

NOTICE
Decision filed 04/07/11. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

NO. 5-10-0283
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

<i>In re</i> MARRIAGE OF)	Appeal from the
JACQUELINE M. PARRICK,)	Circuit Court of
n/k/a JACQUELINE M. SNYDER,)	Crawford County.
)	
Petitioner-Appellee,)	
)	
and)	No. 96-D-117
)	
PAUL A. PARRICK,)	Honorable
)	Kimbara Harrell,
Respondent-Appellant.)	Judge, presiding.

JUSTICE WEXSTTEN delivered the judgment of the court.
Presiding Justice Chapman and Justice Donovan concurred in the judgment.

RULE 23 ORDER

Held: The circuit court did not lose jurisdiction to enforce its child-support order merely because the respondent registered the order in Ohio, where the parties presently reside.

The respondent, Paul A. Parrick, appeals from the circuit court's judgment finding him in indirect civil contempt for failing to abide by the terms of a child-support order that the court entered in January 2009. We affirm.

BACKGROUND

In January 1997, the circuit court of Crawford County entered a judgment of dissolution of marriage dissolving the marital ties between the respondent and the petitioner, Jacqueline M. Parrick, now known as Jacqueline M. Snyder. Among other things, the judgment of dissolution set forth the respondent's child-support obligations and incorporated a joint-parenting agreement that the parties had previously entered into regarding their two

minor children.

By 1998, both parties and both minor children had moved from Illinois to Hancock County, Ohio, where the record indicates they still reside. Thereafter, in the circuit court of Crawford County, the parties continued to litigate numerous matters related to the judgment of dissolution, until January 2009, when the circuit court entered a stipulated order "settling and resolving all pending matters in [the] case" (the January 2009 order). The January 2009 order was divided into separate parts, each addressing a particular aspect of the parties' pending litigation. One part dealt with child support and provided, *inter alia*, that the respondent would pay the petitioner a percentage of any net bonus he received from his employer. Another part dealt with the parties' contributions to the future college expenses of their children. The January 2009 order directed that the respondent's employer be served with an order of withholding and that the respondent's biweekly child-support payments be "withheld from [his] paycheck." The January 2009 order further stated that each of its parts constituted a separate and enforceable order and that the circuit court of Crawford County would retain "jurisdiction over the parties hereto and the subject hereof for purposes of enforcing each and every term and provision of this stipulation." The January 2009 order was signed and approved by counsel for both parties.

In April 2009, in the common pleas court of Hancock County, Ohio (the Ohio court), the respondent filed a motion to register and modify the January 2009 order.

In January 2010, in the circuit court of Crawford County, alleging that the respondent had failed to fully pay his agreed-upon share toward the "winter quarter" college expenses of the parties' eldest child, the petitioner filed a petition for an adjudication of indirect civil contempt, seeking payment of the balance owed plus attorney fees.

In February 2010, in response to the respondent's April 2009 motion to register and modify the January 2009 order, the Ohio court entered an order registering only the child-

support portion of the order, which by that time was applicable only to the parties' youngest child. The Ohio court also directed the respondent to make all further child-support payments through the Hancock County Child Support Enforcement Agency, "unless deducted from his wages."

On April 13, 2010, noting that it had previously registered the child-support portion of the January 2009 order, the Ohio court entered an order registering the college-expense portion as well. The Ohio court determined that the college-expense portion fell within the "category of a child[-]support order subject to registration." Referencing the respondent's request that the January 2009 order be modified, the Ohio court noted that registration was a "prerequisite to modification." The Ohio court further stated that it was not making a determination "as to the propriety" of the respondent's request that the January 2009 order be modified.

On April 26, 2010, in the circuit court of Crawford County, alleging that the respondent had failed to pay her the agreed-upon percentage of a net bonus that he had recently received from his employer, the petitioner filed a second petition for an adjudication of indirect civil contempt, seeking her share of the bonus plus attorney fees.

On April 29, 2010, arguing that the circuit court of Crawford County no longer had jurisdiction over the matter, the respondent filed a motion to dismiss the petitioner's second petition for an adjudication of indirect civil contempt. Citing section 207 of the Uniform Interstate Family Support Act (the Act) (750 ILCS 22/207 *et seq.* (West 2008)), the motion alleged that the Ohio court had exclusive jurisdiction over the cause.

In May 2010, finding that it still had jurisdiction, the circuit court denied the respondent's motion to dismiss the petitioner's second petition for an adjudication of indirect civil contempt. Following a hearing on both of the petitioner's petitions for an adjudication of indirect civil contempt, the circuit court found that the respondent was in contempt of

court for willfully violating its January 2009 order. Reasserting his contention that the Ohio court had exclusive jurisdiction over the cause, the respondent subsequently filed a motion to reconsider the denial of his motion to dismiss the petitioner's second petition. The circuit court denied the respondent's motion to reconsider, and the present appeal followed.

ANALYSIS

Arguing that the Ohio court has continuing and exclusive jurisdiction pursuant to section 207 of the Act, the respondent maintains that the circuit court erred in denying his motion to dismiss the petitioner's second petition for an adjudication of indirect civil contempt.

"Statutory interpretation is a matter of law subject to *de novo* review." *Wisnasky-Bettorf v. Pierce*, 403 Ill. App. 3d 1080, 1082 (2010), *appeal allowed*, 239 Ill. 2d 592 (2011). Whether the circuit court acted with jurisdiction is also a question of law subject to *de novo* review. *Scheider v. Ackerman*, 369 Ill. App. 3d 943, 945 (2006).

