

*Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Case Law Summaries
for Legal Assistance for Victims Grantees¹*

Attached please find updated case law summaries on jurisdictional issues in custody cases involving domestic violence.² Focusing on recent cases or precedent that may be particularly useful to attorneys representing survivors in interstate cases, this document is organized by issue to facilitate topic searches. Cases that may be especially helpful are marked with an asterisk. Please feel free to contact the Legal Resource Center on Violence Against Women [LRC] at 301-270-1550 for technical assistance in individual cases, including sample pleadings on jurisdictional issues.

¹LRC staff searched the following terms on Lexis for cases from 2020-2023: “protection order and the UCCJEA,” “inconvenient forum and domestic violence,” “emergency jurisdiction,” “temporary absence,” “relocation and domestic violence,” and “personal jurisdiction and protection order.”

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EMERGENCY JURISDICTION

Bonnie M. v. Freddie M., 2021 W. Va. LEXIS 621 (W.Va 2021)

The father filed in West Virginia for an emergency protection order against the mother. A custody case already was pending in Kentucky. The West Virginia trial court granted the protection order and temporary custody without communicating with the court in Kentucky, and the mother appealed. The appellate court reversed, holding that West Virginia lacked jurisdiction because of the custody proceeding in Kentucky. There was no basis for West Virginia to exercise temporary emergency jurisdiction. Further, even if temporary emergency jurisdiction had existed, the court failed to comply with the UCCJEA's requirement to communicate with the other court. The trial court's order requiring the guardian ad litem in West Virginia to contact the guardian ad litem in Kentucky did not satisfy the judicial communication requirement.

(emergency jurisdiction, judicial communication)

Clay v. Kirsch, 2022 Ky. App. Unpub. LEXIS 457 (Ky. Ct. App. 2022)

The mother filed for a protection order against the father in Kentucky while the parties had a custody case pending in Ohio. A Kentucky court temporarily granted the emergency protection order but denied the final domestic violence order. The appellate court in Kentucky held that the trial court properly exercised temporary emergency jurisdiction for several months. The Kentucky court, however, did not have personal jurisdiction over the father – necessary to enter a long-term protection order. The father did not have sufficient connections with Kentucky and the abuse was perpetrated in Ohio.

(emergency jurisdiction, personal jurisdiction)

In re K.D., 525 P.3d 1173 (Kan. Ct. App. 2023)

A Kansas court exercised temporary emergency jurisdiction and placed an infant with child protective services after the mother left the child alone in a car. The father filed for paternity in Missouri claiming that it was the home state and that Kansas lacked jurisdiction. Upon judicial communication, the Kansas judge learned that Missouri had dismissed the paternity case because the child had been in Kansas for more than six months when the father filed in Missouri. The Missouri judge declined jurisdiction finding that Kansas was a more convenient forum. Eventually, Kansas terminated the father's and mother's parental rights, and the father appealed. The appellate court affirmed, finding that Kansas initially had emergency jurisdiction and that this had ripened into home state jurisdiction after Missouri declined to exercise jurisdiction.

(emergency jurisdiction, inconvenient forum)

***M. v. L., 2021 Del. Fam. Ct. LEXIS 22 (Del. Fam. Ct. 2021)**

The mother fled with the children from the United Kingdom to Delaware and filed for a protection order against the father. The father subsequently filed for emergency custody and a protection order in Delaware. The trial court declined to exercise temporary emergency jurisdiction because the father's fear that the mother would disappear with the children did not rise to the level of immediate or irreparable harm.

Ultimately, the court concluded that the United Kingdom was the children's home state because they had lived there for four years before the case was filed and evidence of their care, education, and relationships was there. The court applied a "totality of the circumstances" test and determined that the move to the United Kingdom was not temporary. The entire family had moved together for the mother's employment and there was no indication of how long her work assignment would last. The court dismissed the custody case, finding that Delaware did not have jurisdiction.

(emergency jurisdiction, temporary absence)

***Matter of Nathaniel H., 213 A.D.3d 525 (N.Y. App. Div. 2023)**

The mother fled with the child due to the father's violence, moving from Texas to Virginia and then to New York. The trial court in New York exercised emergency jurisdiction and entered a protection order. Without a hearing, the trial court then denied the mother's motion to extend emergency jurisdiction because a custody case was pending in Texas. Although the New York judge had communicated with the judge in Texas, there was no record of the communication. The mother appealed. The appellate court found that the trial court had relinquished jurisdiction improperly. There was no evidence that Texas was the home state or had significant connection jurisdiction. Additionally, given the danger that the father posed to the child, the trial court should not have given up emergency jurisdiction in the absence of any orders from Texas safeguarding the child. The appellate court remanded the case to the trial court for further fact-finding.

(emergency jurisdiction)

***People v. N.N., 197 N.Y.S.3d 671 (N.Y. App. Div. 2023)**

After fleeing from Florida, the mother filed for custody and a protection order in New York. A divorce case already was pending in Florida. The father was arrested and charged with a felony in New York. The trial court exercised temporary emergency jurisdiction, entered protection orders, and communicated with the Florida judge.

Next the mother was charged in New York with crimes for texts she allegedly sent to the father; the court discovered later that the father had sent the texts to himself in order to get the mother arrested. The court extended its emergency jurisdiction, concerned about imminent harm to the

children and the father's efforts to manipulate the system. The Supreme Court of New York in Kings County determined that the trial court would retain temporary emergency jurisdiction until the conclusion of the criminal and protection order cases in New York. The court also requested that Florida give full faith and credit to the New York protection orders.

The court stated that New York was a more convenient forum in part because the children had an attorney assigned to them (which would not be available in Florida). The court was concerned about the father's fraudulent actions and his attempts to punish the mother for fleeing to New York. The court stated, "If the courts were to order the mother and children to immediately relocate it would permit an alleged batterer to assert power and control over the victim's life and place them in immediate danger." The court planned to schedule an interstate conference to give the parties an opportunity to provide evidence.

(emergency jurisdiction, inconvenient forum)

INCONVENIENT FORUM

Bryant v. Bryant, 943 N.W.2d 742 (Neb. Ct. App. 2020)

The family moved from Illinois to Nebraska, and the father filed for custody three months later. Meanwhile, the mother had filed for custody in Illinois, the children's home state. At a joint hearing between the Illinois and Nebraska courts, the father argued that Illinois was an inconvenient forum because neither parent had property in Illinois, their extended families lived in Nebraska, and he had obtained a job in Nebraska. The Illinois court declined to exercise jurisdiction based on inconvenient forum, finding that both parties had agreed to move to Nebraska. The mother appealed. The appellate court held that the trial court's exercise of jurisdiction was appropriate because both parents had significant connections to Nebraska and lived there at the time of the hearing. The children also attended a Nebraska school, and there was substantial evidence, including witnesses, in the state.

(inconvenient forum, significant connection)

C.M. v. A.M. 2022 N.J. Super. Unpub. LEXIS 752 (N.J. Super. Ct. App. Div. 2022)

The mother fled with her child from Florida to New Jersey to escape domestic violence. Within a month, the father filed for custody in Florida. The mother then filed for custody in New Jersey. She claimed that Florida was an inconvenient forum and was not the home state because the family did not possess a home in Florida but was forced to stay after a holiday visit during the COVID-19 pandemic. After conferring with a Florida court, the New Jersey trial court held that Florida was the child's home state because the child had lived in Florida for nine months prior to the mother's flight to New Jersey. COVID-19 did not prevent the family's return to New Jersey.

because they could have returned prior to the travel ban in March of 2020. The appellate court in New Jersey affirmed, holding that Florida was the home state.

(inconvenient forum, home state)

***Halili v. Ramnishta, 848 S.E.2d 542 (N.C. Ct. App. 2020)**

The parents moved from New York to North Carolina with their older child. The mother gave birth to their younger child in North Carolina. Four months later, the parents separated, and the mother moved back to New York with the children, both of whom had lived in North Carolina for less than six months. Eight days later, the father filed for custody in North Carolina. The North Carolina trial court found that New York was the older child's home state and relinquished its jurisdiction over the younger child, finding that North Carolina was an inconvenient forum. The court considered the history of domestic violence as one factor, given the numerous domestic violence proceedings in New York. The father appealed. The appellate court in North Carolina affirmed, finding that because the older child had not lived in North Carolina for six months, it was not the home state.

