

ORIGINAL

NO. 10-0985

IN THE SUPREME COURT OF OHIO

APPEAL FROM
THE COURT OF APPEALS FOR CUYAHOGA COUNTY, OHIO
NO. 93460

RUBY K. PULA, ET AL.

Plaintiff-Appellant

-vs-

ANDRIENNE K. PULA-BRANCH

Defendant-Appellee

MEMORANDUM IN SUPPORT OF JURISDICTION

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Enforcement Agency (CSEA)

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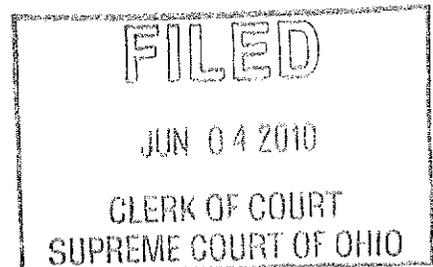


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WHY THIS CASE INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION OR PRESENTS AN ISSUE OF PUBLIC AND GREAT GENERAL INTEREST

This case presents a critical issue impacting nothing less than the reputation of the State of Ohio throughout the nation and in foreign countries. The issue is whether certain interstate paternity and child support actions which were resolved in proceedings before the Cuyahoga County Court of Common Pleas, Division of Domestic Relations (Domestic Relations Court), since the enactment of the Uniform Interstate Family Support Act (UIFSA) are void *ab initio* and therefore of no legal effect.

In reversing the judgment of the trial court in *Ruby K. Pula, et al., v. Adrienne Haunani Pula-Branch*, Cuyahoga App. No. 93460 [*Pula*], the Eighth District Court of Appeals [Eighth District] ruled that the Domestic Relations Court is without subject matter jurisdiction under the UIFSA to adjudicate interstate support cases not related to a divorce, dissolution of marriage, legal separation, or annulment; and further found that interstate orders issued by the Domestic Relations Court and involving unmarried parties are void *ab initio*. The effect of this action invalidates thousands of interstate orders issued by the Domestic Relations Court for paternity and support since the enactment of the UIFSA, which became effective in Ohio on January 1, 1998.

The decision of the Eighth District threatens the finality and validity of thousands of cases decided by the Domestic Relations Court as well as any related criminal or civil actions instituted in reliance on those orders. This decision means, for example, for any case in which the Domestic Relations Court, pursuant to an interstate petition, previously established paternity for a child born to unmarried parents, any further actions taken in reliance on the existence of that legal parent-child relationship is also void. Also, the decision will impact not only child support collection and distribution,

but also recoupment of public assistance dollars through support collection and distribution, subsequent rulings related to inheritance rights and estate distribution, and allowance of derivative social security benefits for a minor child on behalf of a disabled parent. The cases for which the statute of limitations has not expired would have to be re-filed in the Juvenile Court, creating an overwhelming backlog. The timeframe it would take to re-establish these support orders would be enormous, adversely impacting thousands of children and creating economic hardship for their custodians.

The decision threatens the validity of actions taken and the reliance placed upon these orders, not only by those within the State, but also throughout the nation and in foreign countries. The impact of the Eighth District's decision will be felt by the Ohio judicial system as a whole as other jurisdictions find out months or years after they have erroneously relied on Ohio judgments, to their detriment, and thus will have little to no confidence in the integrity of orders issuing from our courts and administered by our state child support system.

Moreover, the decision fails to recognize the various statutory provisions under Ohio law which grant subject matter jurisdiction to the Cuyahoga County Domestic Relations Court to adjudicate all interstate support actions under the UIFSA, including those involving unmarried parties.

The considerations here which raise a substantial constitutional question or make this case one of public or great general interest are considerations that bring with them immeasurably broad significance. As indicated above, the decision of the reviewing court in this matter will not be limited to issues of child support, but may well impact legal proceedings spanning the breadth of the legal system and may well prompt re-

evaluation of legal and financial rights long thought to have been vested and resolved.

To promote the purposes and preserve the integrity of the legal system, to assure due process to all parties of interstate paternity and child support proceedings, to recognize and give proper respect to the concept of finality in resolving legal issues, this Court must grant jurisdiction to hear this case and review the decision of the court of appeals.

