STATE OF MICHIGAN

COURT OF APPEALS

IN RE CUSTODY OF MIKAEL THOMAS EDWARDS, a Minor.

PETER M. NEFCY, M.D.,

Plaintiff-Appellant,

v

KEVIN R. PARKINSON and NANNETTE M. PARKINSON,

Defendants-Appellees.

UNPUBLISHED
February 24, 1998

No. 204385
Oakland Circuit Court
LC No. 97-545434 DC

Before: Michael J. Kelly, P.J., and Fitzgerald and M.G. Harrison*, JJ.

MEMORANDUM.

Plaintiff appeals by right an order of the Oakland Circuit Court, declining to accept emergency jurisdiction of plaintiff's verified ex parte petition for temporary child custody. This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

The petition for emergency custody is purportedly based on MCL 600.653(1)(c); MSA 27A.653(1)(c), being § 3(a)(3) of the Uniform Child Custody Jurisdiction Act, 9 ULA 123 *et seq*. The petition alleged that there was evidence the child had been physically and/or sexually abused while in the custody of defendants in his home state of Pennsylvania. Defendants obtained custody after litigation in the courts of Pennsylvania, although the custody determination made by the Pennsylvania trial court, after being affirmed by the Pennsylvania superior court, was at the time the petition was filed, and so far as appears presently remains, pending in the Pennsylvania supreme court.

The circuit court properly declined to accept emergency jurisdiction for several reasons. First, under the UCCJA, a state like Michigan, otherwise without jurisdiction over a visiting child or the child's nonresident custodial guardian, is permitted to take jurisdiction of a custody matter only if the child has been abandoned, mistreated, abused or neglected in the asylum state. A child visiting in the asylum state, which is the situation here, may not be found to be in an emergency state of mistreatment, abuse,

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* Circuit judge, sitting on the Court of Appeals by assignment.

neglect, or dependency because of conditions purportedly existing in its home state. *Dillon v Medellin*, 409 So 2d 570, 575 (La, 1982); *Nazar v Nazar*, 505 NW2d 628, 636 (Minn App, 1993). Furthermore, even assuming that a proper basis for the exercise of emergency jurisdiction might legally exist, a parent's self-serving statements alone are considered insufficient to provide the factual basis necessary to invoke such legal jurisdiction. *Matter of EH*, 612 NE2d 174 (Ind App, 1993), reh den, adopted 624 NE2d 471; *Glynn v Meslin*, 532 A2d 554 (RI, 1987); *Tenenbaum v Sprecher*, 519 NYS2d 273, 133 App Div 2d 371 (1987). That is particularly appropriate here, where the petition depended either on statements by plaintiff or those of a psychologist who, as to critical parts of her report, was forced to rely on plaintiff for necessary factual information, and where the Pennsylvania trial court had previously determined that plaintiff is generally lacking in credibility.

Furthermore, the circuit court could not have assumed jurisdiction on the basis of an ex parte petition in any event. Where, as here, the courts of another state have continuing jurisdiction over the child and related custody issues, a state like Michigan is required under full faith and credit principles to decline to exercise jurisdiction unless the child's home state, having been presented with an opportunity to do so, declines to exercise continuing jurisdiction, *In re Appeal in Pima County Juvenile Action*, 147 Ariz 527; 711 P2d 1200 (1985), approved in part, vacated in part on other gds, 147 Ariz 584; 712 P2d 431 (en banc); *Brock v District Court of County of Boulder*, 620 P2d 11 (Colo, 1980); *State v Stonecipher*, 879 P2d 1258 (Okla App, 1994), pursuant to the controlling provisions of the Parental Kidnapping Prevention Act, 28 USC § 1738A. Here, the Oakland Circuit Court duly ascertained that the courts of Pennsylvania did not wish to relinquish jurisdiction and were fully prepared to consider any such allegations on their merits.

Affirmed.

/s/ Michael J. Kelly
/s/ E. Thomas Fitzgerald
/s/ Michael G. Harrison