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is example of leniency that can be appealed by State pursuant to § 29-2320).

Accordingly, pursuant to Neb. Rev. Stat. § 29-2322 (Reissue 2008), we remand the cause with directions to vacate the credit for time spent in the residential substance abuse treatment facility.

CONCLUSION

The district court erred in giving Anderson credit against his jail sentence for time spent in a residential substance abuse treatment facility. Its judgment is reversed, and the cause is remanded with directions to vacate this credit.

REVERSED AND REMANDED WITH DIRECTIONS.

LISA ANNE MEADOWS, APPELLANT, V. MONTE LEE MEADOWS, APPELLEE.

789 N.W.2d 519

Filed March 30, 2010. No. A-09-531.

1. **Judgments: Statutes: Appeal and Error.** Questions of law and statutory interpretation require an appellate court to reach a conclusion independent of the decision made by the court below.
2. **Jurisdiction: Final Orders: Appeal and Error.** For an appellate court to acquire jurisdiction of an appeal, there must be a final order entered by the court from which the appeal is taken.
3. **Final Orders: Appeal and Error.** Under Neb. Rev. Stat. § 25-1902 (Reissue 2008), an order is final for purposes of an appeal if it affects a substantial right and (1) determines the action and prevents a judgment, (2) is made during a special proceeding, or (3) is made on summary application in an action after judgment is rendered.
4. **Jurisdiction: Final Orders: Appeal and Error.** Overruling a motion to decline jurisdiction under Neb. Rev. Stat. § 43-1207 (Reissue 1998) as an inconvenient forum does not affect a substantial right and is not a final, appealable order.
5. ____: ____: ____. Overruling a motion to decline jurisdiction under Neb. Rev. Stat. § 43-1244 (Reissue 2008) as an inconvenient forum does not affect a substantial right and is not a final, appealable order.

Appeal from the District Court for Buffalo County: WILLIAM T. WRIGHT, Judge. Appeal dismissed.

Kent A. Schroeder, of Ross, Schroeder & George, L.L.C., for appellant.

John P. Rademacher, of Tye & Rademacher, P.C., L.L.O., for appellee.

INBODY, Chief Judge, and SIEVERS and CASSEL, Judges.

INBODY, Chief Judge.

INTRODUCTION

Lisa Anne Meadows appeals the Buffalo County District Court's order denying her motion to dismiss her ex-husband's complaint for modification of their dissolution decree after the court determined that Nebraska was not an inconvenient forum. Pursuant to this court's authority under Neb. Ct. R. App. P. § 2-111(B)(1) (rev. 2008), this case was ordered submitted without oral argument.

STATEMENT OF FACTS

Monte Lee Meadows and Lisa were married in July 1995, and one child was born of the marriage. The decree of dissolution was entered by the Buffalo County District Court in April 2004. The parties were awarded joint legal and physical custody of their child. Shortly thereafter, Lisa and the child moved to Rock Port, Atchison County, Missouri, wherein Lisa registered a certified copy of the decree with the clerk of the Atchison County Circuit Court. The record indicates that this move was done with the verbal consent of Monte, but without any notification to or any order of the Buffalo County District Court. In 2005, Monte secured new employment in Omaha, Nebraska, which allowed him to significantly cut his transportation costs to visit and pick up the child, which Monte had previously been doing from his home in Kearney, Nebraska.

Since that time, the child has attended school in Rock Port, and at the time of the hearing, the child was enrolled as a sixth grader. During the several years since the decree had been entered, Monte continued to exercise frequent visitation with the child, which visitation included the majority of the summers, at least one weekend a month, and many holidays.

The parties' visitation arrangement appears to have taken place without issue until a holiday visit in December 2008, when the child advised Monte she and Lisa were having some problems. Monte did not return the child to Lisa after the holiday ended and, instead, enrolled her in an Omaha school. After determining where the child had been enrolled, Lisa drove to Omaha, picked up the child from school, and returned to Rock Port without informing Monte.

On January 23, 2009, Monte filed a complaint for modification of the dissolution decree in the Buffalo County District Court, alleging that it was in the child's best interests that he be awarded her sole legal and physical custody. One day earlier, Lisa had filed a similar complaint for modification of the dissolution decree in the Atchison County Circuit Court, asking that she be awarded the child's sole physical custody, that the parties be allowed to maintain joint legal custody, and that the court order a specific parenting schedule for Monte.

On April 21, 2009, a hearing for temporary custody was held in the Buffalo County District Court, at which hearing the court also took up a motion filed by Lisa to dismiss pursuant to Neb. Rev. Stat. § 43-1244 (Reissue 2008) of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). See Neb. Rev. Stat. §§ 43-1226 to 43-1266 (Reissue 2008). Lisa alleged that Nebraska was an inconvenient forum and that the court should decline to exercise jurisdiction in order for the matter to be heard in Missouri. Evidence, in the form of numerous affidavits, was submitted to the court, and the matter was taken under advisement. The district court found that, in accordance with § 43-1244, Nebraska was not an inconvenient forum and ordered that custody temporarily remain the same as set forth in the dissolution decree until the final hearing. It is from this order that Lisa has timely appealed the district court's denial of her motion to dismiss on the ground of inconvenient forum.

