

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Brent Gregory,  
*Appellant-Petitioner,*

v.

Tatsiana Gregory,  
*Appellee-Respondent.*

February 7, 2024

Court of Appeals Case No.  
23A-JP-1801

Appeal from the Tippecanoe  
Circuit Court

The Honorable Sean M. Persin,  
Judge

Trial Court Cause No.  
79C01-2304-JP-45

**Memorandum Decision by Judge Bradford**  
Chief Judge Altice and Judge Felix concur.

**Bradford, Judge.**

## Case Summary

- [1] Brent (“Father”) and Tatsiana (“Mother”) Gregory were married and share a son, L.G, who was born in the Republic of Belarus. During a period of civil unrest in Belarus, Father took L.G., without notifying Mother, and fled to the United States. Eventually, Father petitioned the trial court to establish paternity, custody, parenting time, and child support. Shortly thereafter, Mother petitioned for the enforcement of a foreign child-custody order. After several hearings, the trial court concluded that the Belarusian Court had jurisdiction to enter an initial child-custody order. We affirm.

## Facts and Procedural History

- [2] In 2015, Father and Mother, a citizen of the Republic of Belarus, met in Indianapolis while Mother was on a work-exchange program. Shortly thereafter, Mother and Father began cohabitating, and Mother became pregnant with L.G. Later that year, the couple moved to Belarus, where L.G. was born in 2016. L.G. is both a Belarusian and U.S. citizen. The couple married while in Belarus but took no action to domesticate the marriage in the United States. In 2020, Father began expressing to Mother a desire to return to the United States.
- [3] In August of 2020, Belarus held elections, which were followed by a period of civil unrest, including “mass protests[,]” “killings [of] over two thousand political prisoners[,]” and arrests. Tr. Vol. II p. 27. Father expressed a desire to

return to the United States; Mother, however, disagreed. In May of 2021, Father again approached Mother about returning to the United States after Belarusian officials forced an international airplane to land in order to detain an opposition journalist.

[4] During the winter of 2021 and into 2022, around the time that the Russo-Ukrainian War broke out, military personnel began mobilizing in Belarus. At the same time, Father began to receive communications from the U.S. Embassy regarding the situation in Belarus, which he would share with Mother. Eventually, the United States closed its Embassy in Belarus and encouraged all U.S. citizens to leave the country.

[5] At this time, Father was posting to social media in support of Ukraine. In March of 2022, six masked individuals took Father in an unmarked white vehicle to a government building for questioning. Upon being released, Father discussed the situation with Mother and decided that it was time to leave Belarus with L.G. On March 30, 2022, Father took L.G., without notifying Mother, and ultimately flew to Miami. Once in Miami, Father and L.G. traveled to various states to visit family and friends.

[6] In May of 2022, Father and L.G. returned to Tippecanoe County and signed a lease on an apartment. Father intended to settle indefinitely in West Lafayette based on the strength of the school district and having family nearby. After a year of living in an apartment, Father purchased a house, in which L.G. has his own room. Father works at an engineering company and has health insurance

for L.G. through his employer. L.G. completed first grade in West Lafayette and is involved in Cub Scouts and a robotics club. Since being in the United States, Father has arranged daily video calls between L.G. and Mother. During the winter of 2022, Mother visited the United States for five weeks. Mother and Father also communicate through a texting application.

[7] In June of 2022, Mother attempted to initiate a lawsuit regarding L.G.'s custody in Belarus. The Belarusian Court declined to accept the lawsuit because it lacked jurisdiction over parties in the United States. The Belarusian Court instructed Mother that her custody action "should be filed to the competent court in the USA." Appellant's App. Vol. II p. 67. In November of 2022, Father filed for a dissolution of marriage in Belarus; however, he did not request that the Belarusian Court determine L.G.'s custody. Mother filed a counterpetition in which she requested that the Belarusian Court make a child-custody determination. The Belarusian Court dissolved the parties' marriage and ordered that Mother receive physical custody of L.G. without providing any parenting time for Father.

[8] In April of 2023, Father initiated this paternity action in the trial court. In May of 2023, Mother filed an emergency petition for registration and enforcement of a foreign child-custody order, *i.e.*, the Belarusian Court's order. On June 20, 2023, the trial court issued an order concluding that the Belarusian Court's order should be registered and recognized. On June 23, 2023, the trial court held a hearing on whether that order was enforceable. In July, the trial court concluded that the Belarusian Court "properly exercised jurisdiction over the

parties' divorce" and made its child-custody determination "under factual circumstances in substantial conformity with the jurisdictional standard of the [Uniform Child Custody Jurisdiction and Enforcement Act,]" or the UCCJEA. Appellant's App. Vol. II pp. 186, 188.

[9] Additionally, the trial court noted that "Father has demonstrated there is a legitimate threat to [L.G.]'s safety due to the recent escalation of events in Belarus" and therefore invoked emergency jurisdiction. Appellant's App. Vol. II p. 189. Without modifying the Belarusian Court's custody order, the trial court ordered that L.G. "*temporarily* remain in the United States until a case conference with the [Belarusian] Court can be conducted to determine[,] "*inter alia*, whether that court will resume jurisdiction to address safety concerns regarding L.G.'s return to Belarus. Appellant's App. Vol. II p. 190 (emphasis in original).

