IN THE COURT OF APPEALS OF IOWA

No. 9-114 / 08-1059
Filed May 6, 2009

BETH ERNESTINE MEETHER,
n/k/a BETH ERNESTINE HAUPT,
Petitioner-Appellee,

vs.

MATTHEW LESLIE MEETHER,
Respondent-Appellant.

Appeal from the Iowa District Court for Butler County, John S. Mackey, Judge.

Respondent appeals the district court's determination of the amount of his delinquent child support obligation. **AFFIRMED AS MODIFIED, AND REMANDED.**

Gary Papenheim, Parkersburg, for appellant.

Kevin D. Ahrenholz of Beecher, Field, Walker, Morris, Hoffman & Johnson, P.C., Waterloo, for appellee.

Thomas J. Miller, Attorney General, Patricia R. Hemphill and Cheri Damante Cummings, Assistant Attorneys General, for Child Support Recovery Unit.

Considered by Sackett, C.J., and Potterfield, J., and Beeghly, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

BEEGHLY, S.J.

I. Background Facts & Proceedings

Matthew Meether and Beth Meether, now Beth Haupt, were divorced in Utah in 1983. The parties' two children, Angeline, born in 1981, and Ashley, born in 1983, were placed in the physical care of Beth. Matthew was ordered to pay child support of $125 per month per child. He was also ordered to pay $150 per month in alimony, making his total monthly support obligation $400 per month.

Matthew was not always current in his child support or alimony obligations. In Utah there is an eight year statute of limitations for collecting past due support. *See* Utah Code Ann. § 78-12-22 (1953).[1] In 1991 Beth filed a petition to renew the judgment for unpaid support. Matthew failed to appear and a default was entered against him. In 1992, the Utah court entered judgment against Matthew for a total amount of $42,015.16, plus interest at twelve percent per year. The judgment noted the amount may be reduced if Matthew furnished proof he had made the payments.

In the meantime, Matthew had moved to Iowa, and Beth had moved to California. Beth remarried on January 1, 1990. Angeline was in foster care for a period of time. An order was entered in Iowa in 1994 requiring Matthew to pay $189 per month for the support of Angeline.

---

[1] This section provides, "Any action may be brought within eight years upon a judgment or decree of any court of the United States, or of any state or territory within the United States." Utah Code Ann. § 78-12-22. It has been renumbered as Utah Code section 78B-2-311 (2008).

In 2000, Beth filed another petition to renew the judgment for past-due support in Utah. Matthew failed to respond to the petition and a default was entered against him. In January 2002, a judgment was entered against Matthew for unpaid principle of $56,387.37, plus interest of $40,336.82.[2] The judgment was determined to be $96,414.36.

On August 22, 2005, Beth filed notice of her foreign judgment in Iowa. Matthew filed a motion to set aside and vacate the judgment claiming the Utah court did not have personal or subject matter jurisdiction, he was not given credit for payments he made, and the Utah orders were improperly entered. Matthew also filed an application for a hearing to determine support overpayment or delinquency. The matters were combined for a hearing on March 5, 2008.

The district court determined the Utah renewal judgments should be given full faith and credit in Iowa. The parties agreed Matthew should receive credits for payments he made, except they disagreed about specific amounts in 1985, 1986, 1987, and 1997. Matthew paid partial support in 1985. The district court found Matthew had paid the full amount of child support due in 1986. He paid $1200 toward his obligation in 1987. Matthew asked for a credit during six months in 1997 when Angeline lived with him. The court denied this request, noting Matthew had not obtained a modification of his child support obligation. The court found Matthew's alimony obligation continued until January 1, 1990, when Beth remarried. The court concluded Matthew should be given credit for $64,690, which he paid toward his support obligations.

[2] A renewal judgment was entered in November 2001. After a nunc pro tunc motion by Beth, the judgment was amended in January 2002.

The court determined that as of July 1, 2006, Matthew's support obligation was $41,286.79 in unpaid principle and $57,483.76 in unpaid interest, making the total amount of $98,770.55. The court offset the amount of Matthew's credits, $64,690, against this, leaving an unpaid balance of $34,080.55. The court imposed interest of ten percent on the unpaid balance.

Matthew filed a motion pursuant to Iowa Rule of Civil Procedure 1.904(2). He asserted that while the court corrected the amount of principle he had paid, the court did not correct the amount of interest that accrued on the remaining unpaid balance over time. He also asserted that under Utah Code section 30-3-5(8)(h), his alimony obligation should have terminated in June 1987. Matthew furthermore claimed that Iowa had modified his child support obligation in 1994, and Utah no longer had jurisdiction at the time of the second renewal action in 2000. The district court denied Matthew's rule 1.904(2) motion. He now appeals.

