

DISTRICT OF COLUMBIA COURT OF APPEALS

Ieasha Hipps v. Ruben Cabrera

170 A.3d 199 (D.C. 2017) · No. 16-FM-358 · Decided September 28, 2017

SUMMARY

The District of Columbia Court of Appeals reviewed challenges to custody-related rulings, including the denial of Rule 11 sanctions, discovery and contempt issues, evidentiary rulings, and relinquishment of continuing jurisdiction. The court affirmed the denial of sanctions and the trial court’s decision to relinquish jurisdiction under the UCCJEA’s inconvenient-forum and continuing-jurisdiction provisions. It vacated other challenged rulings for further proceedings.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Thompson, Associate Judge; Fisher, Associate Judge; Beckwith, Associate Judge
JURISDICTION	District of Columbia
DECIDED	September 28, 2017
DOCKET	16-FM-358
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from Superior Court of the District of Columbia orders denying Rule 11 sanctions, contempt and discovery sanctions, relinquishing continuing jurisdiction over custody orders, and denying a motion to compel discovery as moot.
STANDARD OF REVIEW	Statutory construction is reviewed de novo; legal jurisdictional determinations are reviewed de novo; factual jurisdictional determinations are reviewed for clear error; and a decision to decline jurisdiction on forum non conveniens grounds is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Ieasha Hipps v. Ruben Cabrera

TOPICS

- child custody
- subject matter jurisdiction
- forum non conveniens
- contempt
- discovery dispute

PRACTICE AREAS

family law

family law procedure

civil procedure

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court properly denied Rule 11 sanctions based on the mother's allegation that the father submitted fabricated text messages and committed perjury.
2. Whether the trial court properly relinquished continuing jurisdiction over the custody orders under the Uniform Child Custody Jurisdiction and Enforcement Act's inconvenient-forum and significant-connection provisions.
3. Whether the trial court erred by ruling on, rather than staying or deferring, the mother's pending contempt and discovery-related motions after deciding to relinquish jurisdiction.
4. Whether the trial judge should be disqualified from further proceedings because of alleged bias favoring the father.

HOLDINGS

1. The denial of Rule 11 sanctions was affirmed because the mother's Sprint records did not establish by clear and convincing evidence that the father manufactured the text messages or committed perjury; the messages could have been sent through another device or application.
2. The trial court properly relinquished jurisdiction over the custody orders because the children and the father no longer had a significant connection with the District and substantial evidence concerning the children's care, protection, training, and personal relationships was no longer available there; the decision was also within the trial court's broad discretion under the UCCJEA's inconvenient-forum provision.
3. After deciding to relinquish jurisdiction, the trial court should not have denied the pending contempt and discovery-related motions; it should have stayed those matters pending commencement of a custody proceeding in New York and deferred to the New York court to address still-pending enforcement and discovery issues.

KEY QUOTATIONS

“A party alleging fraud “must do so with particularity and must prove it by clear and convincing evidence.””

“Because, by the conclusion of the March 3, 2016, hearing, the court had determined that it would relinquish jurisdiction and direct the parties to register the custody orders in Amsterdam, New York, the court should not have ruled on the pending contempt and discovery motions.”

FACTUAL BACKGROUND

The parties are the parents of two minor children, and a 2012 custody order awarded the father primary physical and legal custody while granting the mother specified visitation and participation rights. The father moved with the children to New York in 2013, after which the mother alleged that he failed to comply with visitation, consultation, and information-sharing provisions of the custody orders. The mother also alleged that text

messages attached by the father to a contempt opposition were fabricated and sought Rule 11 sanctions, contempt, and discovery sanctions. The trial court found that the children had lived, attended school, and developed their lives in New York for several years, with substantial custody-related evidence located there.

PROCEDURAL HISTORY

The Superior Court issued custody orders in 2012 and 2014. After the father moved with the children to New York, the mother sought contempt relief, discovery sanctions, Rule 11 sanctions, and admission of cellular-phone records. Following an evidentiary hearing, the Superior Court denied Rule 11 sanctions, relinquished jurisdiction over the custody dispute, denied contempt and discovery sanctions, and denied the motion to compel as moot. The Court of Appeals affirmed the Rule 11 ruling and relinquishment of jurisdiction, but vacated the rulings on contempt and discovery-related motions.

DISPOSITION

other

REMAND INSTRUCTIONS

The rulings denying the mother's contempt motion and discovery-related motions are vacated. Those matters should be stayed pending prompt commencement of a child-custody proceeding in New York and deferred to the New York court. If no proceeding is opened in New York or New York declines jurisdiction, the Superior Court must rule on the merits of the discovery-related motions and then revisit the contempt motion, allowing the mother an opportunity to move for recusal of the trial judge.

CASES CITED

- Park v. Sandwich Chef, Inc., 651 A.2d 798, 803 n.3 (D.C. 1995)
- In re Pelkey, 962 A.2d 268, 279 (D.C. 2008)
- Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 395-96 (1990)
- Haden v. Frazier, 611 A.2d 546, 548 (D.C. 1992)
- Mitchell v. Hughes, 755 A.2d 456, 459, 461-62 (D.C. 2000)
- Wilkins v. Ferguson, 928 A.2d 655, 667 (D.C. 2007)
- Khawam v. Wolfe, 84 A.3d 558, 563 (D.C. 2014)
- DeGroot v. DeGroot, 939 A.2d 664, 675 (D.C. 2008)
- Arthur v. Arthur, 452 A.2d 160, 161 (D.C. 1982)
- Garcia v. AA Roofing Co., 125 A.3d 1111, 1115 (D.C. 2015)
- Miller v. Mathias, 52 A.3d 53, 74 (Md. 2012)
- In re B.B.R., 566 A.2d 1032, 1042 (D.C. 2000) (Schwelb, J., concurring)
- In re J.R., 33 A.3d 397, 401 (D.C. 2011)
- Welch-Doden v. Roberts, 42 P.3d 1166, 1173 (Ariz. Ct. App. 2002)
- Ostrom v. Gibson, No. 43314-1-II, 2013 Wash. App. LEXIS 1766, at *4 (Ct. App. July 30, 2013)

- Matter of Jamilah DD. v. Edwin EE., No. 522556, 2017 N.Y. App. Div. LEXIS 5706, at *3-5 (N.Y. App. Div. July 20, 2017)
- Matter of Mojica v. Denson, 991 N.Y.S.2d 443, 445 (N.Y. App. Div. 2014)
- Watson v. Watson, 724 N.W.2d 24, 35 (Neb. 2006)
- Ex parte Stouffer, 214 So. 3d 1192, 1197-98 (Ala. Civ. App. 2016)
- Heilig v. Heilig, No. W2013-01232-COA-R3-CV, 2014 Tenn. App. LEXIS 116, at *11 (Ct. App. Feb. 28, 2014)
- Nelson v. Norys, No. 2004-CA-001725-ME, 2005 Ky. App. Unpub. LEXIS 627, at *10-11 (Ct. App. July 29, 2005)
- In re Marriage of Medill, 40 P.3d 1087, 1096 (Or. Ct. App. 2002)
- Bedgood v. Cleland, 554 F. Supp. 513, 517 (D. Minn. 1982)
- Leman v. Krantler-Arnold Hinge Last Co., 284 U.S. 448, 452 (1932)

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