Section 207 of the Act provides, in pertinent part, as follows:

"Determination of controlling child-support order.

(a) If a proceeding is brought under this Act and only one tribunal has issued a child-support order, the order of that tribunal controls and must be so recognized.

(b) If a proceeding is brought under this Act, and two or more child-support orders have been issued by tribunals of this State or another state with regard to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this Act, the order of that tribunal controls and must be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this Act:

(A) an order issued by a tribunal in the current home state of the child controls ***." 750 ILCS 22/207 (West 2008).

Section 207 "aims to cure the problem of conflicting support orders entered by multiple courts, and provides for the exercise of continuing, exclusive jurisdiction by one tribunal over support orders." *Child Support Enforcement Division of Alaska v. Brenckle*, 424 Mass. 214, 218 (1997). Section 207 further provides, however, that so long as a controlling child-support order has not been modified by a tribunal of another state that has "assumed jurisdiction" pursuant to the Act, the tribunal that issued the order has continuing jurisdiction to enforce the order and to request that another state enforce it as well. 750 ILCS 22/205, 206, 207(e) (West 2008). Thus, while the Act contemplates that only one tribunal will have continuing and exclusive jurisdiction to modify a child-support order, more than one tribunal can have continuing jurisdiction to enforce the order. See 750 ILCS 22/202, 205, 206, 207(e) (West 2008); see also *Vinnik v. Vinnik*, 831 So. 2d 1271, 1273 (Fla. Ct. App. 2002).

Here, the respondent suggests that by granting his motion to register the child-support portions of the January 2009 order and by ordering him to make all further child-support payments through the Hancock County Child Support Enforcement Agency, "unless deducted from his wages," the Ohio court "issued" a child-support order for purposes of section 207. Accordingly, he argues that there were two child-support orders in existence when the petitioner filed her second petition for an adjudication of indirect civil contempt, that the order issued by the children's current home state of Ohio is the controlling order pursuant to section 207(b)(2)(A), and that the Ohio court therefore has continuing and exclusive jurisdiction over the matter. We disagree.

By registering the January 2009 order in Hancock County, the Ohio court recognized that the order was the controlling order between the parties, but it did not "issue" a child-support order for purposes of section 207. Before a child-support order is issued, a court must make determinations relevant to matters such as the parties' financial resources and needs (see, *e.g.*, 750 ILCS 5/505(a) (West 2008)), and here, the Ohio court never made any such determinations. Moreover, registering a controlling child-support order in another state, such as Ohio, allows that state to enforce the order as if it were the issuing state (750 ILCS 22/610 (West 2008); Ohio Rev. Code Ann. §3115.47 (West 2009)), but for another state to assume continuing and exclusive jurisdiction over an issuing state's order, the order must not only be registered, but it must also be modified by an order of the nonissuing state (750 ILCS 22/205(c), 610, 611, 612, 613, 614 (West 2008); Ohio Rev. Code Ann. §§3115.07(B), (C), 3115.47, 3115.48, 3115.49, 3115.50, 3115.51 (West 2009)). As the Ohio court observed, the registration of an order is a "prerequisite to modification," and here, the registration of the January 2009 order was all that occurred.

Given that the parties and their children are now residents of Ohio, the Ohio court, in its discretion, could have assumed exclusive jurisdiction over the parties' cause by modifying the January 2009 order. 750 ILCS 22/610, 613 (West 2008); Ohio Rev. Code Ann. §§3115.47, 3115.50 (West 2009). The Ohio court opted not to do so, however, and specifically indicated as much when stating that it was not making a determination "as to the propriety" of the respondent's request that the order be modified. In any event, because the Ohio court did not issue an order modifying the January 2009 order, the circuit court did not lose its jurisdiction to enforce it. See *Zaabel v. Konetski*, 209 Ill. 2d 127, 135 (2004) (rejecting the argument that the circuit court loses its jurisdiction to enforce an entered support order "simply because all relevant persons reside in other states"); *Jurado v. Brashear*, 782 So. 2d 575, 580 (La. 2001) (noting that "when both parents and the child move

out of the issuing state," "[t]he court of the issuing state retains jurisdiction to *enforce* its order, but not to *modify* the order" (emphasis in original)). As previously indicated, an "issuing tribunal retains jurisdiction to enforce its existing order if no modification has taken place and no other jurisdiction has assumed continuing, exclusive jurisdiction.'" *Klingel v. Reill*, 446 Mass. 80, 85 (2006) (quoting *Linn v. Delaware Child Support Enforcement*, 736 A.2d 954, 964 (Del. 1999)). Furthermore, because the January 2009 order is the only child-support order that has been "issued" by a tribunal, it is the "controlling" order, and section 207(b)'s conflict provisions are thus inapplicable. Only if the Ohio court enters an order modifying or superceding the January 2009 order can the respondent claim that the Ohio court has assumed exclusive and continuing jurisdiction in this cause.

CONCLUSION

The circuit court rightfully rejected the respondent's jurisdictional argument when denying his motion to dismiss the petitioner's second petition for an adjudication of indirect civil contempt. Accordingly, the circuit court's judgment is hereby affirmed.

Affirmed.