STATEMENT OF THE CASE AND FACTS

This cause arises from proceedings involving an interstate petition under the UIFSA, originating in Hawaii, which petition sought the establishment of a child support order against Adrienne Haunani Pula-Branch for K.G.P., a minor child born out of wedlock. The support order was on behalf of Ruby K. Pula, the child's custodian and maternal grandmother. The UIFSA petition was filed on November 18, 2008 in the Cuyahoga County Court of Common Pleas, Domestic Relations Division [Domestic Relations Court], where it was accepted for docketing and resolution. Thereafter, hearings were held and a trial court magistrate issued a decision in which a current child support order was established. The CSEA filed objections due to the failure of the Court to include income information for the child's father when calculating the child support guideline figures, but said objections were overruled, and the magistrate's decision approved and ordered by the Court.

The CSEA filed a timely appeal from this order, challenging the Domestic Relations Court's failure to include appropriate income figures for both parents when calculating the current child support obligations. During the pendency of said appeal, the Eighth District, *sua sponte*, raised the issue of the Domestic Relations Court's jurisdiction over the underlying action. After briefing on the issue, the Eighth District,

on March 11, 2010, issued a decision reversing and remanding the Domestic Relations Court's decision, with instructions that the lower court vacate its order for lack of subject matter jurisdiction over the action. The CSEA filed a Motion for Reconsideration in which it argued that the decision of the Eighth District was erroneous and that the Domestic Relations Court in fact did possess jurisdiction over the matter in question. Said Motion for Reconsideration was denied. On April 21, 2010 the Eighth District journalized its decision. The CSEA then filed with the Eighth District a Motion to Stay Judgment, pending the filing with this Court a Notice of Appeal, a Motion to Stay and Memorandum in Support of Jurisdiction. The Eighth District denied said motion as moot. The CSEA now brings the present appeal to challenge the validity of the Eighth District's ruling, asserting that, notwithstanding the holding of the Eighth District, the Domestic Relations Court does possess subject matter jurisdiction over the action in question and all similar actions under the UIFSA.

In support of its position on these issues, the Appellant/CSEA presents the following argument.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

PROPOSITION OF LAW: AN INTERSTATE ACTION BROUGHT IN OHIO, WITH OHIO AS THE RESPONDING STATE PURSUANT TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA) AND INVOLVING NON-MARRIED PARTIES, MAY BE BROUGHT APPROPRIATELY IN THE DOMESTIC RELATIONS DIVISION OF THE CUYAHOGA COUNTY COURT OF COMMON PLEAS.

The order being appealed in this matter resulted from an interstate action brought under the UIFSA upon a request sent to Ohio from Hawaii for the establishment of a child support order. The parties to the action in question were never married, and an order was sought for current support of the minor child listed in the petition. It is respectfully submitted that such an action may be filed in either the domestic relations division or the juvenile division of the Cuyahoga County Court of Common Pleas, and that the Domestic Relations Court did have proper jurisdiction over the action in this matter, notwithstanding the holding of the reviewing court.

Foremost, the CSEA/Appellant asserts that the Domestic Relations Court possesses subject matter jurisdiction under the UIFSA to adjudicate all interstate support matters, including those involving unmarried parties. A reading of R.C. 3115.01(X) indicates that a tribunal is defined under the UIFSA as any trial court of record of this state. Added to that, R.C. 3115.52(A) provides that a tribunal of this state may serve as a responding tribunal under the UIFSA to determine the existence or non-existence of a parent-child relationship. Most paternity actions under the UIFSA involve parties who are unmarried. Since the Domestic Relations Court is a trial court of record of this state, Appellant asserts that these Revised Codes sections, all provisions under the UIFSA, vest the Domestic Relations Court with subject matter jurisdiction to adjudicate interstate support cases involving unmarried parties.

