

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Brian Wood,
Appellant-Respondent,

v.

Jacqueline Wood,
Appellee-Petitioner.

September 26, 2022

Court of Appeals Case No.
21A-DC-2908

Appeal from the Clark Circuit
Court

The Honorable Vicki L.
Carmichael, Judge
The Honorable Joni L. Grayson,
Magistrate

Trial Court Cause No.
10C04-1905-DC-244

Weissmann, Judge.

- [1] Indiana and Michigan use different methods to calculate monthly child support payments. In light of this, Brian Wood (Father), an Indiana resident, petitioned an Indiana trial court to modify his Michigan child support obligation using Indiana law. Relying on a section of the Indiana Code that requires courts to apply the law of the decree's original state when deciding the "duration" of the support obligation, the court applied Michigan law.
- [2] Father appeals, arguing that the trial court should have used Indiana law because his modification request encompassed more than just how long his support obligation would last. We agree and remand with directions to apply Indiana substantive law to the child support modification request.

Facts

- [3] A Michigan court granted the divorce of Father and Mother in 2017. The court granted physical custody of their child to Mother and ordered Father to pay \$500 a month in child support. The decree also stated:

Child support shall be reviewed in August 2018, to be effective September 1, 2018, to be calculated pursuant to the Michigan Child Support Formula, or as otherwise agreed by the parties, taking into account the parties' incomes, insurance, child care expenses, parenting time schedule, and other provisions of the Michigan Child Support Formula[.]

App. Vol. II, p. 79. Father then moved to Indiana, and Mother moved to Kentucky. Despite the language of the divorce decree, child support was not reviewed in August 2018. Father kept paying \$500 in monthly child support.

[4] In 2019, Mother petitioned the Clark Circuit Court in Indiana to register and enforce the Michigan divorce decree. And a year later, at the same time he agreed to register the Michigan divorce decree in Indiana, Father also asked the Clark Circuit Court to modify his child support obligation. The decree was eventually registered in Indiana in 2021 under a mediation agreement that allowed Father's modification request to move forward.

[5] One of the key questions plaguing the modification proceedings was whether Michigan or Indiana substantive law should apply. Ultimately, the trial court found and ordered:

[T]he provisions of I.C. 31-18.5-6-11(a)(1) and (d) apply in this case. The provisions of I.C. 31-18.5-6-13 do not apply since only one party lives in Indiana, and the child does not live in Indiana. In accordance with I.C. 31-18.5-6-11(e), Indiana shall have continuing, exclusive jurisdiction. Michigan substantive law shall apply.

Child support shall be modified to \$485.00 per month, in accordance with Michigan guidelines

Id. at 9.

- [6] Father moved to correct error, arguing that the trial court erroneously deviated from the Indiana Child Support Guidelines by applying Michigan law. The trial court summarily denied his motion and Father now appeals.¹

Discussion and Decision

- [7] Father argues that the trial court should have applied Indiana substantive law to modify his child support obligation. We agree.
- [8] When reviewing a modification of child support, we owe deference to the trial court's decision, given its ability to observe the parties first-hand and our interest in preventing disruption to the family setting. *Barber v. Henry*, 55 N.E.3d 844, 850 (Ind. Ct. App. 2016). We reverse only if the trial court abused its discretion, meaning the decision is clearly against the logic and effect of the facts and circumstances before the court or it contradicts the law. *Id.*
- [9] Two statutory frameworks are relevant here: first, we must consider the Uniform Interstate Family Support Act (UIFSA), Indiana Code § 31-18.5-1 *et seq.*, which provides uniform “procedural and jurisdictional rules for establishing, enforcing, and modifying child support orders nationwide.” *Hays*

¹ After reviewing the Parties' initial briefs, we ordered supplemental briefing to address the issue of subject-matter jurisdiction under Indiana Code § 31-18.5-6 *et seq.* Because not all parties are Indiana residents, before Indiana could assume jurisdiction over the Michigan case, Indiana Code § 31-18.5-6-11(a)(2) required the parties to file consents in the Michigan court. Compliance with this requirement was not apparent in the appellate record. Since subject matter jurisdiction involves the very “power of a tribunal to hear a general class of cases,” *Jackson v. Holiness*, 961 N.E.2d 48, 50 (Ind. Ct. App. 2012), courts may consider the issue sua sponte. *Georgos v. Jackson*, 790 N.E.2d 448, 451 (Ind. 2003). Given the fundamental importance of proper jurisdiction, parties are always encouraged to lay out the basis of the court's authority to decide the case. After reviewing the supplemental briefs, we do not find it necessary to dismiss this case for lack of subject matter jurisdiction.

v. Hays, 49 N.E.3d 1030, 1037 (Ind. Ct. App. 2016) (citing *Hamilton v. Hamilton*, 914 N.E.2d 747, 751 (Ind. 2009)). Second, we must also consider the Full Faith and Credit for Child Support Orders Act (FFCCSOA), which also dictates jurisdiction for modification and enforcement of child support orders. 28 USC § 1738B(h). “The two statutes are to be viewed as complementary and duplicative, not contradictory.” *Hamilton*, 914 N.E.2d at 751.

