

NOTICE
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2013 IL App (4th) 130153-U
NO. 4-13-0153
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
June 18, 2013
Carla Bender
4th District Appellate
Court, IL

DUSTIN E.J. MEIER,	)	Appeal from
Plaintiff-Appellant,	)	Circuit Court of
v.	)	Macon County
LARAMI BALL, f/k/a LARAMI McLEAN,	)	No. 12F555
Defendant-Appellee.	)	
	)	Honorable
	)	James R. Coryell,
	)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Knecht and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's vacatur of its earlier decision to register a foreign judgment, concluding that, among other issues, the court lacked jurisdiction under section 201 of the Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA). The appellate court also rejected the plaintiff's argument that the court committed reversible error when it failed to record its conversation with an Ohio judge pursuant to section 110(d) of the UCCJEA.

¶ 2 In December 2012, the trial court granted a motion filed by plaintiff, Dustin E.J. Meier, which requested registration of a July 2008 order from the superior court of California pertaining to L.M. (born October 14, 2005), the child of Meier and defendant, Larami Ball.

¶ 3 In January 2013, Ball filed a motion for emergency relief, requesting that the trial court vacate its December 2012 order. Following a hearing on that motion held shortly thereafter, the court vacated its December 2012 order, finding, in part, that it lacked jurisdiction.

¶ 4 Meier appeals, arguing that the trial court erred by (1) vacating its December 20, 2013, order and (2) failing to record the court's conversation with an Ohio trial court judge. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 A. The California Litigation

¶ 7 (Although the issue before us concerns whether Illinois or Ohio has jurisdiction, we set forth the pertinent events that occurred in California, where the child-custody litigation at issue originated.)

¶ 8 Following a relationship that occurred when the parties resided in California, Ball gave birth to L.M. In May 2006, the superior court of California granted the parties joint legal custody of L.M. (San Diego County case No. ED-66265). Ball retained residential custody of L.M. subject to the parties' written agreement regarding Meier's visitation. In December 2007, the superior court entered a separate order that (1) modified Meier's visitation schedule by authorizing summer visitation with L.M. from June to September each year and (2) ordered Meier to pay Ball \$89 per month for child support.

¶ 9 In July 2008, the superior court approved the parties' "stipulation and order," in which they agreed, in pertinent part, to the following:

"2. Both parties agree that *** Ball *** may move out of state to Ohio with the anticipated effective date of the move to be on or around July 1, 2008.

3. It is further agreed that Jurisdiction for this case shall be changed from California to Illinois, which is the current

state of residence for *** Meier.

4. It is further agreed, that all terms and provisions regarding custody and visitation currently being exercised in the state of 'California' shall now be applied to the state of 'Ohio', which will be the new state of residence for [Ball]."

The parties also agreed that Ball could visit L.M. "every other weekend" during L.M.'s summer visitation with Meier, provided she (1) gives Meier seven days' notice; (2) does not remove L.M. from Macon County; and (3) discloses her location while visiting with L.M. (The parties' stipulation was based on the superior court of California's May 2006 and December 2007 orders, but the stipulated agreement did not restate the specific terms of those orders.)

¶ 10 B. The Ohio Litigation

¶ 11 In March 2010, Meier *pro se* filed in the court of common pleas, juvenile division, Wayne County, Ohio, an "affidavit regarding child's address and persons with whom the child has lived within the last five years" (Wayne County case No. 10-0431-CCV). Specifically, Meier alleged that—as L.M.'s custodial parent—L.M. resided with him from (1) July to December 2008 in Decatur, Illinois; (2) December 2008 to October 2009 in Stow, Ohio; and (3) October 2009 to March 2010 in Rittman, Ohio. (Meier's Rittman residence was located in Wayne County, Ohio.)

