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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0032**

In re the Marriage of:

Jennifer Ruth Wadsworth, petitioner,
Respondent,

vs.

Barry James Wadsworth, Jr.,
Appellant.

**Filed October 21, 2019
Reversed and remanded
Rodenberg, Judge**

Hennepin County District Court
File No. 27-FA-14-2508

Kay Nord Hunt, Lommen Abdo, P.A., Minneapolis, Minnesota; and

Brian L. Sobol, McGrann Shea Carnival Straughn & Lamb, Chartered, Minneapolis, Minnesota (for appellant)

Jennifer R. Wadsworth, Shaker Heights, Ohio (pro se respondent)

Considered and decided by Rodenberg, Presiding Judge; Larkin, Judge; and Smith, Tracy M., Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant-father Barry Wadsworth challenges the district court's order determining that Minnesota no longer has exclusive, continuing jurisdiction over the original Minnesota

child custody decree establishing joint legal and physical custody of the parties' minor children. Because Minnesota continues to have exclusive, continuing jurisdiction based on father's current residence in Minnesota and his status as a joint legal and physical custodian of the minor children, we reverse and remand.

FACTS

Father and respondent-mother Jennifer Wadsworth were married in 1998. They moved to Minnesota in 2009. Two children were born during the marriage, and both remain minors. The marriage was dissolved in Hennepin County District Court by Stipulated Findings of Fact, Conclusions of Law and Judgment and Decree (custody decree) on October 28, 2014. The custody decree granted the parties joint legal and physical custody of the children, and recited that Minnesota had jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA).

Father moved to Ohio in 2016 to take a new job. Mother also moved to Ohio with the children as part of a cooperative arrangement for father and mother to continue raising the children as joint custodians. On January 2, 2018, father filed a petition in Ohio to register the Minnesota custody decree. In March of 2018, while father's petition to register the decree was pending, father returned to Minnesota; mother remained in Ohio with the children. The Ohio court confirmed registration of the custody decree on April 12, 2018.

On April 25, 2018, mother filed a motion in Ohio asking that the Ohio court modify the custody decree. On August 3, 2018, father filed his own motion in Minnesota seeking to modify the custody decree. Mother filed a responsive motion in the Minnesota case,

arguing that Minnesota lacks subject matter jurisdiction, and arguing in the alternative that Minnesota is an inconvenient forum.

The Minnesota district court issued its order on father's motion on November 9, 2018. It determined that Minnesota no longer has exclusive, continuing jurisdiction and that mother's pending motion in Ohio precluded father's later-filed motion in Minnesota. Father's motion was dismissed. The district court did not rule on mother's inconvenient-forum argument.

This appeal followed.

D E C I S I O N

Minnesota and Ohio have both adopted versions of the UCCJEA. Minn. Stat. §§ 518D.101-.317 (2018); Ohio Rev. Code. §§ 3127.01-.53 (2018). The UCCJEA provides that the state that issues a child custody decree generally retains exclusive, continuing jurisdiction over the decree as long as the children or a parent resides in that state. *Schroeder v. Schroeder*, 658 N.W.2d 909, 911 (Minn. App. 2003).

Minnesota's statute provides that the state issuing a child custody determination has exclusive, continuing jurisdiction over that determination until either:

- (1) a court of this state determines that the child, the child's parents, and any person acting as a parent do not have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or
- (2) a court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

Minn. Stat. § 518D.202(a)(1)-(2). Accordingly, Minnesota retains exclusive, continuing jurisdiction over a custody decree issued in Minnesota until a court finds at least one of two conditions to exist: (1) the children, mother, *and* father no longer have a significant connection with Minnesota and there is no substantial evidence concerning the children’s care, protection, and personal relationships in Minnesota; or (2) the children, mother, *and* father no longer reside in Minnesota. *See id.*

We review a district court’s application of the UCCJEA de novo and its underlying findings of fact for clear error. *Cook v. Arimitsu*, 907 N.W.2d 233, 238 (Minn. App. 2018) (citation and quotation omitted), *review denied* (Minn. Apr. 17, 2018). Where there are no disputed facts, “the application of the law to [those] facts is a question of law and fully reviewable by appellate courts.” *Christianson v. Henke*, 831 N.W.2d 532, 535 (Minn. 2013) (quotation omitted).

The parties agree that father returned to Minnesota in March of 2018 and continues to reside here. Father’s residence in Minnesota is clearly a significant connection with Minnesota. Moreover, the children likewise have significant connections with Minnesota because one of their joint custodians resides here. Because father and the children have significant connections to Minnesota, section 518D.202(a)(1) has no application here. *See* Minn. Stat. § 518D.202(a)(1).

Section 518D.202(a)(2) is similarly straightforward. Again, the parties agree that father currently resides in Minnesota. Because he is one of the children’s parents and “presently reside[s] in” Minnesota, section 518D.202(a)(2) does not apply. *See* Minn. Stat. § 518D.202(a)(2).

The district court found father’s registration of the custody decree in Ohio significant, stating that “Father cannot now avoid his own action of filing the [petition to register the custody decree in Ohio] by moving to Minnesota very shortly thereafter.” But the registration of a custody determination is irrelevant to exclusive, continuing jurisdiction. Section 518D.202 provides the only conditions where an issuing state loses exclusive, continuing jurisdiction over a child custody determination. *See* Minn. Stat. § 518D.201-.210. Registration of a custody decree in another state is not one of those conditions. *See id.*

The district court also discussed convenience factors in determining that Minnesota no longer has exclusive, continuing jurisdiction. As with registration of the custody decree, convenience factors are irrelevant to an issuing state’s exclusive, continuing jurisdiction. *See id.* Those factors are relevant, if at all, only in an inconvenient-forum analysis under section 518D.207—which the district court did not do.

Under the plain language of Minnesota’s version of the UCCJEA, Minnesota has exclusive, continuing jurisdiction over the original Minnesota custody decree. Because the district court did not address mother’s alternative argument that Minnesota is an inconvenient forum in which to resolve the parties’ post-decree motions, that issue may be revisited on remand. “A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted).

Based on the undisputed fact that father resides in Minnesota and is a joint custodian of the children, giving the children a significant connection here, neither condition set forth

in section 518D.202 is met. Minnesota retains exclusive, continuing jurisdiction over the custody decree. *See Schroeder*, 658 N.W.2d at 911 (holding that the issuing state retained exclusive, continuing jurisdiction because it was undisputed that the father was still a resident of the issuing state). We reverse the district court's order to the contrary and remand for further proceedings.

Reversed and remanded.