Moreover, the word "tribunal" or "tribunal of this state" appears some forty-plus times throughout the UIFSA statutes. Appellant asserts that if the Ohio Legislature had not intended for any trial court of this state to have subject matter jurisdiction to adjudicate all matters under the UIFSA, it would not have placed R.C. 3115.01(X) within the definitional section under the UIFSA. Nor would there have been need to refer

generically to “tribunal” or “tribunal of this state” throughout the UIFSA statutes. The CSEA argues that the placement of the definition “tribunal” in the UIFSA section of the Revised Code, as well as the definition of “any trial court of record of this state”, is evidence that the Ohio Legislature intended both that the Domestic Relations Court, as a trial court of record, have subject matter jurisdiction over all cases under the UIFSA, and be an authorized responding tribunal, as envisioned in R.C. 3115.01(R).

Appellant also asserts that the UIFSA is a remedial statute. *Beam v. Beam* (2002) WL 133189 (Ohio App. 2nd Dist) & *Dunn v. Dunn* (2000), 137 Ohio App.3d 117 (Ohio App. 12th Dist) (Discussing the URESA, predecessor to the UIFSA); see also *Department of Human Services on Behalf of Young v. Leifester*, 721 A.2d 189 (Me. 1998). R.C. 1.11 provides that remedial laws and all proceedings under them shall be liberally construed in order to promote their object and assist the parties in obtaining justice. Moreover, this Court has held that statutes regulating procedure, which applies to the UIFSA, are clearly remedial in their nature, and such sections shall be liberally construed and applied to affect their self-evident purpose. *Wellston Iron Furnace Co. v. Rinehart* (1923), 108 Ohio St. 117.

Additionally, Appellant asserts that the UIFSA, an interstate support statute enacted by all the states, was intended to provide a uniform method for handling interstate support obligations and to provide out-of-state petitioners with a simplified procedure to present their case. *Gowdey v. Gowdey*, 825 So. 67 (Miss. Ct. App. 2002) and *Tate v. Fenwick*, 766 N.E.2d 423 (Ind. Ct. App. 2002). See also *Yusuf v. Omar*, 2006 WL 3703679 (Ohio App. 10th Dist) and *Slaughter v. Slaughter*, 2009 WL 3862411 (Ohio App. 8th Dist) (“While the Act’s purpose is no longer explicit, the UIFSA similarly manifests the Ohio legislature’s intent to provide a practical and efficient method for

enforcing or establishing interstate support obligations.” *Slaughter, supra*, citing *Yusuf, supra*).

The following provides significant historical context. The predecessor to the UIFSA was the Uniform Reciprocal Enforcement of Support Act (URESA), which act was also codified at Chapter 3115. of the Revised Code. Former URESA laws explicitly provided that “[j]urisdiction of all proceedings under Sections 3115.01 to 3115.22, inclusive, of the Revised Code, is vested in any trial court of record” R.C. 3115.08(B) [134 v H 504, eff. 10-27-71] and R.C. 3115.01(B)(4), [142 v H 231, eff. 10-5-87]. Prior to the enactment of the UIFSA, the vast majority of interstate support cases in Cuyahoga County were handled by the Domestic Relations Court under the URESA. On January 1, 1998 when the UIFSA became effective, the Domestic Relations Court had thousands of interstate support cases on its docket, the majority of which involved unmarried parties. R.C. 3115.57 specifically provided that orders issued prior to the effective date of the UIFSA, under URESA, remained “in full force and effect as issued, but may be modified or terminated” pursuant to the terms of the UIFSA. R.C. 3115.57 [1997 H 352, eff. 1-1-98]. Nothing in Ohio’s adoption of the UIFSA suggested that the Domestic Relations Court’s subject matter jurisdiction under the URESA disappeared with the adoption of the UIFSA.

In the present matter, the UIFSA petition was filed in the Domestic Relations Court, where it was accepted for docketing and resolution. Implicit in this acceptance was a determination by the Domestic Relations Court that it had proper jurisdiction over the action. “In the absence of a patent and unambiguous lack of jurisdiction, a court having general subject-matter jurisdiction can determine its own jurisdiction, and a party challenging that jurisdiction has an adequate remedy by appeal.” *State ex rel.*

Shimko v. McMonagle (2001), 92 Ohio St.3d 426, 428. Had the court determined that it was not the appropriate forum for the action, it was duty-bound to forward the action to the appropriate court. The relevant statute under the UIFSA provides:

If a complaint or comparable pleading is received by an inappropriate tribunal or support enforcement agency of this state, the tribunal or support enforcement agency shall forward the pleading and accompanying documents to an appropriate tribunal or support enforcement agency in this state or the appropriate tribunal of another state and notify the plaintiff where and when the pleading was sent.