¶ 12 In his affidavit, Meier explained that on March 21, 2010, he filed two separate police reports, complaining that Ball, whom Meier identified as L.M.'s noncustodial parent, had refused to return L.M. to his custody when Ball's visitation period had ended. Meier's retained counsel later amended Meier's *pro se* filing, requesting that the Wayne County trial court establish jurisdiction and modify the superior court of California's orders to grant Meier primary

custody of L.M. In response, Ball and the Wayne County Child Support Enforcement Agency filed separate petitions to dismiss Meier's complaint.

¶ 13 In April 2010—while Meier's motion was pending—Ball filed a petition for *habeas corpus* in the court of common pleas, juvenile division, Summit County, Ohio, where Ball resided (Summit County case No. HC 10-04-10084). In her petition, Ball sought to regain custody of L.M. after Meier refused to return L.M. to her custody when his trial-court-ordered visitation ended. Following a hearing conducted later that month, the Summit County court found, in part, as follows:

"The Court finds that it must give full faith and credit to the California Judgment Orders. Those provide that [Ball] is the residential parent. For this reason, [L.M.'s] county of residence is likewise Summit County, giving this court jurisdiction. The Court further finds that there had been no legal change of [L.M.'s] custody by any Court of this State or any other State since the issuance of the California decisions. [Meier] has wrongfully denied [Ball] physical custody of [L.M.], in that [Ball] has not seen [L.M.] since March[] 2010."

Thereafter, the court ordered Meier to return L.M. to Ball's custody.

¶ 14 Just prior to the aforementioned decision in case No. HC 10-04-10084, Ball filed a petition to register foreign decree in the court of common pleas, domestic relations division, Summit County, Ohio (Summit County case No. 2010-04-1241). In particular, Ball sought to have the trial court register the following orders that the superior court of California entered in

San Diego County case No. ED-66265: (1) the May 2006 child-custody order; (2) the December 2007 child-support and revised-visitation order; and (3) the July 2008 stipulation and order.

Ball's petition stated that, if successful, she intended to petition the court to modify the terms of those California orders.

¶ 15 In June 2010, the Wayne County trial court granted the motions to dismiss filed by Ball and the Wayne County Child Support Enforcement Agency in case No. 10-0431-CCV. In so doing, the court noted (1) that in April 2010, the Summit County court had exercised jurisdiction when it granted Ball's petition for *habeas corpus* in case No. HC 10-04-10084 and (2) Ball's pending petition to register a foreign decree in Summit County case No. 2010-04-1241.

¶ 16 In July 2010, the Summit County trial court entered an order in case No. 2010-04-1241, adopting an earlier decision by a magistrate that addressed Ball's petition to register foreign decree. In its order, the court (1) terminated the parties' joint legal custody of L.M.; (2) awarded Ball sole custody of L.M.; and (3) revised Meier's visitation schedule with L.M. Meier timely appealed the Summit County court's decision.

¶ 17 In September 2010, Meier *pro se* filed a change of address, notifying the Wayne and Summit County trial courts that effective September 1, 2010, he had moved from Rittman, Ohio, to Orville, Ohio, which was also located in Wayne County. Meier's filing explained that he had a lease on the property that was effective from September 1, 2010, through June 30, 2015.

¶ 18 On December 12, 2012, the Court of Appeals of Ohio reversed the Summit County trial court's decision to register and modify the stipulation and order that the superior court of California had earlier approved, concluding that although the court had properly exercised jurisdiction, the underlying magistrate's decision that the court had adopted incorrectly

cited a statutory provision. *Ball v. Meier*, Nos. 26079, 26109, slip op. at 4-5 (Ohio App. 9 Dist., 2012). As a result of that error, the magistrate had failed to properly notify the parties concerning their respective rights to file timely objections to that determination. *Id.* As part of its decision, the court of appeals declined to address Meier's remaining contentions of error, concluding that they were either moot or premature. *Ball*, Nos. 26079, 26109, slip op. at *5-6.

