

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

COLIN COGAR,

Court of Appeals of New Mexico
Filed 10/13/2026 11:45 AM

Petitioner-Appellant,


Mark Reynolds

v.

No. A-1-CA-43441

NATASSJA WINCHESTER,

Respondent-Appellee.

APPEAL FROM THE DISTRICT COURT OF SAN MIGUEL COUNTY

Flora Gallegos, District Court Judge

Macias-Mayo Law, PC

Serena C. Valley

Albuquerque, NM

for Appellant

Natassja Winchester

Fairplay, CO

Pro Se Appellee

MEMORANDUM OPINION

BACA, Judge.

{1} Petitioner Colin Cogar appealed from the district court's order dismissing his
case due to lack of jurisdiction. We issued a calendar notice proposing to reverse.
Respondent Natassja Winchester has filed a memorandum in opposition, which we
have duly considered. Unpersuaded, we reverse.

1 {2} This appeal centers around a child custody matter. The initial child-custody
2 determination was made in Colorado, but Petitioner sought to modify that
3 determination in New Mexico because Respondent and the child had been living in
4 New Mexico for at least six months. [CN 2-3] In Petitioner’s docketing statement,
5 he asserted that New Mexico has jurisdiction over this matter pursuant to the
6 Uniform Child Custody Jurisdiction and Enforcement Act (the UCCJEA), NMSA
7 1978, §§ 40-10A-101 to -403 (2001). [CN 2] Based on the facts of the case, we
8 proposed to agree the UCCJEA should have been applied and proposed to reverse
9 on the basis that the district court failed to apply the UCCJEA and to hold an
10 evidentiary hearing to determine whether New Mexico had jurisdiction. [CN 5-6]

11 {3} In Respondent’s memorandum in opposition, she makes numerous arguments
12 regarding why our proposed disposition was in error. Specifically, Respondent
13 argues that the New Mexico proceeding sought to modify an existing Colorado
14 custody determination and maintains that “the fact that [she] and the child resided in
15 New Mexico for a period of time does not, standing alone, establish that Colorado
16 relinquished its continuing jurisdiction over its prior custody determination.”
17 [MIO 3] In addition, Respondent asserts that Colorado entered an order finding that
18 Respondent had established residency after considering the evidence of her “travel
19 between New Mexico and Colorado, her son’s continued attendance in New Mexico,
20 vehicle registration, banking activity, and other circumstances.” [MIO 3] Finally,

1 Respondent maintains that the chronology of events “demonstrates that the interstate
2 jurisdictional dispute existed before Respondent’s Colorado support proceeding and
3 that Petitioner’s counsel had notice of Respondent’s jurisdictional position.” [MIO
4 4]

5 {4} As stated in our calendar notice, the UCCJEA addresses the problem of when
6 “there are simultaneous child-custody proceedings in two different states.” *See*
7 *Malissa C. v. Matthew Wayne H.*, 2008-NMCA-128, ¶ 22, 145 N.M. 22, 193 P.3d
8 569. In our calendar notice, we proposed to reverse because the district court did not
9 apply the UCCJEA when making its determination that it did not have jurisdiction.
10 [CN 4-5] The facts on which our proposed disposition relied included that (1) the
11 initial custody determination was made in Colorado; (2) it appeared that neither party
12 lived in Colorado at the time Petitioner sought to modify custody; (3) it appeared
13 that Respondent and the child lived in New Mexico for at least six consecutive
14 months immediately before Petitioner filed the new child-custody proceeding in
15 New Mexico; and (4) Petitioner filed his petition to register a foreign judgment and
16 his motion to modify custody in New Mexico. [CN 5] Respondent has not challenged
17 these facts in her memorandum in opposition.

18 {5} As explained in our case law, the UCCJEA expressly requires that “a court
19 faced with a child-custody proceeding pending in another state to determine whether
20 the court in the other state has jurisdiction substantially in conformity with the

UCCJEA, by examining the court documents and other information supplied by the parties to the court in the other state.” *Id.* ¶ 30 (alteration, internal quotation marks, and citations omitted); *see* § 40-10A-206(b). In addition, the UCCJEA provides that

(c) In a proceeding to modify a child-custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child-custody determination has been commenced in another state, the court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions it considers appropriate.