R.C. 3115.17. As the *Pula* case was not forwarded to another court, the Domestic Relations Court determined that it had jurisdiction over the proceedings and was an appropriate tribunal. Given the specific grant of jurisdiction to handle interstate cases under the URESA, combined with the language of the Revised Code, it is understandable that the Domestic Relations Court concluded that it has jurisdiction of all interstate matters under the UIFSA. Such actions had for years been litigated in the Domestic Relations Court.

In addition to the UIFSA statutes, Appellant asserts that the Ohio legislature's intent to convey subject matter jurisdiction to the Domestic Relations Court in all matters under the UIFSA is demonstrated further by its conveyance of concurrent jurisdiction with the juvenile court over these matters. R.C. 2151.23.

R.C. 2151.23(A) states:

The juvenile court has **exclusive original jurisdiction** under the Revised Code as follows:

(11) Subject to divisions (G) and (V) of section 2301.03 of the Revised Code, to hear and determine a request for an order for the support of any child **if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation**, a criminal or civil action involving an allegation of domestic violence, **or an**

action for support brought under Chapter 3115. of the Revised Code;

R.C. 2151.23(A)(11) [Emphasis added]. The language contained therein makes it plainly evident that juvenile court does not have exclusive jurisdiction over an UIFSA action, since it explicitly excludes from its exclusive original jurisdiction both those support requests that are “ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation” and “action[s] for support brought under Chapter 3115. of the Revised Code.” *Id.* This exclusion from the juvenile court’s exclusive jurisdiction necessarily implies that such an action may also be brought in another forum such as a domestic relations court. By contrast, R.C. 2151.23(B) states:

Except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, the juvenile court has **original jurisdiction** under the Revised Code:

(3) Under the uniform interstate family support act in Chapter 3115. of the Revised Code;

R.C. 2151.23(B)(3) [Emphasis added]. Once again, the pronouncement that juvenile court has original (but not exclusive) jurisdiction over interstate actions under the UIFSA expressly means that such actions may also be brought in another forum. The domestic relations division is the only other court division that regularly deals with issues of paternity and support [see, e.g., R.C. 3109.05; R.C. 3111.06], so common sense would dictate that the domestic relations division is the logical choice of alternative for the proper filing of such an action. The position that such actions are appropriately subject to the domestic relations court’s jurisdiction is further strengthened by a reading of R.C. 2151.23(B) along with those sections cited in exception to the general provisions thereof, namely R.C. 2301.03(G) and (I).

R.C. 2301.03(G) recognizes that in Richland County, the domestic relations division of the court of common pleas has concurrent jurisdiction with the juvenile division, *inter alia*, “to hear and determine a request for an order for the support of any child **if the request is not** ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation *** or an action for support brought under Chapter 3115. of the Revised Code.” [Emphasis added.] This paragraph also directs that, unless juvenile court has **exclusive** original jurisdiction, **all** paternity and child support actions are to be handled by the domestic relations division, and, in apparent recognition of the concurrent jurisdiction over UIFSA cases, mandates that **all** UIFSA actions be assigned to the domestic relations division.

Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, **the judge of the division of domestic relations shall be assigned and hear** all cases pertaining to paternity or parentage, the care, custody, or control of children, parenting time or visitation, child support, or the allocation of parental rights and responsibilities for the care of children, all proceedings arising under Chapter 3111. of the Revised Code, **all proceedings arising under the uniform interstate family support act contained in Chapter 3115. of the Revised Code**, and all post-decree proceedings arising from any case pertaining to any of those matters.

Id. [Emphasis added.]

R.C. 2301.03(I) does the same for Summit County as does paragraph (G) of the section for Richland County. R.C. 2301.03(I) provides that, in Summit County, unless juvenile court has exclusive original jurisdiction, **all** paternity and child support actions are to be handled by the domestic relations division, and, in apparent recognition of the concurrent jurisdiction over UIFSA cases, mandates that **all** UIFSA cases be assigned to the domestic relations division.