¶ 19 On remand, (1) the magistrate corrected the error and (2) the Summit County trial court again adopted the magistrate's order. On December 26, 2012, the court entered an order, (1) terminating the parties' joint legal custody of L.M.; (2) awarding Ball sole custody of L.M.; and (3) revising Meier's visitation schedule with L.M.

¶ 20 C. The Illinois Litigation

¶ 21 On December 20, 2012—eight days after the Court of Appeals of Ohio's reversal but six days before entry of the Summit County trial court's order—Meier *pro se* filed a petition to register foreign judgment in Illinois (Macon County case No. 12-F-555). Specifically, Meier sought to have the trial court register only the parties' July 2008 stipulation and order that the superior court of California had approved. In support of his petition, Meier claimed, in part, the following: (1) under penalty of perjury, the stipulation and order had not been modified; (2) he had been residing with L.M. in Decatur since December 2007; (3) he had "sole physical custody" of L.M.; (4) Ball, who resided in Ohio, was awarded visitation with L.M. every other weekend; (5) Ball's visitation was restricted to Macon County as a "child-abduction prevention measure"; (6) on October 31, 2005, Ball abducted L.M. for approximately seven months; (7) in December 2007, Ball again abducted L.M. for 12 months; (8) he was "not aware of any other proceedings or final orders in existence in accordance with, or conforming to," the standards of the Uniform

Child-Custody Jurisdiction and Enforcement Act (UCCJEA) (750 ILCS 36/101 to 112 (West 2010)); (9) he was not aware of any "proceedings lawfully pending in accordance with the UCCJEA"; and (10) pursuant to section 108(c) of the UCCJEA, the court was not required to provide Ball notice to exercise its jurisdiction because Ball had acquiesced to jurisdiction in Illinois as documented in the stipulation and order. (Meier did not disclose to the court the terms of the May 2006 or December 2007 orders entered by the superior court of California.)

¶ 22 That same day, the trial court granted Meier's motion, finding, in part, that (1) Meier had sole physical custody of L.M.; (2) the superior court of California found Ball prone to abducting L.M.; (3) notice to Ball was not required under section 108(c) of the UCCJEA; and (4) as of July 21, 2008, the court had exclusive and continuing jurisdiction over the subject matter and the parties. The court also ordered Ball to provide proof of "any and all child-support payments" to Meier within 30 days.

¶ 23 The following day—December 21, 2012—Meier acquired physical custody of L.M. and escorted L.M. from his Ohio elementary school without informing Ball. Meier relocated L.M. to Illinois and enrolled him in school.

¶ 24 On January 4, 2013, Ball filed a motion for emergency relief, requesting that the trial court dismiss its December 2012 order in Macon County case No. 12-F-555. In support of her motion, Ball provided a comprehensive history of the parties' relationship and the legal proceedings following the birth of L.M., which included the litigation in California and Ohio. Ball also noted numerous claims Meier made in his petition to register foreign judgment that she characterized as "egregious" misrepresentations.

¶ 25 At a hearing held shortly thereafter, the trial court first informed the parties about

a discussion the court had with an Ohio court, as follows:

"THE COURT: [The court informs] the parties that pursuant to [section 36 of the UCCJEA, the court has] conferred with Judge [Carol J.] Dezso in the Court of Common Pleas, Summit County, Ohio. [The court] neglected to have a transcript or reporter transcribe the proceedings. Essentially what Judge Dezso told [the court] is *** that the case has been litigating in Ohio since 2010 *** on a proceeding that *** Meier initiated by filing a petition to register the foreign judgment in Wayne County, Ohio and [Judge Dezso] indicated the litigation had proceeded for two years and it had been to the Court of Appeals in Ohio. [The court does not] have a transcript of that, but that's essentially what [Judge Dezso] told [the court]. That's, [the court thinks is] set forth in your affidavit, [counsel for Meier].

[MEIER'S COUNSEL]: It is.

THE COURT: As well as your motion, is that correct, [counsel for Ball]?

