No. 3--09--0596

Order filed January 21, 2011

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2011

In re MARRIAGE OF SUSAN SULLIVAN,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Petitioner-Appellee,	)	
and	)	No. 00--D--860
SHANNON SULLIVAN,	)	Honorable Robert P. Brummund,
Respondent-Appellant.	)	Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Justices Holdridge and Wright concurred in the judgment.

ORDER

Held: The trial court had jurisdiction when issuing its child support order because the parties and child resided in Illinois. The trial court did not abuse its discretion in retaining jurisdiction as neither party registered the prior child support order entered in the Superior Court of California. Affirmed.

The respondent, Shannon Sullivan, filed a motion to vacate an Illinois child support order. The respondent argued that the trial court had lacked subject matter jurisdiction under the Illinois Uniform Interstate Family Support Act (750 ILCS 22/207 (2008)), and the Illinois order should not be recognized by sister

states under the Full Faith and Credit for Child Support Orders Act (Full Faith and Credit Act) (28 U.S.C. §1738B (2006)). The trial court denied the respondent's motion. The respondent appeals, arguing that: (1) the Illinois child support order was void because the trial court did not have subject matter jurisdiction to enter the order; and (2) the trial court abused its discretion by continuing to exert jurisdiction over the child support issue in deciding this matter. We affirm.

FACTS

On February 24, 1994, the respondent and the petitioner, Susan Sullivan, were married in Las Vegas, Nevada. They moved to San Diego, California, and had one child, born on September 3, 1997. In November 1997, while residing in California, the parties separated. On August 24, 1998, the Superior Court of California ordered the respondent to pay $168 per month in child support.

Subsequently, the parties resumed residing together as husband and wife and moved to Illinois, with the child. On June 13, 2000, the petitioner filed for dissolution of marriage in Illinois. On November 2, 2000, the Illinois court entered a judgment for dissolution, which was signed by each party and indicated that the respondent and the petitioner resided in Illinois and had been domiciled in Illinois for more than 90 days. Pursuant to the judgment of dissolution, the respondent was ordered to pay $200 per week in child support.

On July 24, 2007, a hearing took place in the Superior Court of California on the respondent's motion for an order to determine

the controlling child support order and to determine the amount of child support in arrears. The attorney for San Diego County told the court that the county was enforcing the California order, arguing that the Illinois child support order was void for lack of subject matter jurisdiction. The San Diego county attorney incorrectly informed the California court that at the time the Illinois order was issued the respondent still resided in California, giving California continuing exclusive jurisdiction over its child support order. The respondent's attorney agreed with the county's attorney and argued that the Illinois order was not entitled to full faith and credit by the California court. On November 28, 2007, the California court issued an order stating that it had retained continuing exclusive jurisdiction over its child support issue and holding that the Illinois child support order was not entitled to recognition and enforcement under the Full Faith and Credit Act.

On October 1, 2008, in Illinois, the respondent filed a motion to vacate and declare void the Illinois child support order, with the transcript of the July 24, 2007, California proceedings attached as an exhibit. The respondent argued that the Illinois court lacked subject matter jurisdiction to enter the order in 2000 because neither party had registered the California order in Illinois, petitioned for its modification, or provided their written consent to submit to the jurisdiction of the Illinois courts. At the time he filed the motion, the respondent was residing in California, and his child and former wife had moved to

Iowa. The respondent also claimed that he had paid under both child support orders and his former wife did not retrieve the monies collected under the Illinois order. The respondent requested that the unclaimed monies be turned over to him.

On January 15, 2009, the Illinois court denied the respondent's motion, finding that the Illinois court had exercised proper jurisdiction over the child support issue in the context of the parties' dissolution of marriage case. The respondent filed a motion to reconsider, which the Illinois circuit court denied. The court found that "it had jurisdiction to enter the support order, despite there being no written consent to modification[,]" noting that there was no registration of the prior California child support order in Illinois. The Illinois court also "acknowledge[d] the transcripts and statement of decision of November 28, 2007, of the Superior Court of California[.]" The defendant appeals.[1]

ANALYSIS

On appeal the respondent first argues that the Illinois trial court did not have subject matter jurisdiction to modify California's child support order. After reviewing this matter, we

[1] There has been no appellee's brief filed in this case. However, we find that we may reach the merits of the case because the record is simple and the claimed errors are such that the court can easily decide them without the aid of an appellee's brief. First Capitol Mortgage Corp. v. Talandis Construction Corp., 63 Ill. 2d 128, 345 N.E.2d 493 (1976).

find that the Illinois child support order is not void for lack of subject matter jurisdiction.