The father next argued that the trial court erred in declining to exercise jurisdiction over the younger child. The appellate court supported the trial court's decision. The father had abused the mother and the older child, and the younger child had lived in New York for a longer time period. Additionally, the father's income was substantially greater than the mother's income, and there were more witnesses in New York. The father argued that the trial court had erred when it considered "post-filing activities and factors" instead of whether North Carolina was an inconvenient forum at the time he initially filed. The appellate court rejected this argument, finding that because the trial court was allowed to decline to exercise its jurisdiction at any time, it was justified in considering all relevant factors, including those that arose after the father filed.

(inconvenient forum, child less than six months)

Hubert v. Carmony, 2021 Ariz. App. Lexis 137 (Ariz. Ct. App. 2021)

The mother fled with her child from Arizona to Texas after a significant history of domestic violence. The father filed for custody in Arizona and was granted temporary custody. The mother filed for custody and a temporary restraining order in Texas. She moved to dismiss the Arizona case because of the father's domestic violence and his violation of a protection order in Texas. After the Arizona court determined that it was the home state, the mother moved to transfer the case to Texas because of the father's unjustifiable conduct. The Arizona and Texas judges held a UCCJEA conference, and the Arizona judge relinquished jurisdiction. The father appealed, arguing that the Arizona court erred in declining jurisdiction because it did not consider all eight inconvenient forum factors. The appellate court held that the trial court erred when it did not consider all of the mandatory inconvenient forum factors. The appellate court

also held that the trial court erred in failing to hold an evidentiary hearing, ruling that a judicial consultation without findings about each inconvenient forum factor was not sufficient.

(inconvenient forum, evidentiary hearing)

***In re Marriage of Wiener, 2021 Ariz. App. Unpub. Lexis 1261 (Ariz. Ct. App. 2021)**

An Arizona court awarded the mother custody and granted her request to relocate to Missouri with the child. The father remained in Arizona. After the mother and child had lived in Missouri for seven years, she asked a Missouri court to register the Arizona order and assume jurisdiction. The mother also filed a motion asking the Arizona court to decline jurisdiction because it was an inconvenient forum. The court denied the motion, finding that the mother alleged domestic violence but “provided no information about how a Missouri Court would be in a better place to ‘best protect the parties and the child.’” The court declined to confer with the judge in Missouri. The appellate court in Arizona reversed, holding that the trial court failed to address four of the eight inconvenient forum factors and to conduct an evidentiary hearing. Although the trial court mentioned domestic violence, it did not address whether the violence had occurred or was likely to occur in the future. The trial court also erred when it did not give the parties an opportunity to present evidence relating to the inconvenient forum factors despite factual disputes between the parties.

(inconvenient forum, evidentiary hearing)

***In re Minschke, 2021 Tex. App. LEXIS 3575 (Tex. App. 2021)**

The mother resided in Florida with the child, and the father resided in Texas. The mother agreed to allow the child to visit the father in Texas. After the child had been in Texas for eleven months, the mother picked up the child and returned to Florida. Three days later, the paternal grandmother filed for custody in Texas. The grandmother and father drove to Florida to remove the child from the mother’s home, but the child remained in Florida. The Texas trial court refused to relinquish jurisdiction and ordered the mother to return the child to the paternal grandmother, and the mother appealed. The appellate court reversed, based on the UCCJEA’s inconvenient forum factors. The father had a long history of physical and emotional abuse, the child had lived the majority of her life outside of Texas, and the distance between Florida and Texas was too great for the witnesses to travel (regardless of the possibility of Zoom proceedings). In addition, the parents had agreed that the child’s stay in Texas was temporary, the evidence was in Florida, and the Florida courts were familiar with the parties.

(inconvenient forum)

In re R.S.H.-F., 2022-Ohio-549 (Ohio Ct. App. 2022)

While the mother and child were living in Florida, the father filed for contempt and custody in Ohio, which had exclusive, continuing jurisdiction based on an earlier custody decree. An Ohio magistrate granted the mother's request to transfer jurisdiction to Florida based on inconvenient forum. The father objected, and an Ohio trial court found that Ohio was not an inconvenient forum. The mother appealed. The appellate court found that the trial court properly weighed the statutory factors and affirmed its finding that future domestic violence was unlikely because the mother did not participate directly in parenting exchanges. Although the child spent more time in Florida and the most relevant evidence was in Florida, such evidence could be presented virtually. The Ohio court was most familiar with the parties and the case as it had held multiple hearings over five years, and the same guardian ad litem had been involved.

(inconvenient forum)

Interest of J.K.B, 2021 Tex. App. LEXIS 5576 (Tex. App. 2021)

A California court awarded the mother custody and entered a protection order against the father. The mother then fled from California to Texas to escape domestic violence. In Texas, the mother was charged with assault with a deadly weapon. The Texas Department of Family Services petitioned a Texas trial court to terminate the parental rights of both parents. After a UCCJEA conference, the California judge relinquished its jurisdiction because Texas was a more convenient forum. A Texas court subsequently terminated both parents' rights to the children. The father appealed, arguing that the California court had incorrectly relinquished jurisdiction. The appellate court affirmed that the Texas court had acquired jurisdiction to modify the child custody determination and also affirmed the trial court's order terminating the father's parental rights. An appellate review of the California court's determination that it was an inconvenient forum had to be pursued in a California appellate court.

(inconvenient forum, emergency jurisdiction)

***Kahley v. Smith, 279 A.3d 1238 (Pa. Super. Ct. 2022)**

After a Pennsylvania court awarded the mother custody, she moved to Florida with the children. The father remained in Pennsylvania. When the father did not return the children to Florida at the end of a summer visit, the mother filed for a custody modification and requested that the Pennsylvania court transfer the case to Florida. The trial court relinquished jurisdiction to Florida, and the father appealed. The appellate court found that Pennsylvania had exclusive, continuing jurisdiction. The appellate court further held that the trial court had correctly considered all eight inconvenient forum factors. The Florida courts were better able to protect the mother from abuse, the children primarily lived in Florida, and the mother did not plan to return to Pennsylvania. Moreover, the father had the financial resources to travel, and the witnesses and the children's records were located in Florida.

(inconvenient forum, continuing jurisdiction)

***McGrew v. McGrew, 319 So.3d 1147 (Miss. Ct. App. 2020)**

The family moved from Mississippi to California, and then the father temporarily returned to Mississippi. The mother obtained temporary custody of the children through a restraining order in California. The father filed for divorce in Mississippi, and the mother filed an inconvenient forum motion. After the joint UCCJEA conference, the Mississippi court concluded that California was the more convenient forum. The appellate court affirmed, finding that the trial court had correctly considered all eight inconvenient forum factors. The California courts were familiar with the matter and better able to protect the children from future abuse, and the children had lived outside of Mississippi for over a year. Moreover, there would be an undue burden placed on the mother and children if the case remained in Mississippi given the distance between the states, the need for the children to miss school, and the financial burden on the mother.

(inconvenient forum)

***Miley v. Phelps, 2022 Ariz. App. Unpub. LEXIS 712 (Ariz. Ct. App. 2022)**

The father filed for custody in New Hampshire, and the court ordered the family to remain in the state. Subsequently, the mother fled from New Hampshire to Arizona with the children to escape the father's violence. The mother filed for custody in Arizona, stating that their trip to New Hampshire had been temporary and that she had left the state for safety. The New Hampshire and Arizona judges held a UCCJEA conference without the parties and failed to determine the children's home state. They found that it was unclear whether the family had spent six months in either state. New Hampshire's claim was greater because the parents had voted there and the mother had renewed her driver's license there. The Arizona judge relinquished jurisdiction and the mother appealed, arguing that the court did not consider the inconvenient forum factors properly. The Arizona appellate court held that the trial court judge erred in holding the UCCJEA conference without the parents or their counsel present because it deprived the parties of the opportunity to provide testimony. The appellate court remanded the matter instructing the trial court to hold a new hearing to determine the children's home state.

(inconvenient forum, evidentiary hearing)

Nina T. v. Michael P., 2022 Alas. LEXIS 71 (Alaska 2022)

Under the guise of a vacation, the mother moved to Oregon with the child who had been living in Alaska with the father. The Oregon court awarded the mother a restraining order and temporary custody. The father filed for custody in Alaska. The mother alleged that the father threatened her and abused the child, while the father alleged that the mother threatened and hit him and once pointed a loaded gun at him and the child. The Alaska and Oregon judges held a UCCJEA

conference, and the Oregon judge relinquished jurisdiction. The mother appealed, arguing that the Alaska court abused its discretion by failing to decline jurisdiction on inconvenient forum grounds. The appellate court affirmed the trial court's decision.