[BALL'S COUNSEL]: Yes."

¶ 26 The trial court thereafter heard oral arguments on Ball's motion for emergency relief. After a brief recess to allow Meier's counsel time to present additional authority, the court found as follows:

"The order of December 20, 2012 is vacated. [Macon

County case No.] 12-F-555 is dismissed. [The court finds] that the Ohio court has jurisdiction. Ohio is the home state of the child. Ohio had been the home state of the child several months before the initiation of this proceeding. Ohio has jurisdiction. Ohio has not declined jurisdiction. There is litigation that has been proceeding in the State of Ohio since 2010, some of which was initiated by *** Meier. [Meier] has participated in the litigation [and has] been represented by counsel. It's been to [the] appellate courts in Ohio. Ohio has jurisdiction and is the home state of the child. *** [I]t's clear *** that the California order was modified by the Ohio court. [The court orders] that [L.M. be] returned forthwith to the State of Ohio."

¶ 27 This appeal followed.

¶ 28 II. MEIER'S CLAIMS OF ERROR

¶ 29 A. The Trial Court's Vacatur

¶ 30 Meier argues that the trial court erred by vacating its December 20, 2012, order. We disagree.

¶ 31 Because the issue before us concerns the registration of a foreign judgment, we first set forth the appropriate procedure as provided in section 305 of the UCCJEA, which is titled, "Registration of Child-Custody Determination."

¶ 32 Section 305(a) of the UCCJEA provides that a child-custody determination by a trial court of another state may be registered in Illinois if the movant proffers specific documents,

which include the name and address of any party who is a "parent" or "acting as a parent" and a certified copy of the out-of-state judgment sought to be registered. 750 ILCS 36/305(a) (West 2010). Once the appropriate documents are received by the court, the court "shall" then (1) "cause the determination to be filed as a foreign judgment" and (2) serve notice on the identified parent and provide that parent an opportunity to contest the registration. 750 ILCS 36/305(b) (West 2010). A party seeking to contest the validity of a registered order must request a hearing within 20 days after service of notice. 750 ILCS 36/305(d) (West 2010).

¶ 33 Section 305 of the UCCJEA continues, explaining that at the subsequent hearing that contests the trial court's registration of a foreign judgment, the court shall confirm the registered order unless the person contesting registration establishes the following:

"(1) the issuing court did not have jurisdiction under Article

2;

(2) the child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 108, in the proceedings before the court that issued the order for which registration is sought." 750 ILCS 36/305(d) (West 2010).

¶ 34 Article 2 of the UCCJEA provides, in pertinent part, as follows:

"§ 201. Initial Child-Custody Jurisdiction

(a) Except as otherwise provided in Section 204, a court of this State has jurisdiction to make an initial child-custody determination only if:

(1) this State is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State[.]"

750 ILCS 36/201(a)(1) (West 2010).

(Section 204 of the UCCJEA, titled, "Temporary Emergency Jurisdiction," does not apply to this case.)

¶ 35 In this case, the trial court vacated its December 2012 order that registered the stipulation and order the superior court of California had approved in July 2008 because it found that (1) the state of Ohio was L.M.'s home state; (2) the State of Ohio, noting Ball's Ohio residency and her status as the custodial parent, expressly assumed jurisdiction that it did not relinquish; (3) since 2010, the parties had actively participated in Ohio litigation concerning L.M. that was ongoing; and (4) the foreign judgment registered had been modified by the Ohio court.

¶ 36 In support of his argument that the Macon County trial court erred by vacating its December 20, 2012, order, which initially granted his petition to register a foreign judgment in Illinois, Meier essentially ignores the court's finding that it lacked jurisdiction because of (1) L.M.'s Ohio residency and (2) the past and current litigation in the State of Ohio. Instead, Meier

asserts in his brief to this court that "the State of California did have jurisdiction because it was the original court in which both parties participated over many years." We reject Meier's claim because, simply put, in July 2008, the state of California expressly relinquished its jurisdiction over the parties and the subject matter at issue.

