

IN THE SUPREME COURT OF THE STATE OF NEVADA

JARRED FREI,
Appellant,
vs.
CRYSTAL DAWN CHILTON,
Respondent.

No. 61884

FILED

DEC 16 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY R. Malone
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order dismissing a complaint to establish child custody. Eighth Judicial District Court, Family Court Division, Clark County; Bill Henderson, Judge.

Appellant filed his complaint for custody in the Nevada district court. In a motion to extend the time to file an answer, respondent advised the district court that she had filed a complaint for child custody in New Mexico, where she and the child were residing at that time. A New Mexico court had also issued a protective order against appellant and awarded respondent temporary custody of the minor child. Thereafter, a conference was conducted between the Nevada district court and the New Mexico court under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). At the conclusion of the conference, the district court entered an order deferring jurisdiction to New Mexico and closing the case, which effectively dismissed appellant's complaint.

On appeal, appellant contends that the district court erred when it failed to acknowledge that the child had resided in Nevada for six months prior to the action, making Nevada the child's home state. Appellant also contends that the district court failed to acknowledge

respondent's bad faith in removing the child to New Mexico, and failed otherwise to comply with the jurisdictional guidelines set forth in the UCCJEA.

Subject matter jurisdiction in an interstate custody dispute is a question of law subject to de novo review. *Ogawa v. Ogawa*, 125 Nev. 660, 667-68, 221 P.3d 699, 704 (2009). If a court with jurisdiction under the UCCJEA determines that another court is the more appropriate forum, it may decline to exercise jurisdiction and dismiss the proceeding. NRS 125A.365(1); *see also* NRS 125A.355(2). In determining whether another jurisdiction is a more convenient forum, the court may consider, among other things, whether domestic violence exists and which state could best protect the parties and the child, the nature and location of the evidence necessary to decide the case, and the familiarity of the court with the issues of the case. NRS 125A.365(2)(a), (f), (h).

Here, simultaneous custody proceedings were pending in Nevada and New Mexico, and the Nevada district court properly conducted a conference with the New Mexico court to determine the appropriate forum to hear the case on August 21, 2012. *See* NRS 125A.275; NRS 125A.355(2). In deferring jurisdiction to New Mexico, the district court did not set forth findings of fact in the written order to support its decision. And while the minutes reflect that the district court stated its findings on the record at the UCCJEA conference, appellant did not request a transcript of that conference even though a transcript request form was provided to him by the clerk of this court on October 25, 2012. *See* NRS 125A.275(4). Under these circumstances, we must necessarily presume that these materials support the lower court's

determination. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 603, 172 P.3d 131, 135 (2007).

Moreover, the circumstances of this case, including the entry of the protective order against appellant, combined with the presence of respondent and the child in New Mexico, constitute adequate grounds to support the conclusion that New Mexico was the more appropriate forum to decide child custody. See NRS 125A.365(2)(a), (f), (h). Accordingly, we conclude that the district court did not err in dismissing appellant's complaint, and we

ORDER the judgment of the district court AFFIRMED.

Pickering, C.J.
Pickering

Hardesty, J.
Hardesty

Cherry, J.
Cherry

cc: Hon. Bill Henderson, District Judge, Family Court Division
Jarred Frei
Louis C. Schneider, LLC
Eighth District Court Clerk