

Order

**Michigan Supreme Court
Lansing, Michigan**

July 10, 2023

Elizabeth T. Clement,
Chief Justice

163501

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

BRANDY HILYARD,
Petitioner-Appellant,

v

SC: 163501
COA: 354721
Ingham CC: 19-003659-UF

DAVID JOHNSTON,
Respondent-Appellee.

On April 4, 2023, the Court heard oral argument on the application for leave to appeal the July 29, 2021 judgment of the Court of Appeals. On order of the Court, the application is again considered. MCR 7.305(H)(1). In lieu of granting leave to appeal, we VACATE Parts II(A)(2) and II(B) of the judgment of the Court of Appeals and REMAND this case to the Ingham Circuit Court to conduct a proper minimum contacts analysis in order to determine whether the trial court can exercise personal jurisdiction over the respondent-father for the purpose of enforcing the out-of-state child support order in Michigan.

The Court of Appeals erred by affirming the circuit court's finding that it lacked personal jurisdiction over the respondent-father under Michigan's long-arm statute, MCL 600.705. The circuit court improperly construed MCL 552.2201(1)(h) of the Uniform Interstate Family Support Act and failed to conduct the necessary minimum contacts analysis prior to determining that it lacked personal jurisdiction. Accordingly, it was premature for the circuit court to vacate the registration of the out-of-state support order, change the case-type code from "UN" to "UF" to allow enforcement proceedings to take place in a different tribunal that has personal jurisdiction over the respondent, and to deny the petitioner-mother's request for attorney fees before performing the proper legal analysis.

Pursuant to the Uniform Interstate Family Support Act's catch-all provision regarding personal jurisdiction, a forum state may exercise personal jurisdiction over petitions for enforcement of out-of-state support claims, such as the petitioner's claim for child support under New York State law, if "[t]here is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction." MCL 552.2201(1)(h). A constitutional basis for the exercise of personal jurisdiction exists

where a respondent has sufficient minimum contacts with Michigan. See *Int'l Shoe Co v Washington*, 326 US 310 (1945). Traditionally, personal jurisdiction involves “a two-fold inquiry: (1) do the [respondent’s] acts fall within the applicable long-arm statute, and (2) does the exercise of jurisdiction over the [respondent] comport with due process?” *Green v Wilson*, 455 Mich 342, 347 (1997) (opinion by KELLY, J.), citing *Starbrite Distrib v Excelda Mfg Co*, 454 Mich 302 (1997). But where, as here, the statute includes a catch-all provision that only requires a court to consider constitutional due process, the two inquiries collapse into a single inquiry regarding minimum contacts. See *Green*, 455 Mich at 348-349 (opinion by KELLY, J.) (stating that catch-all provisions regarding personal jurisdiction stretch “automatically to extend jurisdiction wherever the Due Process Clause permits. Like a complete solar eclipse, the due process and statutory analyses overlap entirely. Therefore, only a one-step analysis is necessary”).

Accordingly, the lower courts’ analyses under Michigan’s long-arm statute, MCL 600.705, and its independent statutory basis for personal jurisdiction was unnecessary—personal jurisdiction may exist regardless of whether the respondent-father’s actions satisfy any provision of MCL 600.705. Rather, the circuit court was obligated under MCL 552.2201(1)(h) to analyze whether due process is satisfied here by determining “whether sufficient minimum contacts exist between a nonresident [respondent] and the state to support due process requirements of limited personal jurisdiction.” *Moore v McFarland*, 187 Mich App 214, 218 (1991). The minimum contacts test has three parts:

First, the [respondent] must purposefully act in or towards the state, thus availing himself of the protection and benefits of its laws. Second, the cause of action must arise from the [respondent’s] activities in the state. Third, the [respondent’s] activities must be substantially connected with the state so that the exercise of personal jurisdiction over him would be reasonable. [*Id.*, citing *McGraw v Parsons*, 142 Mich App 22, 26 (1985); *Rainsberger v McFadden*, 174 Mich App 660, 663 (1989).].

The circuit court did not undertake this required minimum contacts analysis and therefore erred. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.

ZAHRA and BERNSTEIN, JJ., would deny leave to appeal.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 10, 2023

Clerk