

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
VINTON COUNTY

In the matter of: A Minor D.B. & G.B.,	:	Case No. 23CA708
	:	
Denley Ann Bishop,	:	
	:	
Plaintiff/Petitioner-Appellant,	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
v.	:	
	:	
Shannon Bishop Abel,	:	
	:	
Defendant/Respondent-Appellee. :	:	RELEASED: 09/15/2025

APPEARANCES:

Denley Ann Bishop, Duncan, Oklahoma, pro se appellant.

Wilkin, J.

{¶1} Appellant, Denley Ann Bishop (“Bishop”) appeals, a judgment of the Vinton County Court of Common Pleas, Juvenile Division, that dismissed her petition seeking a writ of habeas corpus for lack of jurisdiction. On appeal, Bishop asserts four assignments of error.

{¶2} After our review of the record, Bishop’s arguments, and the applicable law, we find that the trial court did not err in dismissing Bishop’s petition for lack of jurisdiction. We further find that even if the trial court had jurisdiction, Bishop’s petition for habeas corpus lacks merit. Thus, we overrule her first assignment of error, making her remaining assignments of error moot. Therefore, we affirm the trial court’s judgment entry dismissing Bishop’s petition for a writ of habeas corpus.

FACTS AND PROCEDURAL BACKGROUND

{¶3} In a lengthy, repetitive, and, at times, confusing petition seeking a writ of habeas corpus, Bishop claimed that “[t]here is an emergency situation with her son and he has been involved with children’s services of Ohio.” Bishop further argued that the “state of Ohio has personal jurisdiction over [her] children since they are living in MacArthur, Ohio.” She further claimed that the state of Ohio was “supposed to return the children to the state of Oklahoma.” She asserted that under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) the state of Oklahoma was her children’s “Home State” and that court issued a custody order pertaining to her children. Yet, she also acknowledged that a Texas Court had terminated her parental rights. However, she maintained that the Texas court never had jurisdiction to determine the custody of her children.

{¶4} The trial court could not find an Ohio court order pertaining to Bishop’s children indicating that the State was required to return them to Oklahoma. It also found no Oklahoma court order resolving custody of Bishop’s children. Attached to Bishop’s petition was a 2018 entry from the District Court of Stephens County, Oklahoma that purported to grant a divorce between Shane Franklin Bishop and Denley Anne Bishop. However, the entry did not award custody of G.B. and D.B. to either party. Rather, the entry stated a Court in Cook County, Texas had determined that G.B. and D.B. were “deprived” and placed

them in the custody of Texas Child Protective Services, and “the parties are subject to a service plan ordered by that court.”¹

{¶5} Thus, on July 25, 2023, the court dismissed Bishop’s petition for a writ of habeas corpus indicating that “this Court does not feel that it has jurisdiction to entertain the Writ of Habeas Corpus filed by [Bishop] as the appropriate jurisdiction in which this should be heard is either Oklahoma and/or Texas.”

{¶6} On August 10, 2023, Bishop filed a motion seeking appointment of counsel. [doc. 4] Bishop claimed that her son was taken into custody by the state of Ohio. On August 11, 2023, the court issued an entry denying Bishop’s motion for appointment of counsel, reiterating its reasoning from its prior entry.

{¶7} On August 28, 2023, Bishop filed a notice of appeal with this court stating that she was appealing the trial court’s August 11, 2023 entry “denying rehearing,” but she failed to attached such an entry to the notice. Instead, she attached an August 11, 2023 entry from the trial court denying her right to counsel. Because this court was unclear about what order Bishop was appealing, we asked her to clarify.

{¶8} On December 1, 2023, Bishop filed a motion stating that she was appealing the trial court’s August 11, 2023 entry, which denied her court-appointed counsel. However, in paragraph 13 of her motion, she also indicated that she intended to appeal the trial court’s order that denied her petition for a

¹ The record also contains an entry from the District Court in Stephens County Oklahoma that purported to grant a divorce to Shane Franklin Bishop and Denley Anne Bishop (petitioner), and awarded sole custody of D.B. and G.B. to Shane. However, only part of the entry was copied, and it contained no date-stamp or signature of a judge.

writ of habeas corpus. Bishop also attached her petition seeking a writ of habeas corpus.