ASSIGNMENT OF ERROR

Lisa's sole assignment of error is that the district court erred by denying her motion to dismiss pursuant to § 43-1244, finding that Nebraska was not an inconvenient forum.

STANDARD OF REVIEW

[1] Questions of law and statutory interpretation require an appellate court to reach a conclusion independent of the decision made by the court below. *Zahl v. Zahl*, 273 Neb. 1043, 736 N.W.2d 365 (2007).

ANALYSIS

As noted above, this appeal involves a still-pending application for modification, regarding child custody, of a decree of dissolution. Lisa has brought an appeal to this court regarding the district court's order overruling her motion to dismiss on the ground of inconvenient forum, arguing that it was error for the court to rule as such. Monte argues that the appeal should be dismissed because it is not an appeal from a final, appealable order as required by Neb. Rev. Stat. § 25-1902 (Reissue 2008). Therefore, we must first determine whether this appeal is properly before us as a final, appealable order.

[2,3] For an appellate court to acquire jurisdiction of an appeal, there must be a final order entered by the court from which the appeal is taken. *Williams v. Baird*, 273 Neb. 977, 735 N.W.2d 383 (2007). Specifically, § 25-1902 provides that a party may appeal from a court's order only if the decision is a final, appealable order. Under § 25-1902, an order is final for purposes of an appeal if it affects a substantial right and (1) determines the action and prevents a judgment, (2) is made during a special proceeding, or (3) is made on summary application in an action after judgment is rendered. See *Blue Cross and Blue Shield v. Dailey*, 268 Neb. 733, 687 N.W.2d 689 (2004).

[4] The Supreme Court has previously held that overruling a motion to decline jurisdiction on the ground of inconvenient forum does not affect a substantial right and is not a final, appealable order. See *Hernandez v. Blankenship*, 257 Neb. 235, 596 N.W.2d 292 (1999). In that case, a petition for a change of custody was brought by the father in Dawson County, Nebraska, and the mother filed a motion to decline jurisdiction on the ground of inconvenient forum pursuant to Neb. Rev. Stat. § 43-1207 (Reissue 1998) of the Nebraska Child

Custody Jurisdiction Act (NCCJA), arguing that Missouri was a more convenient forum to determine the merits of the case. The Supreme Court found that the district court's order overruling the motion did not diminish the mother's available claims and defenses regarding custody of the child. *Hernandez v. Blankenship, supra.* The Supreme Court found that the determination to decline or retain jurisdiction did not "substantially impinge on any constitutional right" and, further, that such a motion was not reviewable until after a final judgment. *Id.* at 240, 596 N.W.2d at 296, citing *Van Cauwenberghe v. Biard*, 486 U.S. 517, 108 S. Ct. 1945, 100 L. Ed. 2d 517 (1988).

Since that time, the Nebraska Legislature has adopted the UCCJEA to repeal and replace the NCCJA, operative January 1, 2004. See, 2003 Neb. Laws, L.B. 148; *White v. White*, 271 Neb. 43, 709 N.W.2d 325 (2006). Section 43-1207 (court, inconvenient forum, determination, communication with another court) was repealed and replaced by § 43-1244 (inconvenient forum). In *Hernandez v. Blankenship, supra*, the holding of the Supreme Court was based upon an NCCJA determination under § 43-1207, and thus, Lisa argues, *Hernandez* should now be overturned because the ruling therein is "inequitable, as it does affect a substantial right." Brief for appellant at 7.

[5] A close and careful review of the NCCJA's § 43-1207, and the more recently adopted UCCJEA's § 43-1244, reveals that the language contained within the two statutes is nearly identical. The language of the UCCJEA's statute is generally more condensed, but expands upon the factors that the trial court shall consider in making its determination. Therefore, we find nothing in the current UCCJEA version which would indicate that § 43-1244 now affects a substantial right, and we accordingly hold that overruling a motion to decline jurisdiction under § 43-1244 on the ground of inconvenient forum does not affect a substantial right and is not a final, appealable order, as was similarly held under § 43-1207.

Therefore, the district court's denial of Lisa's motion to dismiss on the ground of inconvenient forum under § 43-1244 does not diminish any of Lisa's claims or defenses, as the

proceedings are only at the temporary stage and a final determination regarding custody has not yet been made. As such, the order of the district court denying Lisa's motion to dismiss on the ground of inconvenient forum under § 43-1244 does not affect a substantial right and is not a final, appealable order.

APPEAL DISMISSED.