IN THE IOWA COURT OF APPEALS

No. 1999-465 (9-722) / 98-2018
Filed May 10, 2000

DONALD C. HAACKE,
Plaintiff-Appellant,

vs.

KIM N. DONTH, f/k/a KIM N. HAACKE,
Defendant-Appellee.

FILED
MAY 10 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Linn County, David M. Remley, Judge.

Donald Haacke appeals the dismissal of his petition, seeking damages from Kim N. Donth for denying him visitation, for lack of personal jurisdiction. **AFFIRMED.**

Peter C. Riley of Tom Riley Law Firm, P.L.C., Cedar Rapids, for appellant.

Julie L. Pulkrabek of Phelan, Tucker, Mullen, Walker, Tucker & Gelman, L.L.P., Iowa City, for appellee.

Considered by Sackett, C.J., and Vogel and Hecht, JJ.

SACKETT, C.J.

Haacke appeals the district court decision which dismissed his petition for lack of personal jurisdiction. Donald filed suit against his former wife, Kim Donth, who lives in Minnesota, seeking damages for denial of visitation. He claims Kim has sufficient minimum contacts with Iowa for the suit to proceed here. We affirm.

Donald Haacke and Kim Donth, formerly known as Kim Haacke, were married in South Dakota. They have three children. A decree of dissolution of marriage was entered for the parties on October 4, 1977, in South Dakota. The decree placed the children in the primary physical care of Kim. Donald was granted visitation with the children and was ordered to pay child support.

In August 1983, Kim and the children moved to Minnesota. Donald contends he was not aware of the children's location and was not able to exercise visitation with them. He quit paying child support.

Donald moved to Iowa. In December 1991, the Rock County Family Service Agency, a Minnesota state agency that collects child support, contacted Donald in Iowa requesting payment of delinquent support. A judgment was entered against Donald for past due support in Minnesota. On the basis of the Minnesota judgment Donald's wages paid in Iowa were garnished.

On July 28, 1998, Donald filed this suit against Kim seeking compensatory and punitive damages because she hid the children and denied his visitation. Kim filed a motion to dismiss, claiming she had insufficient contact with the State of Iowa to subject herself to the jurisdiction of the Iowa court.

The district court agreed with Kim, finding that invoking Iowa's administrative wage withholding procedure for delinquent child support did not satisfy the minimum contacts standard required for the exercise of personal jurisdiction. The court found Kim did not have sufficient minimum contacts for the State of Iowa to exercise personal jurisdiction over her. The court sustained her motion to dismiss. Donald contends the motion should not have been sustained.

In ruling on a motion to dismiss for lack of personal jurisdiction, we accept as true the allegations of the petition and the contents of uncontroverted affidavits. *In re Marriage of Crew,* 549 N.W.2d 527, 528 (Iowa 1996) (quoting *Percival v. Bankers Trust Co.,* 450 N.W.2d 860, 861 (Iowa 1990)). The district court's findings of fact have the effect of a jury verdict and are subject to challenge only if not supported by substantial evidence in the record. *Id.* We are not bound, however, by the district court's application of legal principles or its conclusions of law. *See Egli v. Egli,* 447 N.W.2d 409, 411 (Iowa App. 1989).

Under the Due Process Clause of the Fourteenth Amendment to the federal constitution, personal jurisdiction over a non-resident defendant only exists when that defendant has certain minimum contacts with the forum state such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice." *Hodges v. Hodges,* 572 N.W.2d 550, 551 (Iowa 1997) (quoting *International Shoe Co. v. Washington,* 326 U.S. 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 2d 95, 102 (1945)). These minimum contacts must be such that there is a sufficient connection between the defendant and the forum state so as to make it fair to force the defendant to defend the action in that state. *Id.*

In determining whether a party's contacts with Iowa are sufficient to confer jurisdiction, courts consider five factors. *State ex rel. Houk v. Grewing*, 586 N.W.2d 224, 227 (Iowa App. 1998). These factors are as follows:

1. the quantity of the contacts;
2. the nature and quality of the contacts;
3. the source of and connection of the cause of action with those contacts;
4. the interest of the forum state; and
5. the convenience of the parties.

Cascade Lumber Co. v. Edward Rose Bldg. Co., 596 N.W.2d 90, 92 (Iowa 1999). The minimum contacts test is not susceptible to mechanical application; rather, the facts of each case must be weighed to determine whether the requisite affiliating circumstances are present. *Crew*, 549 N.W.2d at 529.

The Iowa courts have addressed a similar issue. *In re Marriage of Wallick*, 524 N.W.2d 153, 155 (Iowa 1994). The parties were divorced and an order directing the father to pay child support was entered in Connecticut. *See Wallick*, 524 N.W.2d at 155. He moved to Iowa and the children's mother moved to Vermont. *Id.* The Vermont office of child support enforcement initiated proceedings in Iowa to enforce the Connecticut child support judgment. *Id.* The father filed a petition in Iowa to modify the Connecticut decree. *Id.* The court concluded Vermont's initiation of interstate income withholding proceedings against the father in Iowa was not a sufficient contact by the mother in Iowa. *See id.* at 158. In *Egli v. Egli*, 447 N.W.2d 409 (Iowa App. 1989), the father, who was ordered to pay child support in a New York dissolution decree, moved to Iowa. The mother moved to Rhode Island after the marriage was dissolved. *See Egli*, 447 N.W.2d at 410. The New York Support Collection Unit sought to recover

child support from the father in Iowa. *See id.* He filed a petition in Iowa to vacate the New [redacted] child support order. *Id.* The wife claimed she had insufficient minimum contacts with Iowa. *Id.* Our holding was there was no act by which the mother purposefully availed herself of the privilege of conducting activities within Iowa, the forum state. *Id.* at 441. We concluded the mother had insufficient minimum contacts with Iowa to confer personal jurisdiction. *See id.* at 412.

Kim does not have sufficient minimum contacts with Iowa to require her to defend a suit here. As in *Wallick* and *Egli,* her only contact with Iowa was through a Minnesota agency for the collection of child support. The State of Minnesota's garnishment of Donald's wages was not a sufficient contact with Iowa so that Kim would reasonably have anticipated she could be subject to the personal jurisdiction of the Iowa courts.

Furthermore, her alleged action in denying Donald visitation happened in Minnesota. In determining minimum contacts, the critical focus is on the relationship between the defendant, the forum, and the litigation. *Hodges,* 572 N.W.2d at 551.

We affirm the decision of the district court.

AFFIRMED.