

**NOTICE**  
Decision filed 09/10/21. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2021 IL App (5th) 200278-U

NO. 5-20-0278

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

**NOTICE**  
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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<i>In re</i> MARRIAGE OF	)	Appeal from the
	)	Circuit Court of
WENDY DRIBBEN,	)	St. Clair County.
	)	
Petitioner-Appellant,	)	
	)	
and	)	No. 08-D-393
	)	
WILLIAM R. DRIBBEN,	)	Honorable
	)	Stacy L. Campbell,
Respondent-Appellee.	)	Judge, presiding.

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JUSTICE WELCH delivered the judgment of the court.  
Justices Moore and Vaughan concurred in the judgment.

**ORDER**

¶ 1 *Held:* The order of the circuit court of St. Clair County, dismissing the petitions for rule to show cause, finding of contempt, imposition of sanctions, and to enforce payment of postmajority educational support and expenses for the parties’ minor child, is affirmed where the court lacked subject matter jurisdiction.

¶ 2 This is an appeal from the circuit court of St. Clair County dismissing the petitioner, Wendy Dribben’s, petitions for rule to show cause, finding of contempt, and imposition of sanctions, and to enforce payment of postmajority educational support and expenses for the parties’ minor child, E.D., against the respondent (E.D.’s father), William Dribben.

Based on lack of subject matter jurisdiction in Illinois, the trial court granted the respondent's motion to dismiss the petitions.<sup>1</sup> On appeal, the petitioner argues that Illinois had jurisdiction to enforce the October 14, 2011, judgment for dissolution of marriage and the incorporated marital settlement agreement (MSA) (entered in Illinois) where no modification as to child support had been filed in Missouri; where Missouri found no jurisdiction as to petitions filed there by the petitioner seeking enforcement of the 2011 judgment and MSA; where the Uniform Interstate Family Support Act (Act) (750 ILCS 22/205 (West 2020)) conferred continuing and exclusive jurisdiction to Illinois to enforce the petitioner's attempt to collect child support; and where *res judicata* required that the November 11, 2019, order of the Missouri court dismissing the petitioner's September 15, 2019, motion to modify the judgment for lack of jurisdiction overrode the Missouri judge's opinion that Missouri had exclusive jurisdiction of the proceedings regarding enforcement of the terms of child support. For the reasons that follow, we affirm.

¶ 3

### I. BACKGROUND

¶ 4 On May 13, 2008, the petitioner filed a petition for dissolution of marriage in the St. Clair County, Illinois, circuit court. Prior to the entry of judgment, on or about July 30, 2009, the petitioner, the respondent, and their children moved to, and have since resided in, the state of Missouri. On October 14, 2011, the Illinois circuit court entered a judgment for dissolution of marriage, which also incorporated the MSA. On August 18, 2017, the

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<sup>1</sup>The trial court retained jurisdiction on the issues of the retirement obligation, the attorney fees provision, and the funeral expense fees, as none of those issues were addressed in the consent judgment filed with the Missouri circuit court.

respondent filed a motion to modify the judgment of dissolution with the St. Louis County, Missouri, circuit court. Thereafter, on November 9, 2018, the petitioner and the respondent filed a consent judgment with the Missouri circuit court, which modified the terms of the original Illinois judgment of dissolution of marriage.

¶ 5 After the filing of the consent judgment, on September 15, 2019, the petitioner filed a motion to modify the terms of the October 14, 2011, judgment of dissolution of marriage (entered by the Illinois circuit court) in the Missouri circuit court. Thereafter, the petitioner filed several applications for garnishment in accordance with the 2011 judgment with the Missouri court. The respondent then filed a motion to quash the garnishments, which the Missouri circuit court granted on November 12, 2019. In so ruling, the Missouri court found that it lacked jurisdiction to enforce the terms of the Illinois judgment as the petitioner had not registered the judgment as a foreign judgment for purposes of enforcement.

¶ 6 On January 3, 2020, the petitioner filed two petitions in the St. Clair County, Illinois, circuit court for rule to show cause, finding of contempt, and imposition of sanctions, and to enforce payment of postmajority educational support and expenses for the parties' minor child, E.D. The respondent filed a motion to dismiss the petitions. Following a hearing, the court granted the respondent's motion to dismiss with regards to postmajority educational support and expenses and granted in part the motion to dismiss the rule to show cause, on the grounds that the court lacked subject matter jurisdiction where the Illinois judgment was no longer controlling as to those issues where the consent judgment entered in Missouri modified the terms of child support. The petitioner appeals.

¶ 7

## II. ANALYSIS

¶ 8 On appeal, the petitioner argues that Illinois maintained continuous and exclusive jurisdiction over the parties' judgment for dissolution of marriage entered by the Illinois circuit court where the subsequent consent judgment filed with the Missouri circuit court did not modify the terms of child support. We disagree.

¶ 9 Under section 205(c) of the Act, an Illinois tribunal may not exercise continuing, exclusive jurisdiction where another state (in this case, Missouri) has issued a child-support order modifying the Illinois order. 750 ILCS 22/205(c) (West 2020).

¶ 10 On October 14, 2011, the St. Clair County circuit court entered a judgment of dissolution of marriage as to the petitioner and respondent; however, on August 18, 2017, the respondent filed a motion to modify the judgment with the Missouri court, seeking sole legal and physical custody of E.D. The petitioner filed her answer on October 16, 2017, with the Missouri court. The crux of this appeal revolves around whether, on November 9, 2018, when the parties filed a consent judgment with the Missouri court to resolve the issues raised in the respondent's motion to modify, that consent judgment constituted a modification of the original judgment for dissolution entered in Illinois, making it the controlling authority. As to this issue, the petitioner asserts that Illinois has continuing, exclusive jurisdiction over the judgment for dissolution and MSA filed in 2011 in St. Clair County, as the consent judgment filed in Missouri did not modify the terms of child support.

¶ 11 The consent judgment found that the respondent had filed a certified copy of the 2011 Illinois judgment for dissolution with the Missouri circuit court and was to be treated

as entered by the Missouri court. It specifically stated that the parties stipulated that E.D. resided solely with the respondent for 17 months. During this 17-month period, the petitioner received child support payments from the respondent, and, under Missouri law (Mo. Ann. Stat. § 452.340.2 (West 2018)), were the respondent to file a motion for reimbursement for those payments, the petitioner could be ordered to reimburse the respondent. Therefore, the court found that, “To avoid undue hardship on Petitioner, the parties agree that the Court should sustain that portion of the Motion to Modify seeking to terminate any obligation Respondent would have to pay child support from 12/31/17 forward to Petitioner for [E.D.] and that said order shall not be modifiable.” The provisions regarding payment of college expenses, medical expenses, extracurricular expenses, and extraordinary expenses were to remain in full force and effect, except expenses regarding extracurricular and extraordinary expenses were to be agreed to by the parties in writing.

¶ 12 The foregoing provisions of the consent judgment establish that it did in fact modify the terms of the 2011 judgment with regards to child support. Therefore, jurisdiction in enforcing the consent judgment lies within the discretion of the Missouri circuit court. The 2011 judgment entered in Illinois is not the controlling authority on those issues addressed in the consent judgment, and therefore, its provisions relating to those issues can be neither modified nor enforced by an Illinois court. Therefore, the trial court did not err in dismissing the petitions for lack of subject matter jurisdiction.

¶ 13

### III. CONCLUSION

¶ 14 For the foregoing reasons, the order of the circuit court of St. Clair County is hereby affirmed.

¶ 15 Affirmed.