Except in cases that are subject to the exclusive original jurisdiction of the juvenile court, the judges of the division of

domestic relations shall have assigned to them and hear all cases pertaining to paternity, custody, visitation, child support, or the allocation of parental rights and responsibilities for the care of children and all post-decree proceedings arising from any case pertaining to any of those matters. **The judges of the division of domestic relations shall have assigned to them and hear all proceedings under the uniform interstate family support act contained in Chapter 3115. of the Revised Code.**

Id. [Emphasis added.]

By contrast, R.C. 2301.03(L), which addresses Cuyahoga County, is silent as to the jurisdiction of domestic relations court over UIFSA actions. Said provision reads, in pertinent part, as follows:

(L)(1) In Cuyahoga county, the judges of the court of common pleas whose terms begin on January 8, 1961, January 9, 1961, January 18, 1975, January 19, 1975, and January 13, 1987, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Cuyahoga county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason.

Id. While paragraph (L)(1) does not specifically address the jurisdiction of the domestic relations division in Cuyahoga County as it relates to UIFSA cases, this does nothing to obviate the implicit recognition contained in R.C. 2151.23 that the juvenile court division does not have exclusive jurisdiction over UIFSA cases. In fact, when the various statutory provisions are read *in pari materia*, the statutory provisions arguably stand for the opposite conclusion: that, barring an explicit grant of exclusive jurisdiction as is done in Richland and Summit Counties pursuant to R.C. 2301.03(G) and (I), an UIFSA action may appropriately be brought in either the juvenile division or the domestic relations division of an Ohio common pleas court.

While the appellate court in *Pula* focuses on that portion of R.C. 2301.03(L) which recognizes that the Cuyahoga County Domestic Relations Court has “all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases, except in cases that are assigned to some other judge of the court of common pleas for some special reason”, this portion of the statute should not be read as limiting the jurisdiction of the Domestic Relations Court. Rather, it should be read as a special provision which recognizes that, in some instances, the enumerated cases may be assigned elsewhere for “some special reason”, in much the same way that paragraphs (G) and (I) contain special provisions which are an exception to the general jurisdictional provisions otherwise applicable to the various divisions of the court of common pleas.

Clearly, the Eighth District’s interpretation of R.C. 2301.03(L)(1) as a limitation of the Domestic Relations Court’s jurisdiction is in conflict with the provision of the statute that grants its judges the same power and jurisdiction as other judges of the Cuyahoga Common Pleas Court.

R.C. 1.49 provides that if a statute is ambiguous, the court, in determining the intention of the legislature, may consider the following: 1) The object sought to be attained; 2) The circumstances under which the statute was enacted; 3) The legislative history; 4) The common law or former statutory provisions, including laws upon the same or similar subjects; 5) The consequences of a particular construction; and 6) The administrative construction of the statute. Moreover, case law provides that if the construction and interpretation of statutory language reveals a statute to be facially ambiguous, it is the function of courts to construe statutory language to effect a just and reasonable result. *Cuyahoga Falls v. General Mills Restaurants, Inc.*, 111 Ohio App.3d

635 (1996)(Ohio App. 9th Dist). By construing R.C. 2301.03(L)(1) in a manner that creates a contradiction within the statute and reaching a result that in its effect invalidates thousands of paternity and support orders, the Eighth District did not effectuate a just and reasonable result in this matter.

It is of significance here that the Eighth District has previously held that the policy of this state requires, in sum, that the parent-child relationship be shielded from the unsettling effects of further judicial inquiry, and that re-litigation of parentage be barred, as a general rule, in subsequent actions. *Lewis v. Chapin [Lewis]*, 93 Ohio App.3d 695 (1994)(Ohio App. 8th Dist.). The *Pula* decision, if left unchanged by this Court, not only dis-establishes parent-child relationships, it creates the potential need to re-litigate parentage and child support in thousands of cases. Although an exact number is unknown, a good number of the cases affected by *Pula* involve children now over the age of majority, who are barred forever from pursuing claims for child support. *Nokes v. Nokes* (1976), 47 Ohio St. 2d 1. Although fewer in number, there are also cases involving children over the age of 23 who also are barred forever from pursuing paternity claims, pursuant to R.C. 3111.05. In short, *Pula* overturns interstate cases numbering in the thousands, over a span of 12 years, creating “exceptional circumstances *** seriously affect[ing] the basic fairness, integrity, or public reputation of the judicial process itself.” *Goldfuss, supra*. Stated mildly, the result is unconscionable and creates irreparable harm. This resulting harm includes the kind specifically discussed in *Lewis, supra*, in that the *Pula* decision undermines vested rights of custodians and the respective children in cases establishing paternity and the accompanying orders for child support.

