

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

LEJEANA SUE SHERMAN and	:	
WARREN W. SHERMAN,	:	
Plaintiffs	:	
	:	
v.	:	No. 04-20,169
	:	
LANA M. SHERMAN and	:	
GEORGE STOJKOVICH,	:	
Defendants	:	

OPINION

This case involves Preliminary Objections to the custody complaint filed by Mother and Father to the Maternal Grandparents’ petition for primary physical custody. Both sets of preliminary objections raise the issue of standing and lack of jurisdiction.

The preliminary objections regarding standing will be dismissed, as grandparents have automatic standing. See R.M. v. Baxter, 777 A.2d 446 (Pa. 2001) and Malone v. Stonerook, 2004 Pa. Super. LEXIS 162 (2004).

Regarding jurisdiction, Pennsylvania clearly has jurisdiction under 23 Pa.C.S.A. §5344(a)(1)(ii) and probably under (2) as well.¹ However, it is highly doubtful this court has venue under Rule 1915.2 and 23 Pa.C.S.A. §5364 (Intrastate application of §5344.) See Dincer v. Dincer, 701 A.2d 210 (Pa. 1997) (visitation with grandparents in state not enough to establish jurisdiction under §5344(a)(2)). However, the plaintiffs will have an opportunity to introduce evidence regarding the child’s connections to this county at an upcoming hearing. It is noted, however, that as stated in the Comment to §5344, the child must have maximum rather than minimum contact with the state (or county).

¹ Of course, Massachusetts may also have jurisdiction under §5344(a)(2).

ORDER

AND NOW, this _____ day of April, 2004, it is hereby ordered that: (1) Count 1 of the Preliminary Objections filed by Lana Sherman is dismissed, (2) Count 1 of the Preliminary Objections filed by George Stojkovich is dismissed, and (3) The Preliminary Objections to George Stojkovich's Preliminary Objections are dismissed. A factual hearing shall be held on May 19, 2004 at 3:30 p.m., in Courtroom #5, to resolve the issue of venue.

BY THE COURT,

Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Richard A. Gray, J.
David Irwin, Esq.
Janice Yaw, Esq.
Bradley Hillman, Esq.
Gary Weber, Esq.