(inconvenient forum, judicial communication)

***Pridemore v. Pridemore, 2021-Ohio-4449 (Ohio Ct. App. 2021)**

The mother fled from Ohio to North Carolina with the children to escape the father's abuse. Five months later, the father filed for custody in Ohio, and the mother requested a transfer of the matter to North Carolina. The trial court found that Ohio was an inconvenient forum and stayed the custody proceedings pending the mother's custody filing in North Carolina. The appellate court held that the remote technology used by the court during the COVID-19 pandemic did not render the inconvenient forum issue moot because remote technology was not an ideal method to conduct proceedings. The appellate court found that the trial court had weighed the statutory factors properly in relinquishing jurisdiction. Domestic violence had occurred and was likely to occur in the future, the mother and children had resided in North Carolina for over a year, and most of the witnesses were in North Carolina.

(inconvenient forum)

Pokrovskaya v. Van Genderen, 487 P.3d 228 (Wyo. 2021)

A Wyoming court awarded the father custody. The mother, who lived in Russia, filed to modify the order after the father moved to Bahrain with the child. The father moved to dismiss, arguing that Wyoming was an inconvenient forum, and he filed for custody in Bahrain. After holding an evidentiary hearing, the Wyoming court found that it was an inconvenient forum because the court lacked the ability to protect the child if future domestic violence occurred and the distance between the countries made hearings impractical. The child had lived outside of the state for two years and the relevant evidence was in Bahrain and Russia. The appellate court affirmed the trial court's decision to decline jurisdiction.

(inconvenient forum, evidentiary hearing)

Reed v. Sims, 2020-Ohio-2777 (Ohio Ct. App. 2020)

After an Ohio court awarded the father custody, he moved to Tennessee with the child. The mother remained in Ohio. The father filed to modify the order in Tennessee, and the mother filed to modify it in Ohio. The Ohio trial court declined to transfer jurisdiction and the father appealed, claiming that there was no evidence that domestic violence had occurred. The appellate court affirmed the trial court's decision. The child had a significant connection to Ohio and the court had a long history with the parties. The Ohio court could facilitate remote hearings using technology.

(inconvenient forum)

Roman v. Karren, 461 P.3d 1252 (Alaska 2020)

After the father moved from Alaska to Washington, D.C., the mother filed for custody in Alaska, the child's home state. Then the mother moved with the child from Alaska to Washington for a job opportunity. Two years later, the mother requested to transfer the case to Washington. The Alaska and Washington judges held a UCCJEA conference, and the Alaska judge determined that it had continuing jurisdiction since it was the child's home state at the commencement of the proceedings. After conducting an inconvenient forum analysis, the judge decided that Alaska would retain jurisdiction, stating that Alaska was more familiar with the case and that transferring the case to Washington would cause significant delays. The Alaska court awarded custody to the father. On appeal the Alaska Supreme Court affirmed the decision.

(inconvenient forum, continuing jurisdiction)

Rousseau v. Rousseau, 2020 Conn. Super. LEXIS 1666 (Conn. Super. Ct. 2020)

The mother fled from Connecticut to New York with the children to escape domestic violence. In New York, she was granted temporary custody and a protection order because the father had sexually assaulted her multiple times and physically abused the children. Less than a month later, the mother filed for custody in New York. The Connecticut and New York judges held a UCCJEA conference and agreed that the Connecticut court would hold an inconvenient forum hearing because it was the children's home state. The court held that Connecticut was not an inconvenient forum. The court refused to conclude that domestic violence occurred because the mother's evidence was "non-specific." Moreover, the mother unilaterally decided to move the children to New York, and the distance between the states was relatively small. Here, neither party was in a better financial position, and the Connecticut court was more familiar with the issue.

(inconvenient forum)

Sanchez v. Johnson, 189 A.D.3d 1254 (N.Y. App. Div. 2020)

The mother had custody and lived with the child in New York. After the father alleged that the mother "used excessive corporal punishment," a New York court awarded the father temporary custody. The father and child then moved from North Carolina to Florida. The child subsequently moved to dismiss the New York custody matter on the basis of inconvenient forum. The New York court granted a dismissal pending the commencement of custody proceedings in Florida. On appeal the court affirmed, holding that Florida was a more appropriate forum. The child had not lived in New York for three years. Although the New York court was more

familiar with the case, the relevant evidence was in Florida, and the mother's excessive corporal punishment led to the child's relocation.

(inconvenient forum)

***Seiler v. Seiler, 2021 Tex. App. LEXIS 122 (Tex. App. 2021)**

The father filed for custody in Texas. The mother, who fled to California to escape domestic violence, requested that the Texas court decline jurisdiction. She included as exhibits copies of California protection orders, a statement of the father's domestic violence, and photographs of injuries inflicted by the father. The Texas trial court held an evidentiary hearing and granted the mother's motion to dismiss based on inconvenient forum. The father appealed, arguing that the trial court erred when it relied solely on the testimony he provided in the evidentiary hearing and the "unsubstantiated" allegations of domestic violence in the mother's motion. The appellate court affirmed, holding that because a trial court may consider affidavits and exhibits along with testimony, the court correctly considered the allegations of domestic violence. The trial court properly weighed the domestic violence factor in declining jurisdiction given the father's long history of violence, including threats to kill the mother, the children, and the family dog.

(inconvenient forum, evidentiary hearing)

***Shoemaker v. Shoemaker, 192 N.E.3d 909 (Ind. Ct. App. 2022)**

The mother fled from Indiana to Alabama with the child and obtained a temporary protection order. The father then received an emergency custody order in Indiana requiring the mother to bring the child back. The mother asked the Indiana court to set aside the order and transfer the case to Alabama because of the father's domestic violence. The Indiana judge held evidentiary hearings and relinquished jurisdiction on the basis of inconvenient forum. The father's violence had caused the mother to flee and was likely to continue, and Alabama could best protect the mother and child. The father appealed. The appellate court affirmed. The trial court properly considered the father's past behavior, the severity of abuse, and rehabilitative measures when determining that the abuse was likely to continue. The appellate court also reaffirmed that evidence of domestic violence was not limited to extreme circumstances, criminal convictions, or hospitalization of victims.

(inconvenient forum, emergency jurisdiction)

Smith v. Smith, 2022 Mich. App. LEXIS 4915 (Mich. Ct. App. 2022)

The mother moved from New Jersey to Michigan with the older child and stayed with her parents. Three months after the younger child was born in Michigan, the father filed for custody in New Jersey. The New Jersey court determined that it had home state jurisdiction over the older child and would exercise jurisdiction over the younger child, and the court granted the

mother custody. Five months later, the mother filed for custody in Michigan and requested that the court recognize the New Jersey court's custody determination. The Michigan court granted the divorce but declined to exercise jurisdiction over custody of the younger child because New Jersey was a more appropriate forum, despite the fact that the child always had lived in Michigan. The mother appealed, arguing that New Jersey was an inconvenient forum due in part to the father's history of domestic violence. The appellate court affirmed the trial court's conclusion, finding that the mother had not presented enough factual evidence of domestic violence. The court also found that a "tacit" agreement that New Jersey would retain jurisdiction over custody matters was established when the mother requested that the Michigan court recognize the New Jersey custody order.

(inconvenient forum, child less than six months)

***Vashon H. v. Bret I., 191 A.D.3d 1120 (N.Y. App. Div. 2022)**

After the father filed for custody in Ohio, the mother filed for custody in New York. The New York and Ohio judges held a UCCJEA conference without the parents or their attorneys and failed to create a record clarifying which state would retain jurisdiction or to consider inconvenient forum. The New York judge relinquished jurisdiction and dismissed the mother's custody and family offense petitions. The mother appealed. The New York appellate court found that the Family Court erred when it failed to provide the parents with an opportunity to present testimony before deciding to relinquish jurisdiction. The Family Court's short, unrecorded summary of the UCCJEA conference did not satisfy the UCCJEA's requirements for judicial communication.

(inconvenient forum, judicial communication)

PERSONAL JURISDICTION

***Adamski v. Adamski, 2022 Ohio 32 (Ohio Ct. App. 2022)**

The mother filed for a protection order in Ohio against the father, a Michigan resident. He photographed her while she was asleep, tried to break into her home, and threw a car seat at her in Ohio. He had assaulted her previously in Michigan. The Ohio trial court entered the protection order, and the father appealed. The appellate court in Ohio affirmed the order. The trial court had subject matter jurisdiction because the recent abuse occurred in Ohio. Personal jurisdiction was proper because although the father lived in Michigan, his tortious conduct occurred in Ohio and he was physically present in the mother's home in Ohio, constituting minimum contacts.