[10] The default assumption under Indiana’s UIFSA is that Indiana law applies, as illustrated by Indiana Code § 31-18.5-3-3, which specifies:

Except as otherwise provided in this article, a responding Indiana tribunal shall:

- (1) apply the procedural and substantive law generally applicable to similar proceedings originating in Indiana and may exercise all powers and provide all remedies available in those proceedings; and
- (2) determine the duty of support and the amount payable in accordance with the law and support guidelines of Indiana.

Essentially, another state’s law may be applied only if some portion of either our UIFSA or the FFCCSOA requires it.

[11] So when deciding to apply Michigan law, the trial court pointed to subsections (a), (d) and (e) of Indiana Code § 31-18.5-6-11, the portion of Indiana’s UIFSA that governs registration, enforcement, and modification of some child support orders. Subsection (a) establishes that § 31-18.5-6-11 applies here because only one of the relevant parties resides in Indiana. Subsection (e) establishes the trial

court's exclusive and continuing jurisdiction upon issuing a modification of a foreign support order. The trial court appears to have rested its application of Michigan law on subsection (d):

In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order *governs the duration of the obligation of support*. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by an Indiana tribunal.

Ind. Code § 31-18.5-6-11(d) (emphasis added). By its plain meaning, subsection (d) precludes Indiana from lengthening or shortening a child support obligation. It also prohibits Indiana from compounding a child support obligation. *Id.* But it does not justify application of Michigan law in determining the *amount* of support due. *Id.*

- [12] For that, we turn to subsection (b), which states: “Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by an Indiana tribunal and the order may be enforced and satisfied in the same manner.” Ind. Code § 31-18.5-6-11(b). In light of the default assumption that Indiana law applies and the language of subsection (d), this language indicates that Indiana law applies to modification of the *amount* of child support, but Michigan law determines the *duration of the obligation*.

[13] This follows federal law, which supersedes state law should the two conflict. U.S. CONST. art. VI, cl. 2; *Hamilton*, 914 N.E.2d 747, 751 (Ind. 2009). The FFCCSOA states, in relevant part:

Choice of law.--

(1) In general.--In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

(2) Law of State of issuance of order.--In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order.

28 USC § 1738B(h). Accordingly, Indiana law applies in a proceeding to “establish, modify, or enforce a child support order,” but Michigan law applies “in interpreting a child support order.” Because the trial court modified, rather than interpreted the order, it should have applied Indiana law.

[14] Precedent from this Court supports this view. In *Khaja v. Khan*, the parents divorced in Illinois then moved with their child to Indiana. 902 N.E.2d 857, 861 (Ind. Ct. App. 2009). Applying Illinois law, an Indiana trial court denied Father’s petition to modify child support. *Id.* at 866. This Court reversed, holding that Indiana law applies to the modification of a foreign support order. *Id.* at 867. In reaching this conclusion, it relied on a section of the Indiana Code since repealed, but is nearly identical to the current Indiana Code § 31-18.5-3-3:

Except as otherwise provided in this article, a responding Indiana tribunal shall:

- (1) apply the procedural and substantive law generally applicable to similar proceedings originating in Indiana and may exercise all powers and provide all remedies available in those proceedings; and
- (2) determine the duty of support and the amount payable in accordance with the law and support guidelines of Indiana.

Compare Ind. Code § 31-18.5-3-3 (current text) *with* Ind. Code § 31-18-3-3 (repealed in 2015).² We see no reason to stray from *Khaja* here. *See also* *Batterman v. Bender*, 809 N.E.2d 410, (Ind. Ct. App. 2004) (holding that Indiana law applies to the modification of child support order issued in Wisconsin).

[15] Mother argues that these cases are distinguishable because the Michigan decree explicitly states that Michigan law should apply to any modification. Mother overstates the language from the decree. The decree provides, “Child support shall be reviewed in August 2018 . . . to be calculated pursuant to the Michigan Child Support Formula. . . .” App. Vol. II, p. 79. But we need not determine

² The repealed statute specified:

Except as otherwise provided by this article, a responding Indiana tribunal:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in Indiana and:

(A) may exercise all powers; and

(B) provide all remedies;

available in the proceedings; and

(2) shall determine the duty of support and the amount payable under the child support guidelines adopted by the Indiana supreme court and any other relevant Indiana law.

the effect of this language on the current modification because this language does not concern changes to child support after August 2018. The proceedings in Indiana began about nine months after August 2018 had passed—not to review child support but to register and enforce the divorce decree. *Id.* at 12.

- [16] Finding that the trial court erred in applying Michigan law to Father’s request to modify his child support, we remand for it to apply Indiana law instead.

Robb, J., and Pyle, J., concur.