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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0109-21

ELIZABETH LOMBARDO,

Plaintiff-Respondent,

v.

AMOS KARANJA,

Defendant-Appellant.

Submitted April 26, 2023 – Decided August 2, 2023

Before Judges Mayer and Bishop-Thompson.

On appeal from the Superior Court of New Jersey,
Chancery Division, Family Part, Camden County,
Docket No. FM-04-0228-18.

Amos Karanja, appellant pro se.

Elizabeth Lombardo, respondent pro se.

PER CURIAM

In this post-judgment matrimonial matter, defendant Amos Karanja appeals from the July 27, 2021 and February 18, 2022 orders granting

jurisdiction to Pennsylvania. Defendant argues the court erred by waiving jurisdiction under the New Jersey Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), N.J.S.A. 2A:34-53 to -95, and that jurisdiction properly lies in New Jersey. Unpersuaded by defendant's arguments, we affirm.

I.

The parties were married in 2012, had one child in 2016, and were divorced in 2018. A dual final judgment of divorce (DFJOD) was granted and incorporated the parties' marital settlement agreement (MSA). Under the terms of the MSA, neither party was designated the parent of primary residence. The DFJOD incorporated a consent order which stated the parties shared legal and physical custody of the child.

Following their divorce, the parties moved out of Camden County. In January 2019, plaintiff filed a motion to relocate with the child to Delaware County, Pennsylvania. Defendant consented to plaintiff's relocation.

In a February 15, 2019 order, the court granted plaintiff's motion to relocate with the child. Plaintiff and defendant continued to share legal custody of the child. However, plaintiff was designated the parent with primary physical custody. All other provisions of the consent order remained in effect. The order directed that "New Jersey shall retain jurisdiction in this matter."

Plaintiff remarried in December 2019. Two years later, plaintiff moved to change venue from Camden County to Delaware County, Pennsylvania. Plaintiff argued both parties lived "approximately [fifteen to twenty] miles from the Superior Court of Camden County, New Jersey," while plaintiff and the child lived "approximately [four] miles from [the] Delaware County Court of Common Pleas" and defendant lived "approximately [twenty] miles from [the] Delaware County Court of Common Pleas." Plaintiff asserted that she and the child had continually lived in Pennsylvania for "over [two] years" and "have established school[] and personal relationships" at their current residence.

Defendant cross-moved to dismiss plaintiff's motion in its entirety and modify custody, parenting time, visitation, vacation schedule, after-care costs, and parenting time transportation costs. He argued New Jersey had continuing and exclusive jurisdiction because the child had "significant connections with New Jersey." The child had many neighborhood friends and playmates in defendant's neighborhood in Mantua, New Jersey, her pediatrician's office was in New Jersey, and the church the child attended with defendant was in New Jersey.

Following a hearing, on July 27, 2021, the judge granted plaintiff's motion for a change of venue. In his oral opinion, the judge concluded "Pennsylvania

[was] the home state of the minor child as defined by the [UCCJEA] and consistent with the [UCCJEA], New Jersey waive[d] exclusive, continuing jurisdiction." The court, however, directed the parties to participate in mandatory parenting time mediation because of the parenting time issues raised in defendant's cross-motion.

Shortly thereafter, in August, plaintiff filed a petition to modify custody of the child in Delaware County, Pennsylvania. Plaintiff asserted that she "believe[d] . . . it [was] in the [child's] best interest if the custody order be modified to grant her primary physical custody during the school week, subject to [the] [f]ather's periods of partial custody on weekends."

In September 2021, defendant filed an interlocutory appeal challenging the July 27 order.

In October 2021, in compliance with the court's July 27 order, mediation was held in Camden County to address parenting time. However, mediation was unsuccessful.

Also in October 2021, a Pennsylvania hearing officer adjourned a hearing after defendant represented the New Jersey case addressing parenting time and custody was under appeal.

On December 13, 2021, we dismissed without prejudice defendant's interlocutory appeal. Plaintiff filed a petition for special relief to establish jurisdiction in Pennsylvania. She moved to register the July 27 order issued by the New Jersey Family Part judge ceding jurisdiction to Pennsylvania.