(personal jurisdiction)

Baker v. Erickson, 977 N.W.2d 316 (N.D. 2022)

The parties divorced, and a North Dakota trial court awarded custody to the mother. Years later, she notified the father that she was enrolling in a substance abuse treatment program for five weeks. While she was there, the father obtained a protection order from the Turtle Mountain Tribal Court. (The father and the children were enrolled members of the Tribe.) The father attempted to register the tribal protection order with a North Dakota court, and the mother filed a motion to vacate due to lack of service and jurisdiction. The North Dakota Supreme Court considered whether the tribal court had personal and subject matter jurisdiction and whether the North Dakota trial court should have vacated the order. The Supreme Court found that the mother was not served properly under the Tribal Code because she was not served at least five days before the hearing. The Supreme Court therefore reversed the trial court's order giving full faith and credit to the tribal court protection order.

(personal jurisdiction, full faith and credit, Tribal jurisdiction)

***Dunbar v. Vidal, 2022 Ky. App. Unpub. Lexis 469 (Ky. Ct. App. 2022)**

The survivor fled from Indiana to Kentucky for safety and filed for a protection order. The perpetrator objected to the issuance of an emergency protection order, claiming that the acts occurred elsewhere and that he had no minimum contacts with Kentucky. The Kentucky appellate court held that "our courts are allowed to govern behavior within our borders to prevent harm to victims of out-of-state domestic violence." The appellate court found that the emergency protection order did not violate the perpetrator's due process rights and affirmed the trial court's order. The court cited prior cases in Kentucky and the *Shah v. Shah* case³ from New Jersey which distinguished between a prohibitory order to protect a victim (permissible without personal jurisdiction) and an affirmatory order requiring a respondent to take action.

(personal jurisdiction)

***D.W. v. V.W., 2020 Ind. App. Unpub. Lexis 664 (Ind. Ct. App. 2020)**

The survivor moved from Virginia and filed a protection order in Indiana while a divorce was pending in Virginia. The Indiana trial court entered an ex parte protection order and attempted to transfer the case to Virginia, but the court refused to accept the case. The Indiana court then continued to hear the case, finding that it had subject matter and personal jurisdiction, and the perpetrator appealed. The Indiana appellate court affirmed that the trial court had subject matter and personal jurisdiction due to the perpetrator's stalking. His actions from out of state – contacting law enforcement, the survivor's employer, and a private investigator in Indiana – constituted minimum contacts with the state, thus Indiana had personal jurisdiction.

³875 A.2d 931 (N.J. 2005).

(personal jurisdiction)

***Goddard v. Goddard, 195 N.E.3d 1106 (Ohio Ct. App. 2022)**

The father obtained a stalking protection order in Ohio against his son and filed for a renewal shortly before it expired. The son did not live in Ohio and contested personal jurisdiction. A trial court dismissed the case for lack of personal jurisdiction, but the Ohio appellate court reversed. Ohio’s long-arm statute provides for personal jurisdiction when a person causes tortious injury in the state by an act outside the state when he might reasonably have expected that someone would be injured in Ohio. Telephonic and electronic communications made from out of state to individuals in Ohio satisfy personal jurisdiction when the content of the communications forms the basis of the tortious conduct. Here, the son threatened the father through electronic communications to the father’s attorneys, and these messages constituted sufficient minimum contacts with Ohio. The appellate court held that “it should be foreseeable to someone who makes threatening communications that he may be haled into the jurisdiction to answer a petition seeking protection.”

(personal jurisdiction)

In re Michael v. Alex Michael R., 2021 Cal. App. Unpub. Lexis 7094 (Cal. Ct. App. 2021)

The mother fled with the children from Texas to California due to the father’s severe abuse. In California, the trial court awarded her a three-year restraining order, and the father appealed, contesting personal jurisdiction. The trial court found that there was personal jurisdiction because there was a “nexus” with California; the mother had nowhere to go and needed to relocate to a safe place. The appellate court in California reversed and vacated the restraining order, finding that the father did not have minimum contacts with the state. The father’s text messages and calls to the mother in California were related to the children and did not establish a substantial connection to the state.

(personal jurisdiction)

***Lambert v. Leitschuck, 2021 Wash. App. Lexis 1784 (Wash. Ct. App. 2021)**

The survivor obtained a protection order in Washington due to the perpetrator’s domestic violence and stalking, including digital stalking on social media. He appealed, claiming a lack of proper service and personal jurisdiction. (He had moved from Washington to Oregon three days before the survivor filed for the protection order). The Washington appellate court affirmed the order. Washington’s protection order statute allows a court to exercise personal jurisdiction over a nonresident if the acts occurred in Washington or if they occurred outside of the state and were part of an ongoing pattern of domestic violence or stalking against someone in the state. The appellate court affirmed the trial court’s exercise of personal jurisdiction. Here, the perpetrator’s

initial acts took place in Washington, and the domestic violence and stalking continued when he moved out of state.

(personal jurisdiction)

Mucha v. Wagner, 861 S.E.2d 501 (N.C. 2021)

The perpetrator made twenty-eight calls to the survivor’s cell phone on the day that she moved from South Carolina to North Carolina. She obtained a protection order in North Carolina, and the perpetrator appealed based on a lack of personal jurisdiction. Although the appellate court affirmed the trial court’s decision, the Supreme Court of North Carolina reversed it. The Supreme Court concluded that the perpetrator did not have minimum contacts with the state because he did not purposefully avail himself of the benefits and protections of North Carolina’s laws. The Court found that there was no evidence that the perpetrator knew that the survivor was located in North Carolina. It held that the act of calling a cell phone number registered in one state does not automatically vest jurisdiction in any state where the recipient of the call happens to be located. The Court rejected the “status exception” doctrine for personal jurisdiction in protection order cases.

(personal jurisdiction)

***S.S. v. L.L., 2020 N.J. Super. Unpub. Lexis 2345 (N.J. Super. Ct. App. Div 2020)**

A seventy-eight-year-old perpetrator threatened an eighty-nine-year-old survivor in Florida, and she relocated to an independent living facility in New Jersey. She obtained a restraining order in New Jersey. He appealed the order and the subsequent contempt charge claiming a lack of personal jurisdiction. The appellate court in New Jersey found that the trial court had personal jurisdiction because the perpetrator had called the independent living facility in New Jersey several times to find the survivor. Minimum contacts were established when the perpetrator purposefully called the New Jersey facility, and he could reasonably expect to be haled into a New Jersey court for violating the restraining order.

(personal jurisdiction)

PROTECTION ORDERS

***A.D.A. v. R.J., 2020 N.J. Super. Unpub. Lexis 656 (Super. Ct. NJ App. Div. 2020)**

The children were born in Qatar and visited New Jersey several times to see the mother’s parents. Due to the father’s extensive violence, the mother took refuge in New Jersey twice and obtained a restraining order. Meanwhile, the father filed for custody in Qatar and sought enforcement in New Jersey of a Qatari order to return the children. The trial court judge found

that Qatar had jurisdiction and that the children had to be returned. The appellate court reversed and remanded. It ordered the trial court to conduct a plenary hearing on these issues: 1) whether the service of the Qatari orders satisfied due process; 2) whether a Qatari court would use a best interests standard to determine custody; and 3) whether New Jersey should exercise emergency jurisdiction.

(protection order, emergency jurisdiction)

***Arm v. KJL, 995 N.W.2d 361 (Mich. Ct. App. 2022)**

The mother obtained a protection order against the father, and he violated it several times. When it expired, the mother was awarded another protection order based in part on the father's unwanted contact with her on social media. The mother filed for a show cause hearing when the father contacted her on Facebook using his deceased father's name, tagged her, posted old photographs of her, and listed her address online. The trial court held the father in criminal contempt for violating the protection order, and he appealed. The Michigan appellate court held that tags, posts, and similar means of electronic communication are contacts between the sender and recipient. The violation resulted from the electronic contact (not from the content of the speech) which was part of a lengthy series of unlawful contacts harming the mother. *Note that the relevant part of this case was upheld in Arm v. KJL, 2023 Mich. App Lexis 5358 (Ct. App. MI 2023).*

(protection order)

***B.K. v. K.C., 2022 Cal. App. Unpub. Lexis 3802 (Cal. Ct. App. 2022)**

The father filed for paternity and custody in California and obtained ex parte orders requiring the child to be returned to California. The mother filed for a protection order in a Navajo Nation court in New Mexico and received temporary custody. Then she filed a motion to dismiss the case in California, stating that the child resided in New Mexico on Navajo reservation land and that the father had been arrested for domestic violence in California. The father argued that the child's time in New Mexico was temporary, while the mother claimed that the time in California was temporary. The California trial court ruled that California was not the child's home state and ordered the case transferred to the Navajo Nation court. The father appealed. The California appellate court affirmed, finding that the child always had lived with the mother, and that the mother intended New Mexico to be their home. The mother had a residence in New Mexico and membership in the Navajo Nation. Contrary to the father's arguments, the courts found that the COVID-19 pandemic was not the reason the mother and child spent time living in New Mexico in 2020. The appellate court rejected the father's argument that the Navajo Nation court's failure to respond to the California trial court amounted to a declination of jurisdiction.