II. Full Faith and Credit

Matthew contends the Utah renewal judgments are not entitled to full faith and credit in Iowa. Foreign judgments may be enforced in Iowa under Iowa Code chapter 626A (2005). *Burke v. Iowa Dist. Court*, 546 N.W.2d 582, 583 (Iowa 1996). A proceeding to enforce a child support order is governed, however, by 28 U.S.C. § 1738B (1994), the Full Faith and Credit for Child Support Orders Act. *See* Iowa Code § 626A.2(2); *In re Marriage of Carrier*, 576 N.W.2d 97, 98 (Iowa 1998) (noting the federal act is binding on all states and supersedes inconsistent provisions of state law).

The federal act provides that a child support order made consistently with the statute is enforceable in another state. 28 U.S.C. § 1738B(a)(1); *In re Marriage of Zahnd*, 567 N.W.2d 684, 687 (Iowa Ct. App. 1997). The act provides that a child support order is enforceable under full faith and credit principles if:

> (1) a court that makes the order, pursuant to the laws of the State in which the court is located –
> (A) has subject matter jurisdiction to hear the matter and enter such an order; and
> (B) has personal jurisdiction over the contestants; and
> (2) reasonable notice and an opportunity to be heard is given to the contestants.

28 U.S.C. § 1738B(c).

A. On the issue of subject matter jurisdiction, Matthew claims Iowa assumed jurisdiction of the case in 1994, when an Iowa court modified his child support obligation for Angeline. On November 17, 1994, the Iowa district court entered a "Consent Order Establishing Current and Accrued Support" in the case of *Contra Costa County, ex rel. Marilyn J. Haupt v. Matthew L. Meether*. At that time Angeline was in foster care in California and had been placed with Beth's sister, Marilyn Haupt. The order set Matthew's child support obligation for Angeline at $189 per month, which he paid thereafter through the Iowa Collection Services Center until Angeline turned eighteen in 1999.

The parties to the 1994 action in Iowa were the Contra Costa County, ex rel Marilyn J. Haupt and Matthew. Beth was not a party to that action. Furthermore, the Iowa order does not purport to modify the 1983 Utah dissolution decree, and does not mention the terms of the decree, such as the amount of child support previously ordered. The Iowa order does not treat the matter as a

modification, but simply sets the amount of Matthew's child support for Angeline due to the fact she was in foster care.

We also note Utah Code section 30-3-5 provides, "The court has continuing jurisdiction to make subsequent changes or new orders for the custody of the children and their support, maintenance, health, and dental care . . . as is reasonable and necessary." *See Huish v. Munro*, 191 P.3d 1242, 1249 (Utah Ct. App. 2008) (noting court's continuing jurisdiction over dissolution matters). Under Utah law, the Utah court had continuing jurisdiction to determine the amount of Matthew's child support arrearage.

We conclude Iowa did not assume jurisdiction of the parties' dissolution at the time of the 1994 order establishing support. Matthew has not shown Utah lacked subject matter jurisdiction at the time of the 2002 renewal judgment.

B. Matthew also claims Utah did not have personal jurisdiction over him at the time the renewal judgments were entered. He points out that he left Utah in 1983, soon after the parties' divorce. Matthew entered the military for a few years, and then moved to Iowa. He asserts that he did not have minimal contacts with Utah. *See International Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 2d 95, 102 (1945) (finding a state could exercise personal jurisdiction over a nonresident defendant if the defendant had minimum contacts with the state).

Matthew was a resident of Utah at the time of the dissolution action, and voluntarily submitted to the jurisdiction of the Utah courts at that time. *See Fisher v. Keller Indus, Inc.*, 485 N.W.2d 626, 628 (Iowa 1992) (noting personal

jurisdiction may be obtained by a party's voluntary submission). Because the parties divorced in Utah, they submitted to Utah law on dissolution matters, including the law that Utah courts had continuing jurisdiction over the dissolution action. *See* Utah Code § 30-3-5(3). The maintenance of the suit to renew the judgments against Matthew for past-due child support and alimony in the state where the parties were divorced does not offend traditional notions of fair play and substantial justice. *See International Shoe*, 326 U.S. at 316, 66 S. Ct. at 158, 90 L. Ed. 2d at 102. We conclude Matthew has not shown the Utah court lacked personal jurisdiction over him.

C. In order for a child support order of a state to be given full faith and credit in another state, the parties must be given reasonable notice and an opportunity to be heard. 28 U.S.C. § 1738B(c)(2). Matthew admitted he received notice of the two renewal actions in Utah. Matthew testified he was aware of the actions, but did not appear because he lacked sufficient funds to travel to Utah or hire an attorney at that time. We conclude Matthew was given reasonable notice and an opportunity to be heard.

We conclude the Utah renewal judgments are entitled to full faith and credit in Iowa under the Full Faith and Credit for Child Support Orders Act. *See* 28 U.S.C. § 1738B(c).

III. Amount Due

A. Matthew claims he should not owe child support for six months Angeline lived with him in Iowa in 1997, in the amount of $1134 ($189 × six months). The district court denied this request, finding Matthew had not obtained

a modification of the dissolution decree at the time Angeline was living with him. A party may not retroactively modify past-due support payments. *In re Marriage of Griffey*, 629 N.W.2d 832, 834 (Iowa 2001). We conclude Matthew cannot retroactively modify his support obligation for Angeline.

B. Matthew asserts that under Utah Code section 30-3-5(8)(h), his alimony obligation should have been terminated in June 1987, instead of in January 1990, when Beth remarried. Section 30-3-5(8)(h) provides:

> Alimony may not be ordered for a duration longer than the number of years that the marriage existed unless, at any time prior to termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.

The parties were married for three and one-half years, and Matthew claims Beth was only entitled to alimony for this period of time.

The parties were divorced in 1983. Section 30-3-5(8)(h) was not enacted until 1995. 1995 Utah Laws ch. 330, § 1 (An Act Relating to Divorce; Providing Standards for Determination of Alimony). Beth remarried on January 1, 1990, and under Utah Code section 30-3-5(9), Matthew's alimony obligation automatically terminated at that time. Thus, Matthew's alimony obligation was completed prior to the time section 30-3-5(8)(h) was enacted. We determine the statute cannot retroactively reduce Matthew's alimony obligation.

IV. Amount Paid

The district court found that under the Utah renewal judgments, Matthew owed $96,414.36 in past-due child support and alimony. This amount represented $41,286.79 in principle and $57,483.76 in interest. The court offset the amount Matthew owed by giving him credit for payments which he was able

to prove he had made on his child support and alimony obligations, in the amount of $64,690. Matthew contends that after finding the amounts he had paid in the past, the court should have recalculated the interest on the past-due payments.

We note that the 1992 renewal judgment specifically states that the judgment "may be revised downward by amendment to the Judgment should evidence come forth demonstrating additional payments were made on behalf of Defendant for amounts accruing in 1984." A renewal judgment entered in 2001, also stated, "Defendant is entitled to credit for all payments made by him or on his behalf, to date of judgment." The supplemental findings of fact and conclusions of law filed in 2002 also state, "Defendant is entitled to and awarded credit for amounts paid by him and on his behalf and/or collected from him for the month of November 2001, to date of Judgment."

Thus, the Utah renewal judgments recognized that the amounts in the judgments could be amended on proof of payments made by Matthew. The Iowa district court determined Matthew had sufficiently proven that he had made payments of $64,690, which had not been previously taken into account in determining his support arrearage.

In *Leitch v. Leitch*, 382 N.W.2d 448, 451-52 (Iowa 1986), a respondent claimed he should be given credit for payments made to the petitioner toward his support arrearage based on a Canadian dissolution decree. The Iowa Supreme Court determined he was entitled to a credit for some payments, but had not sufficiently established other payments. *Leitch*, 382 N.W.2d at 452. The court

then concluded, "[t]he judgment for arrearages and interest thereon should be modified by the district court to reflect the changes directed herein." *Id.*

We likewise determine that because the amount of past-due support owed by Matthew was modified to take into account payments made by him in the past, the interest on the past-due amounts should be modified to reflect the changes made. *See id.* We therefore remand the matter back to the district court for a calculation of interest due on Matthew's past-due support obligations. This interest should be calculated under Utah law.[3] *See Stroud v. Stroud*, 738 P.2d 649, 651 (Utah Ct. App. 1987) ("The custodial spouse is entitled to the statutory rate of interest on the judgment until payment in full.").

V. Assignment of Benefits

Beth received welfare payments while in California. The district court found "[t]he State of California has assigned all of its interest previously expended in the form of welfare payments on behalf of plaintiff to plaintiff herself." Matthew contends Beth has not adequately shown an assignment of benefits from California.