Following dismissal of his appeal, on December 24, 2021, defendant filed a motion for leave to appeal the July 27 order in the Law Division. Rather than file the motion in the Appellate Division, defendant filed the application to reinstate his appeal in the Law Division. Not only was the motion improperly filed in the Law Division, but it was also filed well beyond the forty-five-day period. Plaintiff did not oppose the motion.

Following oral argument on February 11, 2022, a different Family Part judge rendered an oral opinion accompanied by a written order. Despite finding defendant's motion was procedurally deficient because it was out of time, the judge addressed the merits of his motion. The judge concluded Pennsylvania had assumed jurisdiction and denied defendant's motion for leave to appeal. The judge also stated, "This is a final order" and informed defendant of his right to file an appeal.

On March 21, 2022, we granted defendant's motion to reinstate his appeal limited to the trial court's July 21, 2021 and February 18, 2022 orders ceding jurisdiction to Pennsylvania.

II.

On appeal, defendant raises a single issue for our consideration: the trial court erred in waiving exclusive and continuing jurisdiction because the child resides in New Jersey. We are unpersuaded.

We accord "great deference to discretionary decisions of Family Part judges," Milne v. Goldenberg, 428 N.J. Super. 184, 197 (App. Div. 2012), in recognition of the "family courts' special jurisdiction and expertise in family matters," N.J. Div. of Youth & Fam. Servs. v. M.C. III, 201 N.J. 328, 343 (2010) (quoting Cesare v. Cesare, 154 N.J. 394, 413 (1998)). However, "[a] trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference." Hitesman v. Bridgeway, Inc., 218 N.J. 8, 26 (2014) (quoting Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995)). Because the court's determination constitutes a legal determination, we review it de novo. See Manalapan Realty, 140 N.J. at 378.

"The UCCJEA governs the determination of subject matter jurisdiction in interstate . . . custody disputes." Sajjad v. Cheema, 428 N.J. Super. 160, 170 (App. Div. 2012). It serves to "ensure that custody determinations are rendered by a court of the state that can best decide the case." Griffith v. Tressel, 394 N.J. Super. 128, 138 (App. Div. 2007).

To address a multi-state child custody issue, courts in the Family Part are to follow the procedures in the UCCJEA. Sajjad, 428 N.J. Super. at 171 (citing Poluhovich v. Pellerano, 373 N.J. Super. 319, 357 (App. Div. 2004)). Under N.J.S.A. 2A:34-65 and 23 Pa. Cons. Stat. Ann. § 5421, jurisdiction over an interstate child custody dispute is vested in the home state. Where the minor child is over the age of six months when the custody proceeding is commenced, the "home state" under New Jersey law is defined as "the state in which the child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding." N.J.S.A. 2A:34-54; see also 23 Pa. Cons. Stat. Ann. § 5402 (In Pennsylvania, the home state is defined as the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding.)

We are satisfied the Family Part judges properly applied the UCCJEA in ordering relinquishment of jurisdiction over custody and parenting time to Pennsylvania. Here, the court rejected plaintiff's claim that New Jersey was the child's home state based on undisputed facts that defendant consented to plaintiff's relocation to Pennsylvania with the child in February 2019, the child lived in Pennsylvania with plaintiff from March 2019 to the filing of plaintiff's change of venue motion in 2021, and during the pendency of plaintiff's February 2022 petition for special relief to establish jurisdiction in Pennsylvania. Thus, the court concluded Pennsylvania was the child's home state within six months of the commencement of plaintiff's motion for a change of venue. See N.J.S.A. 2A:34-65(a)(1).

Moreover, the court rejected defendant's contention the child had "significant connections with New Jersey on her own" based on friendships and church attendance. There was no evidence the child lived in New Jersey for six months since March 2019. See P.H. v. L.W., 456 N.J. Super. 630, 637 (App. Div. 2018) (finding New Jersey was not the home state under the UCCJEA because the child lived in the State five days less than the required six months immediately preceding the commencement of the custodial proceeding). The record provides ample support for the court's determination that Pennsylvania is

the home state for purposes of determining jurisdiction under the UCCJEA. Accordingly, we find no reason to disturb the judges' rulings.

Any of defendant's arguments we have not addressed directly are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION