

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

AHED SAID SENJAB,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE T. ARTHUR RITCHIE,
DISTRICT COURT JUDGE,

Respondent,

and

MOHAMAD ALHULAIBI,

Real Party in Interest.

S.C. No.:

D.C. Case No.:

Electronically Filed
Jun 30 2022 05:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
84498
D-20-606093-D

MOTION TO DISMISS WRIT PETITION

Petitioner, Ahed Said Senjab, by and through her attorney of record, Marshal S. Willick, Esq., of the WILICK LAW GROUP, respectfully requests that this Court dismiss this matter as it has been resolved by way of a Stipulation and Order; while counsel believes that the case would provide valuable guidance for trial courts, it is

no longer necessary in this case and therefore is not an “actual controversy” requiring resolution.

This *Motion* is based upon the Points and Authorities below, and is made in good faith and not to delay justice.

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

Petitioner, Ahed Said Senjab, filed her *Writ of Mandamus or Prohibition* on April 5, 2022. For judicial economy, the Statement of Facts from the Writ is incorporated here by reference. The Court directed the Real Party in Interest, Mohamad Alhulaibi, to file an Answer to the Writ Petition by way of an Order filed May 12, 2022.

On June 3, the Court issued an Order granting Mohamad a continuance, making his Brief due by June 23. On June 23, counsel for Mohamad filed a Motion to Suspend Briefing or in the Alternative Grant an Extension to File an Answer to the Writ.

This substantive issue at the heart of the writ petition was resolved through a written *Stipulation and Order for the Court to Assume Initial Child Custody*

Jurisdiction, attached hereto as Exhibit 1. The Stipulation and Order was signed by all parties and approved by the district court and filed on June 22.

This *Motion* follows.

II. ARGUMENT

Factually, at no point during the litigation was any other case ever initiated in any other place; there is no “simultaneous action” anywhere else. During the time this case has been pending, Mohamed has abandoned his plans to move back to any other jurisdiction. Mother, father, and child have all been living in Nevada for years, and all intend to continue doing so for the indefinite future.

These facts distinguish the context of this case from that present in most “competing UCCJEA jurisdiction” cases.¹ Counsel conferred, and agreed that while, technically, the “action was initiated” before the child had been in Nevada for six months, as a practical matter, if the case was dismissed and another was filed, there would be no “other action” or “other court” which could assume jurisdiction, and the new action would be within the facial rule of the UCCJEA as the only custody action,

¹ See, e.g., *Friedman v. Dist. Ct.*, 127 Nev. 842, 264 P.3d 11 (2011) (all parties had left state and there was a competing action pending in California).

filed well after six months of all parties living in Nevada. Under the “one-family, one-judge” rule, the case would have been re-assigned to the same department with the same counsel and parties, only with a several-week to several-month delay.

It seemed inefficient to everyone involved to dismiss the action only to immediate re-file so as to jump through strictly procedural hoops, given that this Court has repeatedly held that a party is not bound by the title on his papers and what can be done by independent action can be done by motion.² Since there is nowhere else the case might be heard, everyone involved agreed that *Friedman* was distinguishable, and the case could proceed to a substantive custody order.

Counsel for Mohamad is aware this motion to dismiss is being filed, and fully concurs with doing so.

Since all counsel have agreed to have the entire case heard by the Nevada District Court, the writ is no longer necessary. We believe that the Court’s intervention at this time is not required. Should the District Court at some point refuse to hear or decide this matter, despite the Stipulation and Order, Ahed will re-file her Writ Petition, but that possibility appears remote.

² “A party is not bound by the label he puts on his papers.” *NC-DSH, Inc. v. Garner*, 125 Nev. 647, 652, 218 P.3d 853, 857 (2009) (“A motion may be treated as an independent action or vice versa as is appropriate.”)

III. CONCLUSION

The Court should dismiss this matter as resolved due to the *Stipulation and Order for the Court to Assume Initial Child Custody Jurisdiction* being entered in the District Court.

Dated June 30, 2022.

Respectfully submitted,
WILICK LAW GROUP

//s// Marshal S. Willick
Marshal S. Willick, Esq.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 30th day of June, 2022, a document entitled *Motion to Dismiss Writ Petition* was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows, to the attorneys listed below at the address, email address, and/or facsimile number indicated below:

David Markman, Esq.
MARKMAN LAW
4484 S. Pecos Road, Ste. 130
Las Vegas, Nevada 89121
Attorneys for Real Party in Interest

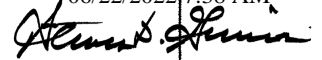
//s// Justin K. Johnson

An Employee of WILICK LAW GROUP

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”


CLERK OF THE COURT

1 **SAO**
2 **DAVID MARKMAN, ESQ.**
3 Nevada Bar No. 12440
4 **MARKMAN LAW**
5 4484 S. Pecos Rd Ste. 130
6 Las Vegas, Nevada 89121
7 Phone: (702) 843-5899
8 Fax: (702) 843-6010
9 Attorneys for Mohamad Alhulabi

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 * * * * *

9 AHED SAID SENJAB

10 Plaintiff,

11 vs.

12 MOHAMAD ALHULAIBI

13 Defendants.
14

CASE NO.: D-20-606093-D

DEPT. NO.: H

15 Defendant MOHAMAD ALHULAIBI (hereinafter "Defendant") and Plaintiff AHED
16 SENJAB ("Plaintiff") hereby stipulate, agree and to have this Honorable Court hear all matters
17 regarding the divorce including child custody related matters.

18
19 Previously MOHAMAD ALHULAIBI has contested that this Honorable Court has initial
20 subject matter jurisdiction to oversee this matter pursuant to NRS 125A.305 and filed a motion to
21 dismiss child custody jurisdiction on December 6, 2021. The motion was opposed by Plaintiff.
22 Thereafter, oral arguments were heard by this Honorable Court on January 11, 2022.

