

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2001-339

JANUARY TERM, 2002

Susan Laframboise Crabtree	}	APPEALED FROM:
	}	
v.	}	Addison Family Court
	}	
Christopher Crabtree	}	DOCKET NO. 81-4-01 Andm
	}	
	}	Trial Judge: Edward J. Cashman
	}	
	}	

In the above-entitled cause, the Clerk will enter:

Mother appeals the family court's decision to award father attorney's fees he incurred in attempting to enforce his visitation rights under a North Carolina divorce order. We affirm.

The parties were divorced in North Carolina in August 1998. The North Carolina order granted mother primary custody of the parties' son, born December 8, 1995, and granted father regular visitation on a weekly basis. To accommodate mother's impending move to Vermont, the order was modified in December 1998 to provide father visitation in North Carolina for six weeks during the summer and for three weeks during the Easter and Christmas holidays. Mother moved to Vermont with the child in January 1999.

In April 2001, mother filed a motion to modify in the Addison Family Court, stating that the parties' son had expressed an unwillingness to spend an uninterrupted six-week period with father in North Carolina during the upcoming summer. Mother filed an addendum to the motion in May, attaching a letter from a child psychologist indicating that the boy had witnessed and/or been subjected to domestic abuse during the Easter vacation at father's home. Mother asked the court to order that any visitation with father in North Carolina be supervised by her parents, who lived near father. On June 12, in anticipation of father coming to Vermont to pick up the child, mother filed a petition for relief from abuse.

Following a hearing on June 27, the court denied mother's relief-from-abuse petition, finding that the evidence was inadequate to support her claims of abuse. The court reserved judgment on mother's motion to modify, indicating that it would contact the county court in North Carolina pursuant to the Uniform Child Custody Jurisdiction Act (UCCJA) and the Parental Kidnapping Prevention Act (PKPA). Nevertheless, the court granted mother's request for supervised visitation, noting that father had agreed to supervised visitation for the upcoming summer. The court ruled that father's girlfriend or his mother would be an adequate supervisor.

At the conclusion of the June 27 hearing, the parties agreed that mother would deliver the child to father the next day. The mother failed to do so, however. Father immediately filed a motion for contempt, for attorney's fees, and for enforcement of the underlying North Carolina order. Both sides filed motions for reconsideration concerning supervised visitation. The court held a second hearing on June 29, but mother did not appear. Following the hearing, the court denied the motion for contempt because it had not issued an order compelling mother to deliver the child to father the day before. The court granted father's motion to enforce the North Carolina order, however, compelling mother to deliver the child to father for visitation as called for under that order. The court also ordered mother to pay father \$1810

in attorney's fees and gave father the right to seek any additional legal expenses he incurred in Vermont courts to enforce the North Carolina order. Finally, the court (1) continued to reserve any ruling on mother's motion to modify; (2) denied mother's motion to reconsider; and (3) granted father's motion to reconsider, ruling that father's parents or girlfriend, or any adult agreeable to father's parents, could supervise visitation between father and the child.

Mother appeals, arguing only that the trial court abused its discretion by awarding father attorney's fees even though it denied father's motion for contempt and there was no evidence as to the relative merits of the parties' financial circumstances. We find no abuse of discretion. As father points out, testimony at the June 27 hearing established father's poor financial circumstances, and mother did not make herself available at the June 29 hearing for an examination of her financial resources. In any event, the court awarded attorney's fees to compensate father for legal expenses he incurred in attempting to enforce an out-of-state custody order. Under the UCCJA, such an award is available regardless of the respective financial circumstances of the parties or whether there is a finding of contempt. See 15 V.S.A. 1043(b) ("A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to custody or his witnesses."). Further, we reject mother's argument that the court should have parsed father's legal expenses and awarded him only those expenses specifically dedicated to his motion to enforce the North Carolina order. Notwithstanding the various motions filed by the parties in this matter, all of father's legal expenses were directed essentially at enforcing the North Carolina order granting him visitation with the parties' son for six weeks each summer.

Affirmed.

BY THE COURT:

Jeffrey L. Amestoy, Chief Justice

James L. Morse, Associate Justice

Denise R. Johnson, Associate Justice