

SUPREME COURT OF MONTANA

Stephens v. Fourth Judicial District Court, 2006 MT 21

128 P.3d 1026 (Mont. 2006) · No. No. 05-709 · Decided January 31, 2006

SUMMARY

The Supreme Court of Montana granted Brenda Kay Stephens a writ of prohibition, holding that the Fourth Judicial District Court lacked subject matter jurisdiction over parenting and child-custody matters under the Uniform Child Custody Jurisdiction and Enforcement Act. The court held that Arkansas remained the children's home state because they had lived there for more than six consecutive months before moving to Montana and had not lived in Montana for six consecutive months when the dissolution petition was filed. The order prohibited the District Court from hearing or enforcing parenting matters but did not affect its jurisdiction over the dissolution proceeding itself.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Karla M. Gray, C.J.; Brian Morris, J.; James C. Nelson, J.; W. William Leaphart, J.; Patricia Cotter, J.
JURISDICTION	Montana
DECIDED	January 31, 2006
DOCKET	No. 05-709
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Brenda Stephens petitioned the Montana Supreme Court for a writ of prohibition barring the Fourth Judicial District Court from exercising jurisdiction over parenting and child-custody matters in the parties' dissolution proceeding.
STANDARD OF REVIEW	The Supreme Court reviewed the district court's subject-matter jurisdiction under the Montana Uniform Child Custody Jurisdiction and Enforcement Act and determined whether extraordinary relief by writ of prohibition was appropriate.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Brenda Kay Stephens v. Fourth Judicial District Court, Hon. John W. Larson

TOPICS

child custody

subject matter jurisdiction

writ of certiorari

appellate procedure

statutory interpretation

PRACTICE AREAS

family law

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remedies

QUESTIONS PRESENTED

1. Whether Arkansas or Montana was the children's home state under the UCCJEA when Jesse commenced the Montana proceeding.
2. Whether Montana could exercise initial child-custody jurisdiction under the significant-connection and best-interests provision when the children had not lived in Montana for six consecutive months immediately before commencement.
3. Whether a writ of prohibition was appropriate to prevent the Montana district court from hearing, enforcing, or deciding parenting and custody matters.

HOLDINGS

1. For purposes of initial jurisdiction under section 40-7-201(1), MCA, a child's home state is determined by whether the state was the child's home state within six months before commencement of the proceeding; the inquiry is not limited to the six consecutive months immediately preceding commencement.
2. Arkansas was the children's home state when the Montana proceeding commenced because the children had lived there for more than six consecutive months and had not lived in Montana for six consecutive months before the filing; Montana therefore lacked initial jurisdiction over the parenting and custody matters.
3. A writ of prohibition was appropriate because the district court lacked subject-matter jurisdiction over the parenting and custody matters and Stephens had no other plain, speedy, and adequate remedy in the ordinary course of law.

KEY QUOTATIONS

"As a result, we hold that "home state" for purposes of determining initial jurisdiction under § 40-7-201(1), MCA, is not limited to the time period of "6 consecutive months immediately before the commencement of a child custody proceeding." (128 P.3d at 1029)

"The District Court lacks subject matter jurisdiction over the parenting plan and child custody matters at issue in this case pursuant to the terms of the UCCJEA and Montana law." (128 P.3d at 1030)

FACTUAL BACKGROUND

Brenda and Jesse Stephens married in Montana and lived with their two children in Arkansas from approximately 2002 until returning to Montana in spring 2005. In Montana, the family enrolled the children in school and took other steps suggesting an intent to remain there permanently. Brenda left Montana with the

children in August 2005 and returned to Arkansas, after which Jesse filed a Montana dissolution petition with a proposed parenting plan.

PROCEDURAL HISTORY

After the parties moved from Arkansas to Montana and then Stephens returned to Arkansas with the children, Jesse Stevens filed a Montana dissolution petition containing a proposed parenting plan. The Fourth Judicial District Court denied Stephens's motion to dismiss for lack of jurisdiction and ordered her to return the children to Montana. The Montana Supreme Court granted the petition for a writ of prohibition.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Fourth Judicial District Court shall not hear, enforce, or decide parenting or current issues concerning the minor children and shall vacate all orders already issued relating to parenting or custody. The writ does not affect the district court's jurisdiction over Jesse's dissolution petition itself.

CASES CITED

- Stoneman v. Drollinger, 2003 MT 25, 314 Mont. 139, 64 P.3d 997
- In re Marriage of Fontenot, 2003 MT 242, 317 Mont. 298, 77 P.3d 206
- Welch-Doden v. Roberts, 202 Ariz. 201, 42 P.3d 1166 (Ct. App. 2002)
- In re McCoy, 52 S.W.3d 297 (Tex. App. 2001)
- Nesa v. Baten, 290 A.D.2d 663, 736 N.Y.S.2d 173 (2002)