(protection order, temporary absence)

***Camberos v. Palacios, 187 N.E.3d 1259 (Ill. App. Ct. 2021)**

A Washington court awarded custody to the mother, and she relocated to Utah. The father filed a modification case in Washington and in Illinois (where he lived). The Illinois trial court dismissed the motion because Washington was the home state. One month later, the Washington court declined jurisdiction in favor of Utah.

In March of 2020, the father failed to return the child to the mother after a visit, citing the COVID-19 lockdowns. In August of 2020, the father re-filed in Illinois to modify the custody order, claiming that the child had been in the state for more than six months. In December of 2020, the father surrendered the child. The Illinois trial court dismissed the father's modification case, and he appealed. The Illinois appellate court found that Illinois had to honor the Washington court's order ceding jurisdiction to Utah. In addition, the father's unjustifiable and reprehensible conduct (failing to comply with court orders to return the child) was not a basis for exercising jurisdiction.

(restraining order, inconvenient forum, unclean hands)

***Hardin v. Begley, 2020 Ky. App. Unpub. Lexis 99 (Ky. Ct. App. 2020)**

A Kentucky judge awarded the mother custody, and she relocated to Tennessee with the child. Seven months later, she obtained a protection order in Tennessee that suspended the father's visits because he had been drinking and driving and had put his tongue in the child's mouth. Tennessee's child protective services found the abuse to be unsubstantiated. The father filed for a custody modification in Kentucky, and the mother filed for emergency custody in Tennessee. Kentucky reinstated the father's visits. Subsequently, Tennessee's child protective services became involved again due to further reports by the child's therapist of the father's sexual abuse. Tennessee's child protective services obtained a restraining order against the father. Kentucky held the mother in contempt without a hearing for failure to provide the father with visits, and sentenced her to ten days in jail. She appealed. The Kentucky appellate court reversed. The mother was entitled to a hearing and to present a good faith defense due to the conflicting orders from the two states.

(protection order)

***In re: Parentage of A.E.C., 2020 IL App. (2d) 190949-U (Ill. App. Ct. 2020)**

The parties traveled between Illinois and California with the child. After several years, the mother remained in California with the child and filed for a restraining order. The father filed in Illinois for custody, and the court ordered the child to be returned. The California court awarded emergency custody to the mother, while the Illinois court asserted home state jurisdiction. By agreement, the child was returned to Illinois and the father assumed custody. Then the mother filed an official request to relocate from Illinois. The father objected on the basis that the mother did not share equal parenting time and failed to give notice. The trial court granted the relocation

request, and the father appealed. The appellate court found that the father's temporary custody order did not prevent the mother from filing for relocation. Moreover, although the mother did not strictly comply with the notice requirement, the father had actual notice before the court granted the request. The appellate court upheld the trial court's decision allowing the mother to relocate and retain custody – made after an extensive hearing and application of the statutory factors.

(protection order, relocation)

***Jensen v. Jensen, 2022 Cal. App. Unpub. Lexis 1948 (Cal. Ct. App. 2022)**

The parties divorced, and a California court entered a custody order. Two years later, the mother obtained a three-year restraining order against the father. He violated it, and the court found him in contempt. In March of 2019, the parties agreed to move to North Carolina. In May of 2020, the mother filed to renew the restraining order in both California and North Carolina. The North Carolina judge dismissed the case for lack of jurisdiction. The California judge renewed the permanent restraining order based on the father's "ongoing drive to humiliate, punish, and taunt" the mother. The father appealed. The California appellate court found that the mother's renewal request was part of subsequent proceedings in the domestic violence action and that the court retained subject matter jurisdiction. The appellate court also affirmed the trial court's denial of an inconvenient forum motion based on the court's extensive history regarding the father's conduct.

(protection order, inconvenient forum)

***Noble v. Superior Court of Merced County, 286 Cal. Rptr. 3d 522 (Cal. Ct. App. 2021)**

A California court awarded the mother custody by default. She moved to Utah afterwards to join the children and later obtained a ten-year restraining order against the father. Meanwhile, the father moved to set aside the default custody order. When the judges communicated, California retained jurisdiction over the custody case. The California trial court ordered the children returned to the state and entered a joint custody award despite the extensive evidence of domestic violence. The California appellate court found that the trial court had not applied the law's rebuttable presumption against awarding custody to a perpetrator of domestic violence. The Utah protection order included a finding of domestic violence that should have triggered application of California's rebuttable presumption. The appellate court reversed the custody orders.

(protection order)

***Saleh v. Pratt, 2022 Tenn. App. Lexis 191 (Tenn. Ct. App. 2022)**

A Tennessee trial court awarded the mother a protection order against the father, and she filed for contempt for his violations. The court determined that 51 violations occurred while the father was in Tennessee and sentenced him to jail for 510 days. The court also entered a new five-year protection order. The father appealed, claiming he received less than five days' notice before the original order was entered. The Tennessee appellate court affirmed the trial court's decision, finding that Tennessee had subject matter jurisdiction. The father had no respect for the rule of law and had continued to disregard the protection order.

(protection order, contempt)

State v. Doe, 495 P.3d 1016 (Idaho 2021)

The father had joint custody of a child with a disability under a California court order. A magistrate in Idaho removed the child from the father's care when the child was found home alone with bruises. The father argued that the Idaho magistrate had to communicate with the California court before removing the child. The Idaho and California courts had communicated via e-mail prior to a hearing in which the child was removed permanently from the father. The Idaho appellate court found that the UCCJEA applied and affirmed the trial court's decision. The informal communication between the courts via e-mail satisfied the UCCJEA's requirements. The appellate court endorsed obtaining a decree from a sister state declining jurisdiction as best practice.

(protection order, judicial communication)

***Sykes v. Sykes, 647 S.W.3d 596 (Tn. Ct. App. 2021)**

The children were born in Missouri, and the family moved to Tennessee several years later. After three months, the mother filed for divorce and custody in Tennessee, stating that the father controlled the family's finances and her access to food. The father contested Tennessee's jurisdiction, but the trial court found that it was proper. Subsequently, the father failed to return the older child after a summer visit in Missouri, and the Tennessee court held him in contempt. The father appealed. The appellate court upheld the trial court's exercise of "significant connection" jurisdiction under the UCCJEA. The whole family had moved to Tennessee, and the mother was employed and had her driver's license there. Additionally, all of the grandparents lived in Tennessee, and the father had lived in Tennessee previously and had rented a storage unit there. Moreover, substantial evidence was available in Tennessee from relatives, the mother's employer, and the children's teachers.

(restraining order, significant connection)

Tucker v. Campos, 2021 Tex. App. Lexis 6696 (Tex. App. 2021)

The child lived primarily in Mexico and part-time in Texas before the parties separated. The father filed for custody in Texas, and the mother obtained an ex parte custody order from a Mexican court. She attempted to register it in Texas, and the father contested the registration. After a hearing, the Texas trial court registered the Mexican order, and the father appealed. The appellate court found that the father was not entitled to notice before the Mexican court issued the ex parte order, similar to ex parte orders that could be entered by a Texas court. The appellate court also distinguished between enforcing foreign orders under the UCCJEA (which require notice and an opportunity to be heard) and registration. The appellate court affirmed the trial court's registration of the Mexican ex parte order.

(restraining order, registration, ex parte order)

Waly v. Alkamary, 864 S.E.2d 763 (N.C. Ct. App. 2021)

The father filed for custody of the child in North Carolina where the whole family lived. Subsequently, the mother relocated to New Jersey with the child, and the father relocated to Florida. The North Carolina court entered a temporary custody and support order. After the father posted a threatening message on Facebook, the mother filed for a restraining order in New Jersey. The New Jersey court granted the order and required the child to be exchanged for visits at a police station. The mother then filed for custody in New Jersey and asked North Carolina to "stop the proceedings." The North Carolina court continued to hear the custody case and asked the parties to seek clarification of the New Jersey restraining order. Eventually, the North Carolina court awarded custody to the father. The mother appealed, arguing that North Carolina lost jurisdiction because all of the parties moved out of state shortly after the case was initiated. The appellate court held that North Carolina was the home state at the commencement of the proceedings and had jurisdiction to conclude the custody matter.