## Discussion and Decision

[10] Father argues that the trial court's order registering and enforcing the Belarusian Court's child-custody order is clearly erroneous. We review child-custody determinations under a clearly-erroneous standard. *In re Paternity of A.J.*, 146 N.E.3d 1075, 1082 (Ind. Ct. App. 2020), *trans. denied*. "A judgment is clearly erroneous when the court's findings of fact do not support its legal conclusions or when the legal conclusions do not support the ultimate decision." *Id.* We will not "reweigh the evidence or judge witness credibility, and we consider only the evidence and reasonable inferences therefrom that

support the trial court’s judgment.” *Id.* Further, we note that Mother has neglected to file an appellee’s brief. In such circumstances, “we do not undertake to develop an argument on the appellee’s behalf, but rather may reverse upon an appellant’s prima facie showing of reversible error.” *Button v. James*, 909 N.E.2d 1007, 1008–09 (Ind. Ct. App. 2009).

[11] Additionally, Indiana has adopted the UCCJEA, “which aims to discourage child abductions and prevent parents from seeking custody determinations in different jurisdictions in an attempt to obtain a favorable result.” Appellant’s App. Vol. II p. 185. In an initial custody determination under the UCCJEA, a court “must first determine whether the court is located in the home state of a child.” Appellant’s App. Vol. II p. 186. The UCCJEA prioritizes home-state jurisdiction; therefore, “if any state is deemed to be the child’s home state, no other state may exercise jurisdiction to make an initial custody determination.” Appellant’s App. Vol. II p. 186. A child’s home state is the state in which he lived with a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. Ind. Code § 31-21-4-1. If there is no home state, a court may still exercise jurisdiction if it determines that the child and at least one of the parents “have a significant connection with” the state and “substantial evidence is available [...] concerning the child’s care, protection, training, and personal relationships.” Ind. Code § 31-21-5-1(a)(2)(A)–(B). Importantly, pursuant to Indiana Code section 31-21-1-3(b), “a child custody determination made in a foreign country under factual

circumstances in substantial conformity with the jurisdictional standard of this article must be recognized and enforced under I.C. 31-21-6.”

[12] Here, the trial court’s decision to register and enforce the Belarusian Court’s child-custody order was not clearly erroneous. While Mother’s initial attempt to file a child-custody lawsuit in Belarus was rejected by the Belarusian Court for lack of jurisdiction, Father subsequently “chose to file his petition for dissolution of marriage in Belarus.” Appellant’s App. Vol. II p. 186. “In general, the court which grants a marriage dissolution has continuing jurisdiction during the child’s minority to modify custody.” *Ashburn v. Ashburn*, 661 N.E.2d 39, 42 (Ind. Ct. App. 1996), *trans. denied*. Moreover, the record shows that Father did not object to the initial child-custody determination on jurisdictional grounds; therefore, the Belarusian Court’s “jurisdiction over the child custody matter cannot be bifurcated and challenged independently.” *Id.*

[13] Further, the trial court concluded that it “must recognize and enforce the initial child custody determination of the [Belarusian] Court [because] it was made under factual circumstances in substantial conformity with the jurisdictional standards of the UCCJEA.” Appellant’s App. Vol. II p. 186. The trial court determined that Indiana was not L.G.’s home state because “Father used deception to remove [L.G.] while Mother was at work and he didn’t immediately share his whereabouts.” Appellant’s App. Vol. II p. 187. Moreover, the trial court concluded that “Father should not be allowed to use days during active concealment” in evaluating whether Indiana was L.G.’s home state. Appellant’s App. Vol. II p. 187. To be sure, Father eventually

informed Mother of his Indiana address, organized daily contact between Mother and L.G. after leaving Belarus, and invited Mother to visit before the entry of the child-custody order; however, a parent “cannot gain ‘home state’ jurisdictional advantage by the hand of [his] own deception.” *Ashburn*, 661 N.E.2d at 42. Additionally, “Mother and Father decided to raise [L.G.] in Belarus, and [L.G.] lived in Belarus his entire life until Father removed him on March 30, 2022.” Appellant’s App. Vol. II p. 187. As a result, the trial court concluded that the Belarusian Court had “properly exercised jurisdiction over the initial custody determination due to Mother and [L.G.]’s significant connection with Belarus and the substantial evidence available in Belarus.” Appellant’s App. Vol. II p. 187.

[14] Father argues that he did not remove L.G. from Belarus to gain a jurisdictional advantage; instead, he brought L.G. to Indiana for his own safety. While the trial court agreed that “Father was genuinely concerned about [L.G.]’s safety[,]” it “does not condone the manner in which [L.G.] was removed from Belarus[.]” Appellant’s App. Vol. II p. 188. Indeed, “Father secretly removed [L.G.] from Belarus and did not immediately tell Mother [...], which suggests he may be exaggerating the potential harm to” L.G. Appellant’s App. Vol. II p. 189. In any event, however, the trial court recognized that Father had “demonstrated there is a legitimate threat to [L.G.]’s safety” and “without modifying the prior custody order of the [Belarusian] Court[,]” ordered that L.G. would temporarily remain in the United States until a conference with the Belarusian Court could be held to determine whether that court was willing to



resume jurisdiction to address safety concerns regarding L.G.'s return and Father's parenting time. Appellant's App. Vol. II p. 189. Under the circumstances, we cannot say that the trial court's decision to register and enforce the Belarusian Court's initial custody order was clearly erroneous.

[15] The judgment of the trial court is affirmed.

Altice, C.J., and Felix, J., concur.