejudice, or to deny adoption. But this fact alone does not deprive the court of subject matter jurisdiction.").

We need not address any other grounds for dismissal. Accordingly, we affirm the order dismissing the petition but remand for the entry of an amended order dismissing the case without prejudice.

Affirmed and remanded.

GROSS, MAY and DAMOORGIAN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.