The impact of this one decision also affects potentially all 50 states and foreign countries, which relationship with the State of Ohio and thereby the United States Government is affected by Hague Conventions and resulting Treaties. As parties and jurisdictions worldwide learn of the decision and then realize its impact on their individual cases and lives, the credibility of Ohio's court system would be eroded, and the public's trust in the judicial system generally would be damaged irreparably.

Given the enormity of the harm that will result if the Eight District's decision in *Pula* is upheld, it is incumbent upon this honorable Court to assert jurisdiction in this matter and find that the judicial interstate orders out of the Domestic Relations Court affected by this decision are valid and enforceable.

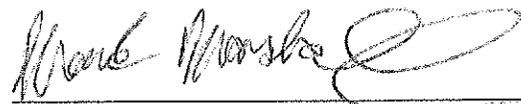
CONCLUSION

For the reasons discussed above, this case raises a substantial constitutional question or is a case of public and great general interest. The Appellant requests that this Court grant jurisdiction and allow this case so that the important issues presented will be reviewed on the merits.

Respectfully submitted,

William D. Mason,
Cuyahoga County Prosecutor

By:



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CERTIFICATE OF SERVICE

A copy of the foregoing Notice of Appeal has been mailed this 3rd day of June, 2010 to Adrienne Huanani-Branch, 3010 West 115th Street, Apt. 1, Cleveland, Ohio 44111.

A handwritten signature in black ink, appearing to read "Mark Marshall", written over a horizontal line.

Mark Marshall (#0056126),
Assistant Prosecuting Attorney

APR 21 2010

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93460

RUBY K. PULA, ET AL.

PLAINTIFFS-APPELLANTS

vs.

ADRIENNE HAUNANI PULA-BRANCH

DEFENDANT-APPELLEE

**JUDGMENT:
REVERSED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. D-323885

BEFORE: McMonagle, P.J., Stewart, J., and Cooney, J.

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FILED AND JOURNALIZED
PER APP.R. 22(C)

APR 21 2010

GERALD E. FUERST
CLERK OF THE COURT OF APPEALS
BY GMB DEP.

CA09093460

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ANNOUNCEMENT OF DECISION
PER APP.R. 22(B) AND 26(A)
RECEIVED

MAR 11 2010

GERALD E. FUERST
CLERK OF THE COURT OF APPEALS
BY GMB DEP.

N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), or a motion for consideration en banc with supporting brief, per Loc.App.R. 25.1(B)(2), is filed within ten days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. 2.2(A)(1).

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CHRISTINE T. McMONAGLE, P.J.:

This case originated as an interstate petition for child support filed by the state of Hawaii under the Uniform Interstate Family Support Act, codified in Ohio at R.C. 3115.01 et seq. The petition was brought on behalf of Ruby K. Pula, maternal grandmother of minor child K.G.P., and sought an order of support from Adrienne Haunani Pula-Branch, the child's mother. K.G.P. was born in Hawaii and lives there with Pula; his mother lives in Cleveland. K.G.P.'s parents never married.

Counsel for Cuyahoga Support Enforcement Agency ("CSEA") filed the petition in the domestic relations division of the Cuyahoga County Common Pleas Court. Pula-Branch did not appear at the subsequent hearing before the magistrate, although she was properly served. At the hearing, CSEA provided information about both the purported father, George E. Gates, and Pula-Branch's incomes for purposes of determining the mother's support obligation.

The magistrate subsequently issued a decision ordering Pula-Branch to pay \$61 per month in child support (\$51 current child support plus \$10 arrearage support). The magistrate's decision found that the birth certificate submitted with the petition identified her as the child's mother. (Although not noted by the magistrate, the birth certificate also identified Gates as the child's father.) The magistrate further found that according to the petition, paternity

had been established.¹ Nevertheless, the magistrate concluded that no evidence verifying the establishment of paternity had been submitted to the court. The magistrate concluded that without evidence verifying paternity, it would be inequitable to include the father's income in any child support calculation.

