

For the reasons discussed below, the Court determines that it DOES NOT HAVE JURISDICTION over the minor child and DISMISSES this cause of action as a result.

DISCUSSION

(a) **Section 452.740.1(1)**

This question is resolved by the plain language of Mo. Rev. Stat. § 452.740.1. Subdivision (1) provides

1. Except as otherwise provided in section 452.755, a court of this state has jurisdiction to make an initial child custody determination only if:

(1) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months prior to the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.

The credible evidence revealed that the child resided in the state of Georgia for more the six consecutive months before the date of filing. Thus, Missouri was not the child's home state. Rather, Georgia was the child's home state at the time of filing, and remains so.

At the hearing, Father asserted that the minor child was residing in the state of Missouri until sometime in August of 2015. He testified that the child was in his custody when Mother asked to take the child to a family function and never returned with him. He testified that he did not know where she went with the child and it took him great effort to eventually locate her in Atlanta.

Mother's testimony and evidence revealed a different and credible version of the events. The child attended kindergarten at [REDACTED] elementary school in St. Louis using Father's address. This would have been the 2013-14 school year. Yet, the child then began residing with Mother in Jefferson City, Missouri. The child attended first grade at [REDACTED] Elementary School in Jefferson City for the 2014-15 school year. At the conclusion of that school year, May of 2015, Mother and the child relocated to the Atlanta area where they lived with Mother's sister temporarily. Mother credibly testified that she made this move for her safety since she had previously been shot by her other child's father.

It is clear from the evidence that the child has been a resident of Georgia since May of 2015. On June 3, 2015, Mother applied for benefits through Georgia's Department of Human Services, Division of Family and Children's Services. Her address at the time was in Stockbridge, Georgia where she testified her sister lived. She credibly testified that she applied to transfer or "port" her "Section 8" housing voucher from Missouri to Georgia at about that time as well. She was soon approved for a unit for her and her two children *beginning* August 1, 2016. The child was enrolled in and attended second grade during the 2015-16 school year at the [REDACTED] Elementary School in Atlanta. He continues to be enrolled there.

It is clear that Father saw the child in Missouri for a few days in October of 2015 and a few days in January of 2016, shortly before this case was filed.

However, at no time since May of 2015 has the child's residence changed from Georgia to Missouri.

The therefore Court finds that the state of Georgia, and not Missouri, is the child's home state.

(b) **Section 452.740.1(2), (3) & (4)**

The remaining parts of § 452.740.1 are inapposite here. Subdivisions (2) and (3) do not apply because Georgia would have jurisdiction of the child and there is no evidence that a court there has declined to exercise jurisdiction because Missouri is the more appropriate forum. Subdivision (4) does not apply because there is a state that has jurisdiction, Georgia.

CONCLUSION

Because § 452.740.1 is the "exclusive jurisdictional basis for making a child custody determination" in Missouri, the Court must conclude it has no jurisdiction to make a custody determination over the child. *See* Mo. Rev. Stat. § 452.740.2. Of course the Court need not entertain the question of convenient forum under § 452.770 since there is no jurisdiction at all.

Accordingly, this case is DISMISSED with prejudice. Each party shall bear his or her own costs.

SO ORDERED:

Honorable Jason D. Dodson
Associate Circuit Judge, Division 33

August 12, 2016