



IN THE COURT OF APPEALS OF IOWA

IN RE THE MARRIAGE OF VIRGINIA SUE BAYSDEN AND ROGER LANE BAYSDEN

UPON THE PETITION OF
VIRGINIA SUE BAYSDEN,

Petitioner-Appellant,

AND CONCERNING
ROGER LANE BAYSDEN,

Respondent-Appellee.

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Filed May 25, 1982

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2-66392 &
2-66967

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Appeal from Polk District Court Rodney Ryan and Gene L. Needles, Judges.

Petitioner-wife appeals two orders finding her in contempt of court for violation of visitation provisions of the parties' dissolution decree, contending the trial court did not have personal jurisdiction over her to enforce the decree via contempt proceedings. Petitioner-wife was properly served with personal notice of the contempt proceedings under section 665.7, The Code 1979, which conferred personal jurisdiction over her. **AFFIRMED.**

Jerry L. Jones, Ames, for petitioner-appellant.

John A. Templer, Jr., and Lorna A. Gilbert of Davis, Hockenberg, Wine,
Brown & Koehn, Des Moines, for respondent-appellee.

Heard en banc.

SNELL, J.

Petitioner-wife appeals two orders finding her in contempt of court for violation of visitation provisions of the parties' dissolution decree, contending the trial court did not have personal jurisdiction over her to enforce the decree via contempt proceedings. We hold the petitioner-wife was properly served with personal notice of the contempt proceedings under section 665.7, The Code 1979, which conferred personal jurisdiction over her.

A decree dissolving the marriage of petitioner-appellant, Virginia Sue Baysden, and respondent-appellee, Roger Lane Baysden, was entered by the Polk County District Court on December 18, 1978. The parties have one child, Roger Lane Baysden, II, born August 23, 1973. A stipulation by the parties providing for joint custody and summer visitation was incorporated by the court into the decree.

On October 24, 1980, Roger filed an application for an order to show cause why Virginia should not be held in contempt for failure to abide by the terms of the decree. The same day, the court entered its order scheduling a hearing on Roger's application for November 7, 1980. Virginia was personally served in Hawaii on October 27, 1980. On October 31, 1980, Virginia filed a motion for continuance. The court sustained the motion and then rescinded that order on November 12, 1980. In the November 12 order, the court requested the parties to file briefs on the court's subject-matter jurisdiction in light of the fact the child had been absent from the state for over twelve months. The hearing was reinstated for November 24, 1980.

Virginia did not personally appear at the November 24, 1980, hearing, but she was represented by counsel. The court found her to be in contempt of court for willful failure to comply with the decree, specifically, for her failure to return the

child to Roger for summer visitation. Sentencing was scheduled for December 22, 1980. The court also ordered the return of the child to Roger for Christmas vacation by December 20, 1980.

Virginia did not appear at the December 22 sentencing hearing, nor was the child returned to Roger. On January 13, 1981, the court sentenced her to serve thirty days in the Polk County Jail. On February 11, 1981, Virginia filed her notice of appeal from the January 13, 1981, order.

On March 12, 1981, Roger filed another application for contempt citation for Virginia's failure to comply with the court's order requiring return of the child to Roger for Christmas visitation. Virginia was personally served in Hawaii on March 16, 1981. At the hearing on March 20, 1981, Virginia, through counsel, filed a special appearance contesting the court's personal jurisdiction. The special appearance was overruled and Virginia was given time to respond. On June 8, 1981, the court found Virginia to be in contempt for failure to comply with the Christmas vacation visitation provisions and sentenced her to an additional thirty days in jail and assessed \$2949.03 in attorney fees against her.

Virginia appealed that order. On September 28, 1981, the supreme court consolidated both of her appeals on the contempt citations. She contends the court did not have personal jurisdiction over her since she was a nonresident of Iowa and not subject to the jurisdiction of Iowa courts.

We are of the opinion Virginia's appeals are without merit.

Initially, although Virginia filed notice of appeal, rather than a petition for writ of certiorari, we will treat the case as if she had filed a petition for writ of certiorari. Iowa R. App. P. 304; In re Marriage of Welscher, 274 N.W.2d 369, 371 (Iowa 1979).

Although subject-matter jurisdiction in dissolution matters is retained by the court, personal jurisdiction is not retained even though the court originally had personal jurisdiction. The parties must be given proper notice in order to reestablish jurisdiction over the person. See In re Marriage of Meyer, 285 N.W.2d 10, 11 (Iowa 1979). The power of a court to punish for disobedience of its orders is inherent and continuing, subject to statutory regulations. See Yocum v. Gaffney, 257 Iowa 207, 210, 131 N.W.2d 826, 827 (Iowa 1964). And as stated in Lutz v. Darbyshire, 297 N.W.2d 349, 354 (Iowa 1980), "we are confident this inherent contempt power cannot be nullified by a contemnor's deliberate devices to avoid service." Section 665.7, The Code 1979, states: Before punishing for contempt, unless the offender is already in the presence of the court, he must be served personally with a rule to show cause against punishment. . . ." Thus, personal jurisdiction for enforcement of an order via contempt proceedings may be obtained by personal service.

In this case, Virginia was personally served in Hawaii for both separate contempt proceedings. We think that conferred jurisdiction over her. Virginia's reliance on Northwestern Casualty & Surety Co. v. Conway, 210 Iowa 126, 230 N.W. 548 (Iowa 1930), for the proposition the personal service was ineffective since she was served on a military base is misplaced. After careful consideration of the facts and arguments, we conclude the trial court had the power to find Virginia in contempt of court in both instances.

Since Virginia did not argue the merits of the contempt citations, we make no statement on that issue.

AFFIRMED.