The trial court subsequently overruled CSEA's objections to the magistrate's decision and adopted the decision in its entirety. CSEA appealed from the trial court's decision.

This court sua sponte ordered CSEA to brief the issue of whether the domestic relations court had subject-matter jurisdiction of this matter, because the parents never married, and the person seeking support was not the parent of the child. Because the domestic relations court lacked jurisdiction, we reverse with instructions to the domestic relations court to vacate its order.

I.

"Jurisdiction' means 'the court's statutory or constitutional power to adjudicate the case.' The term encompasses jurisdiction over the subject matter and over the person. Because subject-matter jurisdiction goes to the power of the court to adjudicate the merits of a case, it can never be waived and may be challenged at any time. It is a 'condition precedent to the court's ability to hear

¹Section VIII of the Child Support Enforcement Transmittal form from the Maui branch of Hawaii's Child Support Enforcement Agency indicated that a birth certificate establishing paternity was attached to the petition.

the case. If a court acts without jurisdiction, then any proclamation by that court is void.” *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, 806 N.E.2d 992, ¶11 (internal citations omitted).

II.

Under R.C. 3115.16(B)(1) of the Uniform Interstate Family Support Act, when a “responding tribunal” in Ohio receives a complaint or comparable pleading from an initiating state (in this case Hawaii), it may “to the extent otherwise authorized by law * * * issue or enforce a support order.”

CSEA contends that the domestic relations court was the proper “responding tribunal” in this case because R.C. 3115.01(R) defines “responding tribunal” as “the authorized tribunal in a responding state” and R.C. 3115.01(X) defines “tribunal” as “any trial court of record in this state * * *.” In light of these definitions, CSEA contends that it may bring an action under the Uniform Interstate Family Support Act in any Ohio court, and therefore the domestic relations court had proper jurisdiction of this matter. We disagree, because the statute provides that the responding tribunal must be an “authorized” tribunal and may act only “to the extent otherwise authorized by law.” Although in some counties, a domestic relations court may be an appropriate “responding tribunal” under the Uniform Interstate Family Support Act and authorized to hear cases such as this one, where the parents never married, the domestic relations court

of *Cuyahoga County* is not authorized to hear and decide cases that do not involve issues relating to a divorce, dissolution, legal separation, or annulment of a marriage.

The Ohio Constitution vests the judicial power of the state in "courts of common pleas and divisions thereof * * * as established by law." Section 1, Article IV, Ohio Constitution. The Ohio General Assembly defines the jurisdiction of the courts of common pleas and their respective divisions. Sections 4(A) and (B), Article IV, Ohio Constitution; *Walters v. Johnson*, 5th Dist. No. 01CA107, 2002-Ohio-2680, citing *Seventh Urban, Inc. v. Univ. Property Dev., Inc.* (1981), 67 Ohio St.2d 19, 423 N.E.2d 1070.

R.C. 3105.011 sets forth the jurisdiction of the domestic relations divisions of the common pleas courts as follows: "The court of common pleas[,] including divisions of courts of domestic relations, has full equitable powers and jurisdiction appropriate to the determination of all domestic relations matters." "This section limits the jurisdiction of the domestic relations division to the determination of domestic relations matters." *Lisboa v. Karner*, 167 Ohio App.3d 359, 2006-Ohio-3024, 855 N.E.2d 136, ¶6.

Although R.C. 3105.011 does not define "domestic relations matters," the Ohio General Assembly set forth the jurisdiction of the domestic relations divisions of the various common pleas courts in Ohio in R.C. 2301.03. As

recognized by the Fifth District, "the Ohio General Assembly was not consistent in its enabling language [of R.C. 2301.03] and tailored the jurisdictions of the domestic relations and juvenile courts to the needs and/or desires of the specific county." *Walters*, supra. Thus, the jurisdiction of Ohio's domestic relations courts may vary from county to county.

