

SUPREME COURT OF THE STATE OF MONTANA

Matter of A.R.B.

2013 MT 310 (Mont. 2013) · No. DA 13-0318 · Decided October 22, 2013

SUMMARY

The Montana Supreme Court affirmed the termination of the biological mother’s parental rights to A.R.B., a youth in need of care. The Court held that Montana retained jurisdiction under the Interstate Compact on the Placement of Children because the child’s placement in Utah did not terminate the Montana court’s jurisdiction and no Utah proceeding was pending. The Court also held that the District Court did not abuse its discretion in declining to treat Montana as an inconvenient forum under the UCCJEA.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Beth Baker; Beth Baker; Mike McGrath; Laurie McKinnon; Jim Rice; Brian Morris
JURISDICTION	Montana
DECIDED	October 22, 2013
DOCKET	DA 13-0318
DISPOSITION	affirmed
PROCEDURAL POSTURE	The biological mother appealed the Montana District Court's order terminating her parental rights to A.R.B. She argued that the district court should have relinquished or stayed jurisdiction under the UCCJEA because Montana no longer had exclusive, continuing jurisdiction or was an inconvenient forum.
STANDARD OF REVIEW	A district court's decision on a motion to decline jurisdiction is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential Montana Supreme Court opinion
PARTIES	Biological mother of A.R.B. v. Montana Department of Public Health and Human Services

TOPICS

parental rights

child custody

subject matter jurisdiction

appellate procedure

standard of review

PRACTICE AREAS

family law

child custody

parental rights

appellate procedure

QUESTIONS PRESENTED

1. Whether the District Court was required to stay or relinquish jurisdiction under the UCCJEA's exclusive, continuing jurisdiction provision, § 40-7-202, MCA, after A.R.B. was placed in Utah.
2. Whether the District Court abused its discretion by declining to stay proceedings or find Montana an inconvenient forum under § 40-7-108, MCA.

HOLDINGS

1. A Montana court's obligation to relinquish jurisdiction under § 40-7-202, MCA, requires a pending proceeding in the other state; the Montana court was not required to seek out a Utah court and demand initiation of a proceeding. Because the placement occurred under the ICPC and no Utah proceeding was pending, Article V of the ICPC controlled and Montana retained jurisdiction.
2. The District Court did not abuse its discretion by declining to find Montana an inconvenient forum. The relevant circumstances, including the absence of a pending Utah proceeding, Utah DFS's refusal to investigate, and the location of the evidence concerning abandonment in Montana, supported retaining jurisdiction.

KEY QUOTATIONS

“The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency’s state until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state.” (¶ 18)

“The Montana court is not obligated to seek out a sister state’s court and demand initiation of a proceeding.” (¶ 19)

FACTUAL BACKGROUND

A.R.B. was born in Montana in June 2012, and hospital staff observed the mother exhibiting erratic behavior and appearing unable to care for the child. The Montana Department removed A.R.B. from the mother at the hospital, and the District Court adjudicated the child a youth in need of care. A.R.B. was later placed with a Utah foster family under the Interstate Compact on the Placement of Children. The mother had no contact with A.R.B. or the Department after the child's birth, did not participate in developing a treatment plan, and did not appear at the termination hearing.

PROCEDURAL HISTORY

The Montana Department removed A.R.B. from the mother's care shortly after birth and the District Court adjudicated A.R.B. a youth in need of care and granted the Department temporary legal custody. After A.R.B. was placed with a foster family in Utah under the ICPC, the mother moved to transfer jurisdiction to Utah. The

District Court denied that motion, later terminated the mother's parental rights based on abandonment, and granted the Department permanent custody. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Lloyd, 2011 MT 133, ¶ 17, 361 Mont. 22, 255 P.3d 166
- In re K.H., 2012 MT 175, ¶ 19, 366 Mont. 18, 285 P.3d 474
- In re B.P., 2008 MT 166, ¶ 19, 343 Mont. 345, 184 P.3d 334