

IN THE SUPREME COURT OF THE STATE OF NEVADA

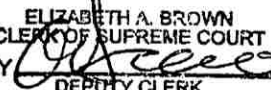
IN THE MATTER OF THE
GUARDIANSHIP OF: B.J.M., A
PROTECTED MINOR.

No. 85983

STACEY B.M.,
Appellant,
vs.
TONJA OCHONMA; AND B.J.M.,
PROTECED MINOR,
Respondents.

FILED

JUN 16 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is a pro se appeal from a district court order granting guardianship of a minor. Eighth Judicial District Court, Family Court Division, Clark County; Linda Marquis, Judge.¹

All parties agree that in Texas, B.J.M. was removed from his mother's care in 2011 and placed in his father's care, appellant Stacey B.M., in December 2012. The 2012 Texas order closed the dependency action and specifically granted Stacey primary custody of B.J.M. In 2022, after B.J.M. had resided in Nevada for more than six months with his paternal aunt, respondent Tonja Ochonma, Tonja filed the underlying guardianship petition. Stacey opposed the petition and argued that Nevada lacks jurisdiction to enter a child custody determination because Texas has exclusive, continuing jurisdiction. The district court disagreed, concluding that Nevada is B.J.M.'s home state and there is no open custody matter in

¹Pursuant to NRAP 34(f)(3), oral argument is not warranted in this appeal.

Texas concerning B.J.M. Thereafter, the court granted Tonja's guardianship petition. Stacey appeals.

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) has been adopted by Nevada and Texas. Section 152.202 (1999) of the Texas Family Code provides Texas with exclusive, continuing jurisdiction over its child custody determinations until either (1) Texas determines "that neither the child, nor the child and one parent, nor the child and a person acting as a parent, have a significant connection with [Texas] and that substantial evidence is no longer available in [Texas] concerning the child's care, protection, training, and personal relationships," or (2) Texas or another state "determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state." Tex. Fam. Code Ann. § 152.202 (1999); *see also* NRS 125A.315 (same). Texas further defines its child custody determinations as any "judgment, decree, or other order of a court providing for legal custody, physical custody, or visitation with respect to a child" and "includes permanent, temporary, initial, and modification orders." Tex. Fam. Code Ann. § 152.102(3) (1999); *see also* NRS 125A.045 (same). It also defines a child custody proceeding as including "neglect, abuse, dependency, [and] guardianship" actions. Tex. Fam. Code Ann. § 152.102(4) (1999); *see also* NRS 125A.055 (same). Nevada recognizes that under the UCCJEA, outside of an emergency situation, it cannot modify another state's child custody determination unless it has jurisdiction to make an initial child custody determination under NRS 125A.305 and (1) the other state has determined "it no longer has exclusive, continuing jurisdiction . . . or that a court of this state would be a more convenient forum" or (2) the other state or a Nevada court has determined "that the child, the child's parents and any person


acting as a parent do not presently reside in the other state.” NRS 125A.325; *see also* Tex. Fam. Code Ann. § 152.203 (1999) (same).

Under the UCCJEA definitions adopted in Texas and Nevada, the 2012 Texas order qualified as a child custody determination, regardless of whether the dependency action thereafter closed. Thus, Texas has exclusive, continuing jurisdiction over child custody determinations concerning B.J.M. Because Stacey still resides in Texas, no Nevada court, on its own, outside of an emergency situation, can modify Texas’s child custody determination or conclude that Texas does not have exclusive, continuing jurisdiction. Texas is the only state that can consider whether it is appropriate for it to continue to have exclusive, continuing jurisdiction over any child custody determination concerning B.J.M. and Nevada cannot have jurisdiction until a Texas court specifically concludes that it does not have exclusive, continuing jurisdiction. Therefore, we conclude the district court erred in granting the guardianship petition as the Nevada court lacked jurisdiction to do so. Accordingly, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.²


_____, C.J.
Stiglich


_____, J.
Lee


_____, J.
Bell

²In light of this order, we need not consider Stacey’s other arguments.

cc: Hon. Linda Marquis, District Judge, Family Court Division
Stacey B.M.
Ford & Friedman, LLC
Legal Aid Center of Southern Nevada, Inc.
Eighth District Court Clerk