23 At the January 11, 2022 hearing, this Honorable Court held that:

24 (1) Saudi Arabia is the Home State of the parties and the minor child;

25 (2) The court is not denying the motion to dismiss as a matter of law because of
26 both parties being in Nevada at the time this case was filed. Plaintiff has
27
28

1 contested that Saudi Arabia's custody laws violate fundamental principles of
2 human rights and thus cannot be considered the home state under the UCCJEA.

3 (3) As Plaintiff's claims show a factual issue is in dispute, the Motion to Dismiss,
4 which is being heard as a request for summary judgment, is denied.
5

6 (4) An Evidentiary Hearing will need to be held on whether Saudi Arabia's custody
7 laws violate fundamental principles of human rights.

8 ...

9 Thereafter, the Order was entered on April 1, 2022. With Plaintiff filing a petition for Writ
10 of Mandamus or Prohibition on April 5, 2022. On May 12, 2022, the Supreme Court of the State
11 of Nevada ordered an answer by real party in interest Mohamad Alhulaibi.
12

13 As of June 16, 2022, the parties and the minor child remain in the State of Nevada.

14 Due to the expected timeframe of the writ petition, the parties have reached a stipulation
15 and agreement to have the state of Nevada hear the issue of initial custody of the minor child. The
16 parties' agreement is based partially on analysis under NRS 125A.365. While both parties realize
17 that they may not stipulate to subject matter jurisdiction, they are also aware that the court need
18 only rule on disputes presented to it, and at this juncture Defendant withdraws any challenge to
19 the subject matter of this Court to proceed to resolution of all issues relating to the subject child in
20 the interest of expeditious resolution, and the Court will designate the date Nevada assumes child
21 custody jurisdiction.
22

23 Due to all the parties still being in Nevada, no other Court having entered a custody order,
24 and the expenses of continued litigation the parties are in agreement to have Nevada make Initial
25 Child Custody Orders. With the parties having examined their legal position as to the pending writ
26 and agreeing that Nevada has jurisdiction to proceed in accordance with this stipulation.
27
28

1 The parties and Minor Child have all been in Nevada since January 2020. Substantial
2 evidence related to child rearing occurring over the last two years is in the State of Nevada.

3 The minor has resided in Nevada for two and half years. All parties live within Las Vegas,
4 and Saudi Arabia is far from all parties. The plaintiff in this matter has been receiving her legal
5 counsel through the Legal Aid of Southern Nevada, while defendant retained his attorney through
6 the State Bar of Nevada's modest means program. Neither party's financial circumstances warrant
7 the continued expense of ongoing litigation and appeals. The parties have agreed to have Nevada
8 assume jurisdiction. The majority of evidence required to resolve this matter currently resides in
9 Nevada. The state of Nevada has the ability to hear this matter expeditiously and this Honorable
10 Court has significant familiarity with this matter as it has been pending for approximately 2.5
11 years.
12 years.

14 That upon this Court assuming the initial custody jurisdiction the parties will dismiss the
15 Petition for Writ of Mandamus or Prohibition currently docketed as No. 84498 and have this Court
16 to proceed with the child custody matters. That all parties will bear their own attorney's fees and
17 costs as it relates to the pending writ.
18 costs as it relates to the pending writ.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 //

27 /

28

ORDER

Pursuant to the Stipulation of the parties and good cause appearing, **IT IS HEREBY ORDERED:** that based upon the stipulation, the analysis of all factors, this Court will assume initial child custody jurisdiction and the case management conference will be moved up from Tuesday, June 28, 2022, at 11 am September 14, 2022 at 9:00am to _____.

DATED this 21st day of June, 2022.

DATED this 21 day of June, 2022.

LEGAL AID CENTER OF SOUTHERN NEVADA, INC.

MARKMAN LAW

By: _____

By: /s/ _____

APRIL GREEN, ESQ.

DAVID MARKMAN, ESQ.

Nevada Bar No.: 8340C

Nevada Bar No.: 12440

BARBARA E. BUCKLEY, ESQ.

4484 S. Pecos Road, Ste. 130

Nevada Bar No.: 3918

Las Vegas, NV 89121

725 E. Charleston Blvd.

(702) 843-5899

Las Vegas, NV 89104

(702) 843-6010 Fax

(702) 386-1415 Direct/Fax

Attorney for Defendant

(702) 386-1070 ext. 1415

asgreen@lacsni.org

Dated this 22nd day of June, 2022

Attorneys for Plaintiff



Submitted by:

**709 03C 130E 9443
T. Arthur Ritchie
District Court Judge**

DATED this ____th day of June, 2022.

MARKMAN LAW

/s/ David Markman

DAVID MARKMAN, ESQ.

Nevada Bar No. 12440

4484 S. Pecos # 130

Las Vegas, NV 89121

Attorney for Defendants

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Ahed Said Senjab, Plaintiff

CASE NO: D-20-606093-D

7 vs.

DEPT. NO. Department H

8 Mohamad Abulhakim Alhulaibi,
9 Defendant.

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Stipulation and Order was served via the court's electronic eFile system
to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 6/22/2022

15 Reception Reception

email@willicklawgroup.com

16 Earlean Nelson-Deal

enelson-deal@lacsns.org

17 April Green, Esq.

asgreen@lacsns.org

18 Justin Johnson

Justin@willicklawgroup.com

20 Aileen Yeo

AYeo@lacsns.org

21 Richard Crane

richard@willicklawgroup.com

22 David Markman

David@MarkmanLawfirm.com

23
24
25
26
27
28