(protection order, commencement of proceeding)

RELOCATION

***A.R.P. v. R.C.T., 2021 N.J. Super. Unpub. Lexis 392 (N.J. Super. Ct. App. Div. 2021)**

The child lived in Florida with her mother and then in New Jersey with her father. After the father was awarded primary custody, the child reported sexual abuse and the court entered a no contact order for the father. The court transferred custody to the mother, and she requested permission to relocate to Florida where she had family support and a job. After holding a relocation hearing and interviewing the child, the court permitted the relocation. The father appealed. The appellate court affirmed the decision, finding that the trial court appropriately relied on the statutory relocation factors and the legal standard established in the *Bisbing v.*

Bisbing case.⁴ Because the child was sixteen, it was not an error for the judge to give her preference significant weight.

(relocation)

***Barsky v. Barsky, 2021 Ill. App. (1st) 210065-U (Ill. App. Ct. 2021)**

The parties separated in Illinois after the father perpetrated domestic violence, and the mother became the primary custodian. After the father assaulted one of the children, the mother obtained a protection order, and the father received supervised visitation. The mother requested permission to relocate to France where she had the support of family and friends, and the trial court granted the request. The court found that the mother's desire to relocate was to protect the children from emotional turmoil, not an "evil plot" to take the children away from the father. The father appealed. The appellate court reviewed the statutory relocation factors and upheld the trial court's decision.

(relocation)

***Bolds v. Bowe, 285 A.3d 944 (Pa. Super. Ct. 2022)**

The father lived with his two different families in Pennsylvania. The mother moved with her children from Pennsylvania to New York and later obtained a protection order. The father then filed for custody in Pennsylvania. Nearly three years after the mother's move, in part due to COVID-related delays, the custody hearing took place. The trial court awarded primary custody to the mother and permitted the relocation, and the father appealed. The appellate court found that the mother had relocated due to abuse. Her decision to leave without notice was reasonable, and so was the trial court's decision not to impose a sanction.

The mother also met her burden of proving that the relocation was in the children's best interests based on the statutory relocation factors. The trial court found that the relocation benefitted the mother and the children by distancing them from the chaotic and abusive situation they had experienced living with the father half of the week. The trial court had applied the relocation and custody factors properly.

(relocation)

***Cormier v. Cormier, 330 So.3d 681 (La. Ct. App. 2021)**

The Louisiana trial court awarded custody and a protection order to the mother and supervised visitation to the father. Then the mother moved to Missouri with the child. The father filed to modify the custody order, claiming that the mother had not complied with Louisiana's relocation law. The trial court noted that the law did not require a parent to obtain permission from the

⁴166 A.3d 1155 (N.J. 2017).

other parent or a court in order to relocate when a protection order was in effect. The appellate court agreed, finding that the mother did not need to notify the father or to seek judicial approval to move; at the time that she relocated, the protection order was in effect.

(relocation)

***Dolan v. Dolan, 272 A.3d 768 (Conn. App. Ct. 2022)**

The mother lived in Connecticut, and the father lived in Massachusetts. The parties initially agreed that the mother would move closer to the father's residence. Later, the mother filed to modify the order so that she could keep her job and remain in Connecticut. The trial court found that the father was verbally abusive to the mother, made unreasonable demands, and intentionally kept money from her. The court found that it was in the mother's and the child's best interests for the mother to accept a promotion though it prevented her from moving closer to the father. The father's failure to fulfill his obligations put the mother in financial peril. The father appealed the custody modification, and the appellate court upheld the trial court's decision.

(relocation)

***Durand v. Rose, 2022 La. App. Lexis 1499 (La. Ct. App. 2022) but see 353 So.3d 127 (La. 2023)**

The mother moved with the children from Louisiana to Texas to escape from the father's violence. The father filed for custody and a restraining order in Louisiana. The trial court awarded joint custody (with primarily physical custody to the mother) and permitted her to relocate. The father appealed. The appellate court found legal error in the joint custody award and the father's unsupervised visits given the father's domestic violence. The appellate court reversed and ordered supervised visits for the father. The court also found that the mother's relocation was in good faith and not an attempt to limit the father's access to the children. Several witnesses had testified that the father assaulted, isolated, and controlled the mother. After reviewing the relocation factors, the appellate court found that they weighed heavily in favor of allowing the relocation and affirmed the trial court's decision.

(relocation)

***Harmon v. Harmon, 2021 Mich. App. Lexis 6648 (Mich. Ct. App. 2021)**

The court awarded custody to the mother, and two years later she requested permission to relocate from Michigan to Virginia. The court permitted the relocation, and the father appealed. The appellate court agreed that the mother's increased earning potential in Virginia was a significant factor justifying the move when both parents were unemployed. The father's new parenting schedule (eight weeks in the summer, and one week during the winter and spring

breaks) provided a realistic opportunity to preserve the parental relationship. The trial court found that a greater distance between the parties and fewer exchanges of the children would reduce the potential for conflict. The appellate court affirmed the ruling.

(relocation)

***In re: Canaday, 2022 Minn. App. Unpub. Lexis 662 (Minn. Ct. App. 2022)**

The child had three parents, her biological mother (Kelsey), her father (Edward), and her biological mother's former wife (Haley). Due to Kelsey's substance abuse and domestic violence against Haley, Haley was awarded custody of the child while Kelsey and Edward received visits. Three years later, Haley requested permission to relocate with the child to California for a career opportunity, and the trial court denied the request. Haley appealed. The appellate court reversed, finding that the trial court had misapplied several of the statutory relocation factors. Haley had done "the lion's share of the parenting work," so this factor weighed in favor of the relocation. Additionally, the record did not support the trial court's finding that the domestic violence was a "neutral factor." Kelsey had violated protection orders for five years, and the effect of the domestic violence on the child's safety and welfare weighed in favor of the relocation.

(relocation)

***In re Haney, 2022 Cal. App. Unpub. Lexis 3980 (Cal. Ct. App. 2022)**

The court awarded the mother primary custody and permission to relocate from California to Georgia. The father appealed. The mother was seeking better employment opportunities and educational options for the child. The appellate court concurred with the trial court's finding that the mother was the child's primary caretaker and that remaining in her care would provide stability. The court affirmed the trial court's ruling.

(relocation)

***In re: Marriage of Chikoore, 2021 Wash. App. Lexis 1541 (Wash. Ct. App. 2021)**

The family lived in Washington but planned to move to Mexico. The father threatened the mother. She obtained a protection order and filed a notice of relocation. The court permitted a temporary relocation, but then awarded custody to the father and denied the mother's request to relocate. She appealed. The appellate court found that substantial evidence did not support the trial court's finding that the father had resolved his substance abuse and mental health issues. The evidence showed that both parties had planned to move to Mexico and that the mother had a business plan in place there. The appellate court held that it was in the child's best interest to reside with the mother and that most of the statutory relocation factors weighed in favor of relocation. These included the following: the child had family in Mexico; there was an

agreement to relocate; video communication would be possible with the father; the cost of living would be lower; and the child's quality of life would be diverse and culturally rich. The appellate court reversed the trial court's custody and relocation orders.

(relocation)

***In re: Marriage of Gitre, 2022 Wash. App. Lexis 557 (Wash. Ct. App. 2022)**

The children were placed in foster care in Washington and returned to the mother one year later. The mother had been diagnosed with mental health issues and had obtained protection orders based on the father's domestic violence. The trial court awarded custody to the father and permitted him to move to Arizona, and the mother appealed. The appellate court found that the trial court's ruling that neither party had committed domestic violence was not supported by the record. Its "scant findings" made it impossible to determine if the statute was followed properly with respect to domestic violence. The trial court also erred when it did not consider all of the statutory relocation factors. The appellate court remanded the case for further findings.

(relocation)

***In re: Robert C.E. v. Felicia N.F., 197 A.D.3d 100 (N.Y. App. Div. 2021)**

The trial court in New York awarded custody to the mother and visitation to the father. The mother relocated to Arizona with the children because of the father's violence, which included choking her, threatening suicide, and violating an order of protection. A year later, he filed to modify the custody order. The court awarded custody to the mother and permitted the relocation retroactively, and the father appealed. The appellate court in New York found that the mother did not relocate to separate the child from the father, but acted in good faith to escape the domestic violence. The appellate court upheld the trial court's finding that relocation would enhance the child's life.

