

Third District Court of Appeal

State of Florida, July Term, A.D. 2013

Opinion filed November 13, 2013.
Not final until disposition of timely filed motion for rehearing.

No. 3D13-1192
Lower Tribunal No. 12-29619

Vladislav Sazonov,
Appellant,

vs.

Olga Karpova,
Appellee.

An Appeal of a non-final order from the Circuit Court for Miami-Dade County, John Schlesinger, Judge.

Law Offices of Rachelle A. Levy, and Rachelle A. Levy; Law Offices of Karen J. Haas, and Karen J. Haas, for appellant.

Steven Veinger, P.A., and Steven Veinger, for appellee.

Before ROTHENBERG, FERNANDEZ and LOGUE, JJ.

PER CURIAM.

Vladislav Sazonov, the father, appeals the non-final order denying his motion to dismiss for forum non conveniens. Olga Karpova, the mother, is a citizen of Russia who had a child by the father in Russia over seventeen years ago. The mother petitioned to establish paternity, and sought an award of prospective and retrospective child support. Because the mother is a plaintiff from another country with little to no connection to Florida, the father argues that the mother was not entitled to the presumption in favor of the plaintiff's forum choice in a forum non conveniens analysis. We agree.

In Kinney System, Inc. v. Continental Insurance Co., 674 So. 2d 86 (Fla. 1996), the Supreme Court established a four-step analysis to resolve issues of forum non conveniens. This analysis was codified by Florida Rule of Civil Procedure 1.061. It requires a court to consider:

- (1) whether an adequate alternative forum exists that has jurisdiction over the whole case, including all of the parties;
- (2) all relevant private interests, weighing in the balance the strong presumption against disturbing a plaintiff's forum choice;
- (3) if the balance of private interests is at or near equipoise, whether relevant public interests tip the scale in favor of another forum; and
- (4) if the balance favors an alternative forum, the court must ensure that the plaintiff can bring suit in the alternative forum.

Id.; Kinney, 674 So. 2d at 90.

The trial court in this case determined that the private interests of the parties were equipoise, but it appears that the court mainly relied upon the general presumption in favor of the plaintiff's forum choice. This presumption, however, is

inapplicable to plaintiffs from another country. See Cortez v. Palace Resorts, Inc., 38 Fla. L. Weekly S423, S426-27 (Fla. June 20, 2013) (“[E]xcept where the plaintiff is from another country, the presumption in favor of the plaintiff’s initial choice of forum is always entitled to great deference.”); Rolls-Royce, Inc. v. Garcia, 77 So. 3d 855, 860 (Fla. 3d DCA 2012) (holding that plaintiffs from another country were not entitled to the presumption normally accorded a plaintiff’s forum choice because they had little, if any, connection to Florida).

The only remaining issue in this case is whether Russia constitutes an adequate alternative forum. We hold that it does. The mother and child reside in Russia; Russia has jurisdiction over the related issues of custody, visitation, and time-sharing; the father recently filed an action for paternity in Russia; the Russian court determined he was the father under Russian law; and the father stated that he has already agreed to submit to the jurisdiction of the Russian court on the remaining matters that are presently before the trial court.

We therefore reverse and remand with instructions that the trial court abate the action, upon the father’s stipulation before the trial court that he will submit to the jurisdiction of the Russian court, to give the father an opportunity to appear and litigate the action before the Russian court. After abatement, upon the trial court’s receipt of satisfactory evidence that the Russian court has accepted jurisdiction of the matter, the Florida action should be dismissed. Should the father fail to submit

to the jurisdiction of the Russian court within a reasonable time and provide satisfactory proof thereof, then the abatement shall be lifted and the action shall continue in the trial court.

Reversed and remanded for further proceedings consistent with this opinion.