

Family law attorney Janet Reed comments on a recent North Carolina case dismissing a termination of parental rights case

At issue on appeal was subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"). Janet P. Reed, Esq. reviews.

JACKSONVILLE, NORTH CAROLINA, UNITED STATES, June 25, 2019 /EINPresswire.com/ -- The North Carolina Court of Appeals vacated an order terminating a mother's parental rights and dismissed the case In the Matter of: D.A.Y. because the trial court lacked jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA").



Janet P Reed, Attorney in North Carolina

Attorney [Janet Reed](#), based in North Carolina, has published a comment that reviews this case. The complete article will be published on her Blog at <https://janetreedesq.blogspot.com/>

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Janet Pittman Reed, lawyer in North Carolina

Petitioner Father filed a petition to terminate Respondent Mother's parental rights in Stanly County District Court in North Carolina. "Petitioner alleged Dylan resided with him in Stanly County, such that 'North Carolina is the home state of the child,' pursuant to 'a juvenile court order from the State of California entered as a result of a juvenile protective services investigation filed October 18, 2013 which gave custody to petitioner with supervised once per year visits granted to respondent.' Petitioner further alleged 'California terminated [its] jurisdiction by the terms of said order.' The petition alleged Respondent is 'a citizen

and residence [sic] of Ventura County, California,' but claimed she had temporarily 'moved to Nevada in or about 2016 thereby terminating California's jurisdiction.'"

“Respondent filed a written answer admitting the petition’s allegations regarding the respective locations of the parties and the actions of the court in California in the 2013 custody proceeding.” Trial court terminated Mother’s parental rights after a hearing on the merits and Respondent timely appealed.

At issue on appeal was whether North Carolina courts had subject matter jurisdiction over the matter under the Uniform Child Custody Jurisdiction and Enforcement Act (“UCCJEA”). Trial court found that California court at one point had jurisdiction over the matter, but then “relinquished continuing, exclusive jurisdiction when that State terminated their jurisdiction, and when both parties and the minor child subsequently moved from the State of California.” Court of Appeals noted that “to the extent the trial court’s findings of fact refer to the legal effect of actions taken by the parties or the court in California, they are reviewed de novo as conclusions of law.”

Under the UCCJEA, N.C. Gen. Stat. § 50A-203(1)-(2), in order to take jurisdiction to modify California’s order, North Carolina needed to have jurisdiction to make an initial custody determination and also meet one of two prerequisites: (1) court of the other jurisdiction determines that it no longer has exclusive, continuing jurisdiction or determines that North Carolina would be the more convenient forum, (2) North Carolina court or court of the other state “determines that the child, the child’s parents, and any person acting as a parent do not presently reside in the other state.”

Here, neither condition was met. On October 18, 2013, California juvenile court issued an order that provided that juvenile court’s jurisdiction over the child was terminated and that any future modification proceeding had to be brought in family court. Court of Appeals explained that while



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such order terminated the juvenile court's jurisdiction, it did not terminate the State of California's jurisdiction over the matter. As to the second prerequisite, a finding by a court that no party currently resides in California, Father alleged in his petition and Mother admitted in her answer that Mother currently resides in California. Therefore, North Carolina courts did not have jurisdiction to modify California custody order from 2013.

Father also argued that California lost exclusive continuing jurisdiction when Mother moved to Nevada for two years, creating a time when no interested party lived in California. Court of Appeals rejected this argument, noting that in order for California to lose jurisdiction due to parties leaving the state, California court would have had to make a determination that California's jurisdiction ceased. Because second prong of N.C. Gen. Stat. § 50A-203 looks at whether any party presently resides in the state that had exclusive and continuing jurisdiction, it was inapplicable here. In order for exclusive and continuing jurisdiction to cease under first prong, only California courts have power to make such a determination, which there was no such record of in this case. Therefore, the order terminating Mother's parental rights were vacated and the case was dismissed.

The case is In the matter of D.A.Y., No. COA18-1226.

About [Janet Pittman Reed](#)

[Janet P. Reed](#) is an attorney in Jacksonville, North Carolina, and handles Family Law cases such as



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