Beth presented a letter from the California Department of Child Support Services, dated July 10, 2006, which provides, "California and the County of

[3] For payments due prior to April 27, 1987, interest is due at the statutory rate from the date of entry of judgment. *McReynolds v. McReynolds*, 787 P.2d 530, 533 n.3 (Utah Ct. App. 1990). For payments due after April 27, 1987, under Utah Code section 30-3-10.6, interest accrues from the time the payment is due until it is paid. *Id*. The statutory rate of interest in Utah changed on May 3, 1993, from interest at twelve percent to a variable interest rate. *See* Utah Code § 15-1-4(3)(a). Also, the post-judgment interest rate in effect at the time of the judgment remains the interest rate for the duration of the judgment. Utah Code § 15-1-4(3)(b). Additionally, in Utah compound interest is not favored, and is awarded only where specifically provided for. *Mountain States Broadcasting Co. v. Neale*, 783 P.2d 551, 555 (Utah Ct. App. 1989).

Tuolumne no longer have any interest in the arrears owed in this case. Our records now show that all arrears owed by Mr. Meether are now owed to Ms. Haupt." We conclude the district court properly found that any payments owed by Matthew to California had been assigned to Beth.

We affirm the decision of the district court, but determine the amount of interest should be modified to take into account payments made by Matthew in the past on his support obligations. We remand to the district court for a new calculation of interest which should be assessed on Matthew's past-due support obligations. Costs on appeal should be assessed one-half to each party.

AFFIRMED AS MODIFIED, AND REMANDED.

Potterfield, J., concurs; Sackett, C.J., dissents

SACKETT, C.J. (dissenting)

I respectfully dissent. In my opinion, the Utah court did not have personal or subject matter jurisdiction over Matthew Meether when it entered the amended default judgment against him on January 22, 2002. I would therefore dismiss Beth Haupt's claim seeking execution of the Utah judgment.

This case has a troubling procedural history. The divorce decree was issued in Utah in 1983 and both parents and the children moved out of the state shortly thereafter. Matthew moved to Iowa and Beth and the children moved to California. As far as one can tell from the record, Matthew has never returned to Utah and Beth's only contact with Utah has been to file two petitions there to renew judgments against Matthew for child support arrearages. Her first petition was filed in 1992. In it, Beth sought to collect child support for periods of time while she was incarcerated, the children were in foster care, or were in Matthew's care. She also sought, and was granted, interest on the obligation at the rate set by California law.

Meanwhile, on November 17, 1994, Haupt and Contra Costa County sought to collect child support payments from Matthew through Iowa proceedings. An Iowa district court issued an order whereby it considered Matthew's income, fixed an amount for support accrued and support due under the Utah decree and California proceeding, and entered judgment against Matthew in said amount. Matthew took out a loan for the amount of arrearages

set forth in the order and paid the amount in full. He now claims the amount of arrearages set in the order was incorrect.

In November 2000, when the parties' children were nineteen and seventeen, Beth filed another complaint in Utah seeking to renew the Utah judgments for child support arrearages purportedly owed by Matthew. The Utah court entered a default judgment against Matthew in January 2002. Three years later, in 2005, Beth sought to execute this judgment in Iowa by filing an affidavit of judgment creditor and a request for execution of the Utah judgment. The district court gave full faith and credit to the Utah judgment.

The basic problem confronting these parties is that there have been proceedings regarding the same child support obligation in two different states, and applying three different states' laws, for over twenty years. To synchronize enforcement and modification of child support orders when multiple states are involved, the Uniform Interstate Family Support Act (UIFSA) and its precursor, the Uniform Reciprocal Enforcement of Support Act (URESA) were created. *See* Iowa Code § 252K.901 (stating that the UIFSA should be applied and construed to effectuate its general purpose to make the law uniform with respect to interstate child support orders); *Kulko v. Super. Ct. of California*, 436 U.S. 84, 98-99, 98 S. Ct. 1690, 1700, 56 L. Ed. 2d 132, 145 (1978) (describing URESA as "a mechanism for communication between court systems in different States, in order to facilitate the procurement and enforcement of child-support decrees where the dependent children reside in a State that cannot obtain personal jurisdiction over the defendant"). The chief purpose is to provide "'a simplified

two-state procedure by which the obligor's duty to support an obligee residing in another state may be enforced expeditiously and with a minimum of expense to the obligee (or the state, if the obligee is indigent).'" *In re Marriage of Wallick*, 524 N.W.2d 153, 156 (Iowa 1994) (quoting *Beneventi v. Beneventi*, 185 N.W.2d 219, 222 (Iowa 1971)). The parties in this case failed to follow the process outlined in these acts which has resulted in multiple child support obligation orders.

Nonetheless, even if multiple orders are issued, we give full faith and credit to another state's child support order if certain requirements are met. *See* 28 U.S.C. § 1738B(a)(1) (demanding under the Full Faith and Credit for Child Support Orders Act, a state must enforce a child support order issued by another state when the order is "made consistently with this section"). Personal jurisdiction over the parties is one vital condition. 28 U.S.C. § 1738B(c)(1)(B) (stating that an order is made consistently with the act when, among other requirements, the court issuing the order has personal jurisdiction over the parties).

> The existence of personal jurisdiction . . . depends upon the presence of reasonable notice to the defendant that an action has been brought and a sufficient connection between the defendant and the forum State to make it fair to require defense of the action in the forum.

In re Marriage of Bushaw, 501 N.W.2d 518, 520 (Iowa 1993) (quoting *Kulko*, 436 U.S. at 91, 98 S. Ct. at 1696, 56 L. Ed. 2d at 140-41.

First, unlike the district court, I fail to find that Matthew was personally served with notice of the default judgment in accordance with Utah law. While

Matthew admitted he got notice, there is no showing it was a proper notice and there being no evidence he was in Utah, he could not have been personally served there. The majority asserts that Matthew submitted to continuing personal jurisdiction in Utah because the original divorce decree was entered there. It finds that this alone provides sufficient contact with Utah to meet the demands of due process. I disagree.

It is well settled that a state's exercise of personal jurisdiction over a nonresident defendant satisfies due process only if the defendant has "certain minimum contacts with [the forum state] such that the maintenance of the suit does not offend traditional 'notions of fair play' and substantial justice." *Marriage of Crew*, 549 N.W.2d 527, 528-29 (Iowa 1996) (quoting *International Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 95, 102 (1945)). The minimum contacts test cannot be applied mechanically; instead, "the facts of each case must be weighed to determine whether the requisite 'affiliating circumstances' are present." *Id.* (quoting *Kulko*, 436 U.S. at 92, 98 S. Ct. at 1697, 56 L. Ed. 2d at 141). We consider five factors in determining whether minimum contacts exist: (1) the quantity of the contacts, (2) the nature and quality of the contacts, (3) the source and connection of the cause of action with those contacts, (4) the interest of the forum state, and (5) the convenience of the parties. *Id.* (citing *Larsen v. Scholl*, 296 N.W.2d 785, 788 (Iowa 1980)). The first three factors are the most important and we focus on "the relationship among the defendant, the forum and the litigation." *Id.*

Under the specific circumstances of this case, the factors weigh against a finding of minimum contacts in Utah. Matthew has no current contacts with Utah and he has not been in the state since 1983. The only contact is that the original decree was issued by Utah. Neither party nor the children have resided in Utah in over twenty-five years. Furthermore, another forum, Iowa, assumed jurisdiction, modified the decree and reduced delinquent support from the Utah decree to an Iowa judgment. The judgment renewal entered in Utah in November 2001 acknowledges that the "child support amounts due have accrued pursuant to the Decree of Divorce (as modified and applied in California and/or Iowa . . . ."

The renewal judgment issued by Utah in 1992 expressly states that "the State of Utah has no interest in this case." In parts, it suggests the obligation should be handled elsewhere, awarding Beth the renewal judgment but stating, "[i]f these amounts are contested, the issue of relief requested in this paragraph should be reserved for determination in the State of California or elsewhere, as appropriate." Utah is not a convenient forum for any of the interested parties.

In *Egli v. Egli*, 447 N.W.2d 409, 410-11 (Iowa Ct. App. 1989), we examined whether our courts had personal jurisdiction over a mother living in Rhode Island. The parties married and had a child in Iowa and then moved to New York where the parties divorced. *Egli*, 447 N.W.2d at 410. The father returned to Iowa and the child eventually also returned to live with the father. *Id.* The father brought an action in Iowa seeking to vacate his child support obligation under the New York decree. *Id.* We affirmed the district court's finding

that Iowa did not have personal jurisdiction of the mother. *Id.* at 412. Even though the parties had married and gave birth to a child within the state, we found under the minimum contacts factors, the mother had insufficient contact with Iowa to confer personal jurisdiction. *Id.* We noted she had not had contact with Iowa in fifteen years when the parties moved to New York. *Id*. Here, the father, mother, and children have not been in Utah since 1983. I would therefore conclude Utah did not have personal jurisdiction over Matthew and dismiss Beth's petition.