The Uniform Interstate Family Support Act governs child support orders in interstate cases. See Unif. Interstate Family Support Act, 9 (Part IB) U.L.A. 159-270 (2001)). Illinois has adopted the Uniform Interstate Family Support Act under the same name. See 750 ILCS 22/100 *et seq*. (West 2008).

First, we note that section 104(b) of the Illinois act specifically indicates that it does not "provide the exclusive method of establishing or enforcing a support order under the law of this State[.]" 750 ILCS 22/104(b)(1) (West 2008). Under the Illinois Dissolution of Marriage Act, the court may order either or both parents to pay child support. 750 ILCS 5/505(a) (West 2008). In this case, the Illinois court had subject matter jurisdiction over the child support issue in the context of the parties' dissolution of marriage case.

However, the respondent argues that the Illinois order was, in essence, a modification of the prior California order and the Illinois circuit court did not have jurisdiction to modify the California order. Pursuant to the Uniform Interstate Family Support Act, a support order issued by a tribunal of another state may be registered in this state for enforcement. 750 ILCS 22/601 (West 2008). Registration of an order is the first step to enforce, or to modify and enforce, a child support order of another state. Unif. Interstate Family Support Act §601 comments, 9 (Part IB) U.L.A. 241 (2001). A tribunal of this State shall

recognize and enforce a valid registered order. 750 ILCS 22/603 (West 2008).

In this case, neither party registered the California order in Illinois. Since the order was not registered, the respondent's argument that the Illinois order was a modification of the California order fails.

Nonetheless, even if the Illinois order were to be construed to be a modification of the California, the Illinois court would have had jurisdiction to modify because the parties and the child resided in Illinois at the time the Illinois circuit court issued its child support order. See 750 ILCS 22/613 (West 2008) (providing that if the child no longer resides in the state that issued the order and the parties have moved from that state and currently reside in Illinois, then Illinois has jurisdiction to enforce and modify the issuing state's order in a proceeding to register that order). Thus, the respondent's argument that the Illinois order was akin to a modification of the California order and the Illinois court did not have jurisdiction to make such a modification also fails.[2]

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[2] Under the Full Faith and Credit Act, a court of a state that has made a child support order has continuing, exclusive jurisdiction (CEJ) over the order if the state is the child's state or the residence of any party. 28 U.S.C. §1738B(d) (2006). At the time Illinois issued its child support order in 2000, California did not have CEJ over its order because the child and the parties

The respondent next argues that the Illinois circuit court abused its discretion in failing to decline jurisdiction. The respondent argues that Illinois no longer has a substantial interest in this matter because the parties and the child have moved from Illinois. The decision to decline jurisdiction in favor of another court is within the trial court's discretion and will not be reversed absent an abuse of discretion. *Mattmuller v. Mattmuller*, 336 Ill. App. 3d 984, 785 N.E.2d 196 (2003). Here, the trial court entered a valid child support order in 2000 and did not abuse its discretion by denying the respondent's motion to vacate that order.

CONCLUSION

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had left the state. Currently, Illinois no longer has CEJ for the same reason. In such a case when there are multiple valid orders, and none of the courts would have CEJ, a court having jurisdiction over the parties shall issue a new child support order, which must be recognized. 28 U.S.C. §1738B(f)(4) (2006); see also 750 ILCS 22/207(b)(3) (West 2008) (directing that when there is more than one child support order but none of the states involved have CEJ, then a new controlling order must be issued by a tribunal of the state with jurisdiction over the parties).

See also 750 ILCS 22/209 (West 2008) providing amounts collected under a child support order shall be credited against the amounts owed for the same period under any other child support order for support of the same child).

For the foregoing reasons, we affirm the judgment of the circuit court of Will County.

Affirmed.