

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSEPH L. SMITH,
Appellant,
vs.
BRENDA L. THOMPSON, A/K/A
BRENDA DAY,
Respondent.

No. 46036

FILED

FEB 13 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order dismissing an action to modify child support for lack of subject matter jurisdiction. Eighth Judicial District Court, Family Court Division, Clark County; Lisa Brown, Judge.

On December 10, 2002, the respondent Brenda Thompson obtained a support order against the appellant Joseph Smith in the Superior Court for Alameda County, California. The order required Smith, a Wisconsin resident, to pay Thompson a monthly sum to support their minor child. While these proceedings were pending before the California court, Thompson and the child moved from California to Las Vegas, where they continued to reside until moving to the Los Angeles area in June 2005.

On April 29, 2005, Smith registered the California support order in Nevada and filed a motion to reduce child support in the Clark County District Court. By the time the district court held a hearing on the motion on June 28, 2005, Thompson and the child had moved to Los Angeles. Since Thompson and the child resided in California at the time of the hearing, the district court determined that it lacked jurisdiction to modify the support order under NRS 130.611 and dismissed the action.

Because we conclude that jurisdiction to modify a foreign support order is properly determined by the residence of the parties at the time a motion to modify is filed, we reverse the dismissal order and remand this matter to the district court.

In this, we note that Nevada has adopted the 1996 version of the Uniform Interstate Family Support Act (UIFSA).¹ Under the UIFSA, a foreign state that issues a child support order retains continuing exclusive jurisdiction to modify that order if either the child, obligor, or obligee is a resident of the issuing state.² Therefore, a Nevada court may only modify a foreign support order if (1) none of the parties resides in the issuing state, (2) a non-resident of Nevada seeks modification, and (3) the respondent is subject to the personal jurisdiction of a Nevada tribunal.³

In 2001, the National Conference of Commissioners on Uniform State Laws amended the UIFSA to clearly indicate that jurisdiction under the UIFSA is determined by the parties' residency at the time a motion to modify is filed.⁴ Although Nevada has not adopted these amendments, the official comments state that the amendments were only intended to clarify, not substantively change, the jurisdictional

¹NRS 130.0902-130.802.

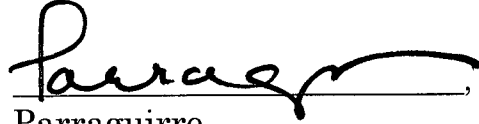
²NRS 130.205.

³NRS 130.611(a).


⁴Unif. Interstate Family Support Act § 205 (amended 2001), 9 U.L.A. 192 (2005).

provisions of the UIFSA.⁵ Based on these comments, we conclude that jurisdiction under the UIFSA is properly determined by examining the facts as they exist at the time a motion to modify child support is filed. Because Thompson and the child resided in Nevada at the time Smith filed his motion to modify support, we further conclude that the district court erred in dismissing the motion for lack of jurisdiction.⁶ Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.⁷


Parraguirre, J.


Hardesty, J.


Saitta, J.

⁵Unif. Interstate Family Support Act § 205 (amended 2001), 9 U.L.A. 194 cmt. (2005).

⁶We also note that it is generally inappropriate for the family court to decline jurisdiction for reasons of judicial economy. See Unif. Interstate Family Support Act § 611 (amended 1996), 9 U.L.A. 446 cmt. (2005) (noting that “[t]he privilege of declining jurisdiction, thereby creating the potential for a vacuum, is not authorized under UIFSA”).

⁷Despite the allegations in Smith’s brief to this court, we can find no facts in the record indicating that Judge Lisa Brown is unwilling or unable to objectively rule on the merits of this case. Therefore, we deny Smith’s request to exclude Judge Brown from any further proceedings.

cc: Hon. Lisa Brown, District Judge, Family Court Division
Willick Law Group
Brenda L. Thompson
Eighth District Court Clerk