With respect to Cuyahoga County, R.C. 2301.03(L)(1) provides that domestic relations court judges in Cuyahoga County "have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases * * *." Thus, with respect to the domestic relations court of Cuyahoga County, "domestic relations matters" within the purview of R.C. 3105.011 is limited to those matters set forth in R.C. 2301.03(L)(1).

The Franklin County Court of Appeals reached a similar conclusion in *Levy v. Levy* (May 2, 1978), 10th Dist. No. 77AP-918. In that case, Doreen Levy cohabitated with, but was not married to, Simon Levy. She sought an equitable division of property between them, which included considering the substantial money and services she had provided to Simon and his company. She brought her claim in domestic relations court, and the trial court dismissed for lack of jurisdiction. The appeals court affirmed. It noted that R.C. 3105.011 confers jurisdiction over "domestic relations matters" in the domestic relations divisions of the common pleas courts. It further found that R.C. 2301.03(A) defines the

jurisdiction of the domestic relations division of the Franklin County Common Pleas Court as including: "all powers relating to juvenile courts * * * all paternity proceedings * * * and all divorce, alimony, and annulment cases." It concluded that with respect to the domestic relations court in Franklin County, "domestic relations matters' within the purview of R.C. 3105.011 [are] limited to those matters set forth in R.C. 2301.03(A)." Thus it concluded that because Doreen's claim did not involve a "domestic relations matter," it could not be brought in the domestic relations court.²

Likewise here, as the interstate petition for child support was not related to a divorce, dissolution of marriage, legal separation, or annulment, the only matters per R.C. 2301.01(L)(1) over which the Cuyahoga County domestic relations judges have jurisdiction, the case did not constitute a "domestic relations matter" within the contemplation of R.C. 3105.011. Accordingly, the domestic relations court did not have jurisdiction over the case³ and, hence, its

²Conversely, in *Walters*, supra, the Fifth Appellate District held that the domestic relations court of Licking County *did* have jurisdiction to hear a custody matter involving a child of unmarried parents because the enabling legislation of R.C. 2301.03(S), setting forth the jurisdiction of the Licking County Domestic Relations Court, provided that the court had jurisdiction to determine "the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation."

³"[T]he domestic relations court has no jurisdiction with reference to an award of child support which is not given to it by statute * * *." *Bantz v. Bantz* (Feb. 10, 1993), 2nd Dist. No. 92-CA-0073.

support order was void ab initio. We therefore reverse and remand with instructions to the domestic relations court to vacate its order.⁴

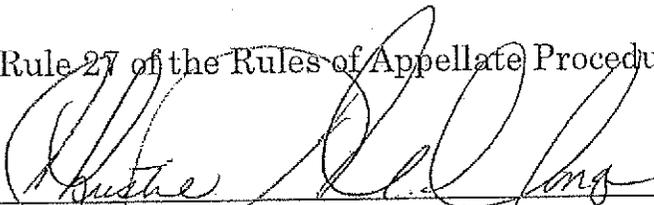
Reversed.

Costs waived.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.



CHRISTINE T. McMONAGLE, PRESIDING JUDGE

MELODY J. STEWART, J., and
COLLEEN CONWAY COONEY, J., CONCUR

⁴Under R.C. 2151.23(B)(3), which provides that the juvenile court has original jurisdiction under the Uniform Interstate Family Support Act, this case would be properly brought in juvenile court.

The State of Ohio, }
Cuyahoga County. } ss.

I, GERALD E. FUERST, Clerk of the Court of

Appeals within and for said County, and in whose custody the files, Journals and records of said Court are required by the laws of the State of Ohio, to be, kept, hereby certify that the foregoing is taken and copied

from the Journal Entry, Volume 702 Page 924 Dated: 4-21-10 CA 93460

of the proceedings of the Court of Appeals within and for said Cuyahoga County, and that the said foregoing

copy has been compared by me with the original entry on said Journal Entry Vol. 702 Page 924

Dated: April 21, 2010 and that the same is correct transcript thereof.

In Testimony Whereof, I do hereunto subscribe my name officially, and affix the seal of said court, at the Court House in the City of Cleveland, in said County, this 2nd day of June A.D. 20 10

GERALD E. FUERST, Clerk of Courts

By [Signature] Deputy Clerk