Section 40-10A-206(c). There is no indication in the record proper that the district court made any such determination.

{6} Petitioner filed a motion to modify the Colorado custody determination in New Mexico because Respondent and the child were living in New Mexico at the time. As a result of that filing, the district court should have first determined whether another proceeding had been commenced in another state and then, based on that determination, should have proceeded with one of the enumerated steps set forth under Section 40-10A-206(c). Although the district court may ultimately determine that Colorado has continuing jurisdiction over this matter, we conclude that the

1 district court must engage in the UCCJEA analysis to determine the appropriate
2 jurisdiction. *See* § 40-10A-206(b), (c); *Garcia v. Gutierrez*, 2009-NMSC-044, ¶ 13,
3 147 N.M. 105, 217 P.3d 591 (explaining that “[i]f one state can be established as the
4 home state, and a child-custody action is filed first in that state, any other states
5 which have passed a similar statute must stay their proceedings, or decline to
6 exercise jurisdiction” (internal quotation marks omitted)); *see also Malissa C.*, 2008-
7 NMCA-128, ¶ 30 (explaining that “our jurisprudence analyzing the UCCJEA’s
8 predecessor, the UCCJA, supports the view that another state court’s putative child-
9 custody jurisdiction should be critically assessed by a New Mexico court in the event
10 of simultaneous proceedings”).

11 {7} Finally, to the extent that Respondent asserts that service was improper, we
12 disagree. Respondent argues that the district court expressly found that Petitioner’s
13 motion to modify custody was not adequately served. [MIO 1-2] Respondent
14 maintains that “[t]his finding is significant because it is independent of the district
15 court’s jurisdictional analysis.” [MIO 2] Respondent maintains, pointing to Rule 1-
16 004 NMRA, that she “did not voluntarily submit herself to the New Mexico custody-
17 modification proceeding.” [MIO 2]

18 {8} Rule 1-004(F)(1)(a) provides, in part, that

19 [p]ersonal service of process shall be made upon an individual by
20 delivering a copy of a summons and complaint or other process . . . to
21 the individual personally; or if the individual refuses to accept service,
22 by leaving the process at the location where the individual has been

1 found; and if the individual refuses to receive such copies or permit
2 them to be left, such action shall constitute valid service.

3 The record proper indicates, in a sworn affidavit by the process server, that
4 Respondent was at her residence when he made numerous attempts, over three
5 separate days, to make contact with her including knocking at her door and leaving
6 his business card. [RP 35] On the third day, after knocking again with no answer,
7 the process server posted the documents on Respondent's door. [RP 35-36] That
8 same day, the process server sent a copy of the packet via certified mail to
9 Respondent's address. [RP 36] The process server returned three days later, knocked
10 for several minutes with no answer, and also saw that the posted documents were no
11 longer on the door. [RP 36] He posted another set of documents on the door before
12 leaving the area. [RP 36] The district court also found that Respondent had been
13 served in an order registering the foreign judgment entered on July 31, 2025. [RP 78]
14 Specifically, the district court found that "Respondent was served with the *[p]etition*
15 and *[s]ummons* by posting the pleadings on the door to her residence and mailing a
16 copy via certified mail." [RP 78, ¶ 3] Based on these facts, we conclude that
17 Respondent was properly served and was therefore afforded a reasonable
18 opportunity to appear and defend.

19 {9} For the foregoing reasons, we reverse and remand this case to the district court
20 to apply the UCCJEA to determine the proper jurisdiction of this matter.

1 {10} IT IS SO ORDERED.

2 
3 GERALD E. BACA, Judge

4 WE CONCUR:

5 
6 JENNIFER L. ATTREY, Judge

7 
8 MEGAN P. DUFFY, Judge