

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

## ORDER REGARDING JURISDICTION

## **FINDINGS OF FACT**

1. Plaintiff was present and unrepresented at this hearing. Defendant was not present but was represented by [REDACTED].
2. Judge Mike [REDACTED] was also present on WebEx during the hearing.
3. Plaintiff resides in Cary, North Carolina.
4. Defendant is employed by the United States Military. When she is not deployed, she resides in Texas.
5. The parties are the biological parents of one minor child: [REDACTED] born [REDACTED].
6. An action was filed in Wake County, North Carolina numbered [REDACTED]. In that case:
  - a. Plaintiff Father filed a Complaint for Custody on April 3, 2017.
  - b. A Temporary Custody Order was entered by Judge [REDACTED] on May 31, 2017.

- c. An Amended Motion for Temporary Emergency Custody was filed by the Plaintiff on June 24, 2019. This was denied by Judge [REDACTED].
  - d. Plaintiff filed a Motion for Order to Show Cause on June 24, 2019. An Order to Show Cause was entered on July 5, 2019. This motion is pending.
  - e. Defendant filed a Motion for a Stay on October 17, 2019 pursuant to the Service Members Civil Relief Act. The matter was stayed until February 10, 2020.
  - f. Defendant filed a Motion for Declaratory Judgment and in the alternative a Motion for UCCJEA Conference and Motion for Attorney Fees on December 16, 2019.
  - g. Defendant filed a second Motion for Stay on March 10, 2020.
7. Defendant filed an action in El Paso County, Texas numbered [REDACTED] 2. In that action:
- a. A temporary restraining order was entered on June 7, 2019.
  - b. A temporary custody order was entered on July 9, 2019 by Judge Mike [REDACTED]
  - c. An Order regarding jurisdiction was entered on October 18, 2019 by Judge Mike [REDACTED]
  - d. A Final Decree of Divorce was entered on October 18, 2019. Custody, support, and property division provisions were addressed in the divorce decree.
8. Because there are pending actions in two states, a UCCJEA conference was held on February 19, 2020 between the two courts. The Courts agreed to schedule a jurisdictional hearing with all parties present.
9. Judge [REDACTED] entered an Order on October 18, 2019 concluding that jurisdiction in this matter was in Texas. He made the following findings:
- b. That from “December 25, 2017 through August 26, 2018” both parties resided in El Paso, Texas.
  - c. The parties were legally married on February 8, 2019 and lived as Husband and Wife.
  - d. The child lived continuously in El Paso County, Texas “from February 2, 2018 through the present” [October 18, 2019].
10. Both parties were present and had an opportunity to be heard during the Texas hearings.
11. This Court is bound by Judge [REDACTED]’s factual findings.

12. At the time Judge [REDACTED] entered the final divorce decree, North Carolina no longer had continuing exclusive jurisdiction.
13. To the extent that North Carolina has jurisdiction, this Court should decline to exercise jurisdiction because North Carolina is an inconvenient forum.
14. Texas is a more appropriate forum.
15. The minor child has not been in North Carolina for a significant period of time.
16. The Defendant Mother and the minor child reside in Texas.
17. Except for visitations with her father, no other evidence was presented regarding the child's connections to North Carolina.

Based upon the foregoing Findings of Fact, the Court makes the following:

#### **CONCLUSIONS OF LAW**

1. At the time the Texas court entered its Final Decree of Divorce, including custodial provisions, the North Carolina court no longer had continuing exclusive jurisdiction.
2. This Court is bound by the findings of fact in Judge [REDACTED] October 18, 2019 Orders.
3. To the extent North Carolina has jurisdiction, this Court is declining to exercise jurisdiction pursuant to N.C.G.S. 50A-207.
4. North Carolina is an inconvenient forum under the circumstances and Texas is a more appropriate forum.
5. This action should be stayed to permit the parties to file appropriate claims or motions in Texas.

It is therefore ORDERED, ADJUDGED, AND DECREED as follows:

1. At the time the Texas Final Decree of Divorce was entered, this Court no longer had continuing exclusive jurisdiction.

2. To the extent this court has jurisdiction, this Court hereby DECLINES to exercise jurisdiction and finds that North Carolina is an inconvenient forum.
2. Texas is a more appropriate forum and this action is STAYED to permit the parties to file appropriate motions or claims in Texas.

This the \_\_\_\_ day of November 2020.

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The Honorable Christine M. Walczyk,  
District Court Judge Presiding

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Order was served on the parties by depositing a copy in the US mail in a properly addressed, postage paid envelope to:

[REDACTED]

[REDACTED]

[REDACTED]

This is the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
[REDACTED], Case Coordinator