¶ 37 In determining whether the Macon County trial court correctly vacated its registration of a foreign judgment because the court later determined it did not have jurisdiction under section 201(a)(1) of the UCCJEA, we are mindful that the "UCCJEA is narrowly drafted to provide a mechanism by which courts can review legal determinations, such as jurisdiction and service, when deciding whether another state's custody order should be registered in Illinois." *In re Sophia G.L.*, 229 Ill. 2d 143, 165, 890 N.E.2d 470, 483 (2008). Thus, with regard to jurisdiction in this case, we need consider only whether Illinois was L.M.'s home state (1) in December 2012, when Meier filed his petition to register a foreign judgment or (2) during any portion of the six months preceding December 2012. See 750 ILCS 36/201(a)(1) (West 2010); see also *In re Sophia G.L.*, 229 Ill. 2d at 165, 890 N.E.2d at 483 (expressly confining its review of jurisdiction to register a foreign judgment to the applicable statutory parameters listed in section 201 of the UCCJEA).

¶ 38 Here, contrary to Meier's representations to the trial court that he lived with L.M. in Decatur since December 2007, the record shows that L.M. never resided in Illinois. Instead, L.M. left California and, thereafter, resided in Ohio with Ball as described in the parties' stipulation and order. Indeed, the record shows that Meier, through his filings in the Ohio courts, declared himself an Ohio resident. Therefore, Illinois was devoid of jurisdiction in this matter.

¶ 39 Moreover, at the time Meier sought the court's registration of the July 2008 order

from the superior court of California, he did so with knowledge that the Court of Appeals of Ohio had modified the parties' agreement by affirming that Ohio—not Illinois—had jurisdiction.

¶ 40 Finally, because of Meier's misrepresentations, the trial court found, erroneously, that notice to Ball was not required to exercise its jurisdiction because Ball had "submit[ted] to the jurisdiction of the court" under section 108(c) of the UCCJEA. 750 ILCS 36/108(c) (West 2010). Notwithstanding that provision, under the facts of this case, we find that the guidance contained within section 205(a) of the UCCJEA is applicable. That section provides, as follows:

"Before a child-custody determination is made under this Act, notice and an opportunity to be heard in accordance with the standards of Section 108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child." 750 ILCS 36/205(a) (West 2010).

¶ 41 Accordingly, we conclude that the trial court did not err by vacating its December 20, 2012, order—initially granting Meier's petition to register a foreign judgment—for lack of jurisdiction.

¶ 42 B. The Trial Court's Conversation With the Ohio Court

¶ 43 Meier also argues that the trial court erred by failing to record the court's conversation with Summit County, Ohio, trial court Judge Carol J. Dezso. We disagree.

¶ 44 Section 110 of the UCCJEA, entitled, "Communication Between Courts," provides, in part, as follows:

"(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c), a record must be made of a communication under this Section. The parties must be informed promptly of the communication and granted access to the record." 750 ILCS 36/110(c), (d) (West 2010).

¶ 45 In this case, the trial court informed the parties of the content of its discussions, which consisted of the timing and general nature of the proceedings in the Summit County Court of Common Pleas. After reciting the content of the conversation and acknowledging that a record of the conversation did not exist, the court then turned to the parties and received both their acknowledgments that what the court had just conveyed was what the parties had described in their briefs to the court. Thus, we reject Meier's claim without further analysis. See *In re Detention of Swope*, 213 Ill. 2d 210, 217, 821 N.E.2d 283, 287 (2004) ("[A] party cannot complain of error which that party induced the court to make or to which that party consented."); *People v. Heard*, 396 Ill. 215, 219-20, 71 N.E.2d 321, 323 (1947) (and cases cited therein).

¶ 46 III. CONCLUSION

¶ 47 For the reasons stated, we affirm the trial court's judgment.

¶ 48 Affirmed.