(relocation)

***J.A.S. v. S.W.S., 349 So. 3d 241 (Ala. Civ. App. 2021)**

The mother filed for custody and permission to relocate from Alabama to Illinois with the children. The court granted the request, and the father appealed. The trial court had ruled that the mother overcame Alabama's rebuttable presumption that relocation is not in the child's best interests. The mother was the children's primary caretaker, and the father earned \$750,000 annually and traveled 70% of the time. The mother had moved to Illinois to be closer to family. The appellate court affirmed the trial court's decision finding that the children's relocation would not disrupt their relationship with the father. The children would benefit from the move and the father had ample means to exercise visitation.

(relocation)

***Lavery v. O'Sullivan, 205 A.D.3d 1013 (N.Y. App. Div. 2022)**

The trial court awarded the mother sole custody and permission to relocate from New York to Ireland. The father appealed. The appellate court found that the trial court had applied the relocation factors correctly and that the move was in the child's best interests. The mother was the child's primary caretaker, and the father had committed domestic violence and abused alcohol. The mother had a job offer in Ireland, could live for free with the child's grandparents, and had the support of extended family. While the move would disrupt the father's regular contact with the child, meaningful extended vacations could compensate for the loss of regular visitation.

(relocation)

***L.R. v. S.R., 2022 Del. Fam. Ct. Lexis 5 (Del. Fam. Ct. 2022)**

The mother moved from Delaware to North Carolina with the children, fleeing from the father's abuse. The court considered the relocation factors and permitted the relocation. The court found that the children had a greater number of relatives in North Carolina than in Delaware. A previous protection order limited the father's visits, and pending criminal charges against him weighed in favor of the mother's relocation. Overall, the court concluded that relocation would benefit the mother and the children because the move brought them closer to extended family.

(relocation)

***Matter of Hernandez v. Viana, 213 A.D.3d 934 (N.Y. App. Div. 2023)**

The trial court awarded the mother custody and permission to relocate from New York to Virginia. The father appealed. The appellate court upheld the decision, finding that where a party seeks permission to relocate during an initial custody case, relocation is one factor in the best interests of the child. Here the mother was the child's primary caretaker, the relocation would enhance the child's economic and educational opportunities, and the father had committed domestic violence. The father's modified visitation schedule would be meaningful including alternate weekends, summer visits, and visits during school breaks.

(relocation)

***Matter of S.R. v. S.W., 180 N.Y.S.3d 800 (N.Y. Fam. Ct. 2022)**

The mother filed for custody and relocation in New York, requesting to move to North Carolina where she had family support. The mother had paid the father's debts and was the child's

primary caretaker while the father was involved with two women at the same time. The trial court found that the father's "long-term infidelity, deceit, active concealment, threats, and gaslighting of the mother amounted to emotional abuse." During several visits with the father, the child came home with injuries. In the custody case, the father lied about his employment, and his current girlfriend obtained a protection order against him. The trial court awarded custody to the mother and permitted the relocation based on the factors set forth in the *Tropea v. Tropea* case⁵ and the child's best interests.

The court concluded that the child's life would be enhanced emotionally and economically by moving to an area with extended family. The mother's relatives and friends would provide housing and childcare, improving her financial situation. The father would be able to visit due to the parties' employment with airlines.

(relocation)

***M.Y. v. H.Y., 248 A.3d 513 (Pa. Super. Ct. 2021)**

The mother filed to modify a custody order and relocate from Pennsylvania to New York. The court permitted the relocation, and the father appealed. The trial court found that the mother's home was in foreclosure and that the father had not paid child support. The mother's move would give her access to housing, family support, and childcare, and the children would benefit from being around extended family. The trial court was concerned about safety due to the father's abuse of the mother. The appellate court found that the trial court had considered all of the relocation and custody factors and affirmed the decision.

(relocation)

***Rankin v. Rankin, 174 N.E.3d 12 (Ohio Ct. App. 2021)**

The parents separated and signed a parenting agreement containing certain geographic moves. When the mother filed a notice of her intent to relocate in compliance with the order, the father objected. The trial court permitted the relocation, and the father appealed. The appellate court found that the trial court had considered the child's best interests in upholding the terms of the shared parenting agreement.

(relocation)

***R.M.P. v. E.K., 273 A.3d 1030 (Pa. Super. Ct. 2022)**

After the parties separated, the mother filed a request to relocate from Pennsylvania to Tennessee with the children. The trial court awarded joint custody and denied the relocation request, and the mother appealed. The appellate court vacated the orders and remanded the case. Although

⁵665 N.E.2d 145 (N.Y. 1996).

the trial court's opinion addressed the statutory relocation factors, it did not analyze the custody factors correctly.

(relocation)

***Stefano v. Cruz, 276 A.3d 267 (Pa. Super. Ct. 2022)**

The father filed for custody, and the mother filed a request to relocate with the child from Pennsylvania to Ohio. The trial court permitted the mother's relocation, and the father appealed. The appellate court found that the trial court had considered all of the relocation and custody factors carefully. The father had prevented the mother from seeing the child previously, and relocation would improve the lives of the mother and the child. The mother had secure housing, employment, and an extensive support system in Ohio. The child would be able to spend more time with a sibling who lived in Ohio, and the mother had located a daycare. There also was credible evidence that the father was abusive towards the mother. The appellate court affirmed the trial court's order.

(relocation)

***Stoll v. Pietila, 2022 Mich. App. Lexis 1498 (Mich. Ct. App. 2022)**

The mother had custody and requested permission to relocate from Michigan. She was a doctor and had secured a job in Vermont which was necessary to complete a student loan repayment plan. The trial court denied the mother's request, and she appealed. The appellate court held that the trial court erred by failing to consider the financial benefits of the relocation: the mother would earn a salary of \$156,000, receive full benefits, and be able to repay her student debt. The trial court had overemphasized the mother's employment history and lack of job stability, and the father's salary was \$55,000. The trial court also failed to consider a revised parenting schedule and the availability of modern communication technology. The appellate court remanded the case.

(relocation)

***Tyler A.Z. v. Lauren A.R., 2021 Il. App. 3d 210360-U (Ill. App. Ct. 2021)**

The mother moved from Illinois to Michigan with the children, and the father filed an emergency petition for the children's return, which was granted. The mother then filed a request to relocate which the trial court granted. The appellate court affirmed the trial court's ruling. The mother had moved to Michigan for a new job after she lost her job in Illinois, and she had family support in Michigan. She was the children's primary caretaker, and the father's ability to see the children was limited by his work. The mother was moving four hours away so a reasonable visitation schedule, including Facetime visits for the father, could be arranged.

(relocation)

***X.L.S. v. E.R., 2021 N.J. Super. Unpub. Lexis 2568 (N.J. Super. Ct. App. Div. 2021)**

The parties separated after the father abused the mother, and she was awarded custody and a protection order. When the child was eleven, the mother filed a request to relocate from New Jersey to California. Her new husband was moving for work, and the move would be a financial improvement for the family. The trial court denied the request, and the mother appealed. The appellate court found that the trial court misapplied several relocation factors and failed to make factual findings on certain items, including the child's fear of the father. The court also gave improper emphasis to extended family relationships and abused its discretion in failing to interview the child. The appellate court reversed and remanded the case to a different trial court judge.

(relocation)

Young v. Young, 2022 Mich. App. Lexis 7199 (Mich. Ct. App. 2022) but see Young v. Young, 2023 Mich. App. Lexis 9211 (Mich. Ct. App. 2023)

The mother had physical custody, and the father had supervised visits. The mother requested permission to relocate from Michigan to Montana where she would increase her salary as a nurse and potentially improve her health. The trial court denied the mother's request to relocate, and she appealed. The appellate court found legal error because the trial court had not considered the impact of the proposed move on the mother's quality of life, one of the statutory factors under Michigan's relocation law. The trial court also failed to consider that the father had not exercised his parenting time for thirteen months and had disobeyed court orders requiring him to attend counseling and parenting classes. The appellate court remanded the case. [*On remand, the judge reversed.*]

(relocation)

RELOCATION AND JURISDICTION DURING PREGNANCY

***Boyd v. Weisenberger, 2022 Ky. App. Unpub. LEXIS 150 (Ky. Ct. App. 2022)**

A pregnant mother sought a protection order against the father and temporary custody of the unborn child. The family court granted both orders, and the father appealed. The appellate court found that the family court had erred in awarding temporary custody to the mother under the UCCJEA because the birth had not happened yet and paternity had not been established yet. The court reasoned that the UCCJEA criteria for initial custody orders presupposed that a child has been born – and that an unborn child acquired a home state at the time of his or her birth.

