

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA**

<b>MF,</b>		<b>: No. 10-21,595</b>
	<b>Plaintiff</b>	<b>:</b>
		<b>:</b>
<b>vs.</b>		<b>: CIVIL ACTION - LAW</b>
		<b>:</b>
<b>NF,</b>		<b>:</b>
	<b>Defendant</b>	<b>: CUSTODY</b>

**ORDER**

AND NOW, this 3<sup>rd</sup> day of August, 2012, this order is entered after argument regarding Mother, NF's, Objection to Jurisdiction filed July 24, 2012 in response to Father, MF's, Expedited Petition for Modification of Existing Order filed July 13, 2012. Present for the argument was Father; counsel for Father, John K. Weston, Esquire; and counsel for Mother, Trisha Hoover, Esquire. Mother was not present for the hearing. Furthermore, it was brought to the attention of the Court that the Objection to Jurisdiction was filed without the input of Mother. Mother was notified regarding Father's petition and the objection to jurisdiction via voice mail message. At the time set for the hearing it is uncertain as if Mother received the message as her counsel has had no contact with her or her power of attorney. Mother's Counsel indicated that she did have conversation with Mother about filing an objection when Father filed his original Petition to Modify Custody in February of 2012. That petition was ultimately dismissed due to Father's failure to appear.

Counsel for Mother argues that this Court is without jurisdiction to hear the custody modification because Mother and the children have lived in Italy for greater than

six (6) months. Conversely, Father argues that the Court has continuing and exclusive jurisdiction because of the initial custody order.

***Procedural History***

Mother and Father were married in Palermo, Italy in September of 1997. The parties resided together in Pennsylvania from September 1997 until they separated in 2010. On December 9, 2010 Father filed a complaint for custody. At that time Lycoming County Pennsylvania had jurisdiction as the parties had resided in the county for at least six (6) months immediately preceding the filing. The parties settled the custody dispute and on August 9, 2011 the stipulation was made Order of Court. The Order allowed Mother to relocate to Italy with the children and gave Father the month of July every year providing he did not relocate to Italy as well.

On February 21, 2012 Father filed a Petition for Modification of Custody. This matter was scheduled for a conference on April 5, 2012 At Father's request the conference was continued to May 4, 2012. On May 4, 2012 Father and his counsel failed to appear at the conference. Mother's counsel appeared. The petition was dismissed due to Father's failure to appear. Father filed an Expedited Petition for Modification of Existing Order on July 13, 2012. As a result of the petition a custody conference was schedule for July 25, 2012. On July 24, 2012 Mother filed Objections to Jurisdiction.

***Mother's Argument***

Counsel for Mother argued that Lycoming County lacks jurisdiction because the children have significant contacts with Italy and no longer with Lycoming County. The

children have lived in Italy with their Mother for almost one year; they have friends and family in Italy; attend school in Italy; and only come to Pennsylvania for visits.

***Father's Argument***

Father argued that the initial and existing custody order is from Lycoming County Pennsylvania and therefore the Court has continuing and exclusive jurisdiction of the case. He further argued that the children have significant connections to Pennsylvania. The children were born in Pennsylvania; lived in Pennsylvania all of their lives minus one year; have family and friends here; the children spend one month a year in Lycoming County; and father still resides in Lycoming County Pennsylvania.

***Analysis***

The Court will initially note that the general policies of the Uniform Child Custody Jurisdiction and Enforcement Act extend to international custody disputes. *Taylor v. Taylor*, 420 A.2d 570, 572 (Pa. Super 1980). "A court of this Commonwealth shall treat a foreign country as if it were a state of the United States for the purpose of applying Subchapter B (relating to jurisdiction) and this subchapter." **23 Pa. C.S. § 5405**

**(a).** 23 Pa. C.S. § 5422 Exclusive continuing jurisdiction states:

(a) GENERAL RULE.-- Except as otherwise provided in section 5424 (relating to temporary emergency jurisdiction), a court of this Commonwealth which has made a child custody determination consistent with section 5421 (relating to initial child custody jurisdiction) or 5423 (relating to jurisdiction to modify determination) has exclusive, continuing jurisdiction over the determination until:

(1) a court of this Commonwealth determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this Commonwealth and that substantial evidence is no longer available in this Commonwealth concerning the child's care, protection, training and personal relationships; or

(2) a court of this Commonwealth or a court of another state determines that the child, the child's parents and any person acting as a parent do not presently reside in this Commonwealth.

Based on 23 Pa. C.S. 5422 due to the fact that Lycoming County is where the initial custody determination originated Lycoming County has exclusive, continuing jurisdiction provided the children have continuing significant connections with the area. “[A] ‘significant connection’ will be found where one parent resides and exercises parenting time in the state and maintains a meaningful relationship with the child.” *Rennie v. Rosenthol*, 995 A.2d 1217, 1222 (Pa. Super 2010). Primary custody is not needed to form significant connections. *Id.* In determining significant connections the Court must look at the nature and quality of the child’s contacts. *Id.* at 1221. *See also Billhime v. Billhime*, 952 A.2d 1174, 1177 (Pa. Super 2008).

In *Rennie*, where the child visited the Commonwealth for 2-3 consecutive weeks during summer vacation; visited for holidays; and had friends and family in the Commonwealth, in addition to her father the court held that there were significant connections. *Id.* at 1222. In the present case the children visit Lycoming County every July for the entire month. The children maintain a meaningful relationship with Father and receive daily telephone calls from him. In addition to Father, the children have family and friends in the area that they have maintained relationships with. The Court finds that the child has significant connections to Lycoming County. Based on the facts that Lycoming County initiated the original and current custody order and that the child

has significant connections to Lycoming County this Court holds that Lycoming County has exclusive, continuing jurisdiction as outlined in 23 Pa. C.S. 5422.

This Court has exclusive continuing jurisdiction and will retain such. Mother's Objection to Jurisdiction is hereby DENIED.

At the close of Argument Father made an oral motion for an interim order in which the children remained in Lycoming County pending the outcome of the custody trial if jurisdiction was found. Father's motion is DENIED. The custody order of August 9, 2011 is in full force and effect; the children are to be returned to Mother in Italy as planned. **A custody conference is scheduled for August 28, 2012 at 2:00 p.m. in room 310.** The parties are advised that as this is a custody conference there will be no formal testimony taken and the children should not be present. Mother's counsel may make arrangements for Mother to testify by phone.

BY THE COURT,

Joy Reynolds McCoy, Judge