(pregnancy, protection order)

***People ex rel. G.C.M.M., 477 P.3d 792 (Colo. App. 2020)**

The child was conceived in Colorado, and the father filed for paternity and custody there before the child was born. The mother relocated to New Hampshire where the child was born. The mother moved to dismiss the custody case, but the magistrate found that Colorado had jurisdiction and entered an order which the juvenile court subsequently vacated. The Colorado appellate court held that the Uniform Parentage Act gave Colorado the authority to determine paternity; under the UCCJEA, however, Colorado did not have jurisdiction to enter a custody order. The appellate court agreed with the juvenile court that Colorado did not have jurisdiction to make an initial custody order: a home state determination must be deferred until the child's birth, and a pregnant person cannot be restrained from leaving the state. The appellate court also held that although both parents had agreed initially to a parenting plan in Colorado, subject matter jurisdiction could not be waived.

(pregnancy, paternity)

TEMPORARY ABSENCE

***Chatani v. Blaze, 346 So. 3d 670 (Fla. Dist. Ct. App. 2022)**

The child was born in Florida. When the child was two, the mother took the child to Michigan. Six months later, she filed for custody there. One month later, the father filed for paternity in Florida, claiming that the trip to Michigan was a temporary absence. The mother testified that she always intended to reside permanently in Michigan but chose not to inform the father. The trial court agreed with the mother and dismissed the father's petition. The father appealed. The appellate court agreed that Michigan was the child's home state and that the time spent there was not a temporary absence. Although the mother had not informed the father that she intended to stay in Michigan, there was substantial evidence to support her intent. The appellate court affirmed the trial court's ruling.

(temporary absence)

Hosch v. Hosch-Carroll, 878 S.E.2d 681 (N.C. Ct. App. 2022)

The child was born in North Carolina and then moved to Texas with the mother. After three months, the child went back to North Carolina for the summer and then returned to Texas. In December, the mother sent the child back to North Carolina with the godparents but continued to make all legal decisions for the child. Four months later, the grandmother filed for and was granted custody of the child in North Carolina. On appeal, the court found that North Carolina was not the child's home state. The child had lived in Texas for three months, North Carolina for three months, and then Texas for four months. North Carolina applies a "totality of the

circumstances” approach to determine whether an absence is temporary. Here the child’s time in North Carolina was a temporary absence because the child was there during the summer months and then returned to Texas, the home state. When the child returned to North Carolina again, only four months had passed before the custody case was filed, therefore Texas was the home state.

(temporary absence)

***In re Marriage of Natarajan, 2022 Ariz. App. Unpub. LEXIS 245 (Ariz. Ct. App. 2022)**

The child was born in Arizona. Three years later, the parents left for India to attend a wedding, planning to return to Arizona after their visas were renewed. Instead, the parties separated, and the child remained in India with the mother. The father filed for custody in Arizona two and a half years after the parties left the state, and the trial court dismissed the motion. On appeal, the father argued that he was absent from Arizona because the mother had kidnapped the child, and that he planned to return after the COVID-19 pandemic. The court found that the extended absence from Arizona could not be considered temporary as the father only returned to the state in order to empty a storage unit. Further, the child was not abducted from Arizona since the parties had agreed that the child would leave the state. A court in India already was exercising child custody jurisdiction. The appellate court concurred with the trial court.

(temporary absence)

Mouritsen v. Mouritsen, 459 P.3d 476 (Alaska 2020)

A judge in Alaska awarded the parents joint custody as long as they lived in the same community. The father transferred to a military base in South Carolina, and the mother and the children moved there as well. After a year and a half in South Carolina, the father filed a motion in Alaska to enforce vacation time, but the trial court found that it did not have continuing jurisdiction since neither the parents nor the children resided there. On appeal, the Alaska Supreme Court vacated the order and remanded for an inconvenient forum determination. The father had argued that his time in South Carolina was a temporary absence due to a military assignment and that he planned to return to Alaska. He paid taxes, was registered to vote, and had his driver’s license in Alaska. The Alaska Supreme Court interpreted “presently reside” to mean residency rather than physical presence. It concluded that the trial court had erred when it determined that Alaska no longer had exclusive, continuing jurisdiction.

(temporary absence, continuing exclusive jurisdiction)

Randoy v. Randoy, 2022 Cal. App. Unpub. LEXIS 4103 (Cal. Ct. App. 2022)

The father agreed that the mother could move temporarily from California to Canada with the child. One year later, when the mother and child were in California for a visit, the father filed for

custody. The court initially granted sole custody to the father and visits to the mother. When the mother refused to return the child, the court modified the order and denied all visits to the mother. The court found that California was the child's home state, and that the move to Canada had been a temporary absence. The appellate court affirmed the trial court's ruling relying on the parties' subjective intent. Although the child had lived in Canada for one year before the custody filing in California, it was a temporary absence. The child had resided in California for two years before the move, and the move was meant to be temporary.

(temporary absence)

***Richardson v. Richardson, 2021 Ky. App. Unpub. LEXIS 259 (Ky. Ct. App. 2021)**

The children were born in Kentucky and then moved to Texas with their parents. When the parents separated, the children remained in Texas with the mother, and the father relocated to Kentucky. When the children visited their father in Kentucky over the summer, he refused to return them. The mother then filed for custody in Texas, and the father filed for custody in Kentucky. After a judicial conference, the courts determined that Texas had jurisdiction. The father appealed. Although the children were in Kentucky at the time of the filing, their absence from Texas was temporary. The appellate court in Kentucky affirmed that Texas remained the children's home state.

(temporary absence)

Sulier v. Veneskey, 878 S.E.2d 633 (N.C. Ct. App. 2022)

The mother relocated multiple times after separating from the father. When she died, the maternal grandmother took the child from North Carolina, where the child had been living for three years, to Michigan without notifying the father. (He had been living in South Carolina.) The grandmother filed for guardianship and received an emergency order. The father subsequently filed for custody in North Carolina. The courts communicated, and the Michigan judge ordered that the child be returned to the father, dismissing the grandmother's case because Michigan was not the child's home state.

The grandmother challenged North Carolina's jurisdiction because no parent or person acting as a parent remained in North Carolina. The North Carolina appellate court applied a "totality of the circumstances" test to determine whether the eleven-day period that the child spent in Michigan was a temporary absence. Although the grandmother intended the move to be permanent, her intent was to hide the child from the father, and the child's stay was extremely short. Notwithstanding the fact that no parent remained in the state, North Carolina had jurisdiction by necessity; Michigan had declined jurisdiction. The appellate court affirmed the trial court's exercise of jurisdiction.

(temporary absence, person acting as a parent, jurisdiction by necessity)

Tracy D. v. Dep't of Child Safety, 504 P.3d 934 (Ariz. Ct. App. 2021)

The mother gave birth in Indiana and seven weeks later returned to Arizona where the father was living. Three months later, the Department of Child Safety petitioned to terminate the parents' rights due to substance abuse. Because of COVID-19, the court conducted the hearing by telephone and terminated the parental rights of both parents. On appeal, the father argued that Arizona lacked jurisdiction, contending that the child's home state was Indiana. The court found that although the child was born in Indiana, the mother's stay there was a temporary absence from Arizona since she did not plan to live in Indiana. Arizona had the authority to hear the case because no other state had jurisdiction. The mother also argued that holding the termination hearing by phone violated her due process rights. On appeal the court concluded that the mother was afforded adequate due process and that "establishing a bright-line rule requiring in-person testimony in all instances is unworkable, and in some instances might even deprive a parent of due process if special circumstances would not allow a parent to fully participate remotely." The appellate court affirmed the trial court's decision.

(temporary absence, child less than six months old, remote hearing)

***V.K. v. K.K., 190 N.E.3d 96 (Ohio Ct. App. 2022)**

The parents traveled with the child from Ohio to India for a wedding, intending to stay for one month. The father returned to Ohio. The mother and child returned one year later to find that the father had locked them out of the home. In India, domestic violence complaints were filed on the mother's behalf, and a warrant was issued for the father's arrest. In Ohio, the father filed for custody and to prevent the mother from leaving with the child. The mother filed a motion to dismiss because the child had not been in Ohio for more than six months. The trial court ruled that "under the totality of the circumstances," the child's stay in India had not been a temporary absence. The father appealed. The appellate court ruled that in Ohio, courts primarily consider the duration of an absence, rather than the parties' intent, to determine whether an absence is temporary. Since the child had lived in India for one year, this was not a temporary absence, and India had jurisdiction.

(temporary absence)