{¶9} On December 18, 2023, we issued an order finding that Bishop had clarified her appeal so it could now proceed. Although Bishop indicated that she was appealing the trial court's August 11, 2023 entry denying her a court-appointed attorney, she also stated that she was seeking to appeal the trial court's denial of her petition for a writ of habeas corpus. Further, her first two assignments of error address the trial court's dismissal of her petition. Therefore, affording Bishop the benefit of the doubt, we treat her appeal as challenging the trial court's July 25, 2023 entry that dismissed her petition.²

ASSIGNMENTS OF ERROR

- I. THE TRIAL ERRED IN DISMISSING WRIT DUE TO JURISDICTIONAL ISSUES.
- II. SHOULD THE TRIAL COURT HAVE GRANTED A HEARING TO THE APPELLANT BECAUSE SHE HAD EXCELLENT GROUNDS AND THE CASE WAS SO COMPLEX THAT A HEARING WAS NECESSARY?
- III. THE TRIAL COURT ABUSED ITS DISCRETION BY NOT NOTIFYING THE TRIBE OF THE DETAINMENT OF D.B. AND THE HOLDING OF THE CUSTODY OF D.B. AND G.B.
- IV. THE TRIAL COURT ABUSED ITS DISCRETION BY NOT REMOVING D.B. AND G.B. FOR ONE REASON, SHE IS ONE OF THEM, A CHRISTIAN, VIOLATING HER CONSTITUTIONAL RIGHTS OF FREEDOM OF RELIGION, THE FIRST AMENDMENT.

² In addition to permitting Bishop's appeal to proceed, we treated the attachment of her petition to her December 1, 2023 motion as indicating that she had filed her petition in this court as an original action for our consideration. In a January 16, 2024 entry we dismissed her petition for the reasons stated therein.

ASSIGNMENT OF ERROR I

{¶10} In her first assignment of error, Bishop argues that Oklahoma is the children’s “home state” under the UCCJEA and no other state has jurisdiction to determine her children’s custody. She again admits that the Texas court terminated her parental rights but maintains that the order is “void and unenforceable.” She asserts that “[f]raud was committed in Texas by suppressing key evidence to the judge.” Bishop maintains that in Ohio “a writ is proper where a court is about to exceed its jurisdiction.” She claims that the trial court had jurisdiction to issue a writ of habeas corpus “since there was a child welfare case in Ohio.”

Bishop’s Petition

A. UCCJEA

1. Law

{¶11} “The existence of the trial court’s subject matter jurisdiction is a question of law that we review de novo.” *Matter of A.B.*, 2019-Ohio-90, ¶ 7 (4th Dist.), citing *Tewksbury v. Tewksbury*, 2008-Ohio-4600, ¶ 15 (4th Dist.). “Under a de novo review, we afford no deference to the trial court’s decision.” *Mollett v. Lawrence Cnty. Bd. of Developmental Disabilities*, 2024-Ohio-1434, ¶ 46 (4th Dist.), citing *McNichols v. Gouge Quality Roofing, LLC.*, 2022-Ohio-3294, ¶ 25 (4th Dist.).

{¶12} R.C. 2151.23 grants juvenile courts exclusive jurisdiction “to hear and determine any application for a writ of habeas corpus involving the custody of a child.” However, a juvenile court must exercise that jurisdiction in

accordance with R.C. Chapter 3127, the Uniform Child Custody Jurisdiction and Enforcement Act. See R.C. 2151.23(F)(1).

{¶13} “R.C. 3127.17 provides the following procedure for determining when Ohio courts may modify a child-custody determination made by an out-of-state court[.]” *Id.* It provides that

[e]xcept as otherwise provided in section 3127.18 of the Revised Code,³ a court of this state may not modify a child custody determination made by a court of another state unless the court of this state has jurisdiction to make an initial determination under division (A)(1) or (2) of section 3127.15 of the Revised Code and one of the following applies:

(A) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under section 3127.16 of the Revised Code or a similar statute of the other state or that a court of this state would be a more convenient forum under section 3127.21 of the Revised Code or a similar statute of the other state.
(B) The court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

Id., at ¶ 19-22.

R.C. 3127.15(A)(1) authorizes an Ohio court to make this initial determination if Ohio “is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.”

Id. at ¶ 24.

{¶14} “ ‘Home state’ means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately

³ R.C. 3127.18 authorizes Ohio courts to exercise temporary emergency jurisdiction over children under certain circumstances.

preceding the commencement of a child custody proceeding * * *.” *Id.*, quoting R.C. 3127.01(B)(7).

{¶15} Finally, R.C. 3127.18(A) provides that “[a] court of this state has temporary emergency [custody] jurisdiction if a child is present in this state and either of the following applies: [t]he child has been abandoned[, or] [i]t is necessary in an emergency to protect the child because the child * * * is subjected to or threatened with mistreatment or abuse.” *In re B.P.*, 2011-Ohio-2334, ¶ 52-54 (11th Dist.).

2. Analysis

{¶16} Bishop claims that an Ohio court has jurisdiction over her children, but not for the purpose of determining custody. Rather, Bishop maintains that “Ohio is supposed to return the children to the State of Oklahoma.” The UCCJEA sets forth limitations and requirements regarding when an Ohio court has jurisdiction to make certain custody determinations. It is not a mechanism to request a court to transfer children from one state to another for the purpose of determining custody. Thus, Bishop’s petition does not appear to invoke the UCCJEA under the facts of this case.

{¶17} Alternatively, if Bishop is seeking to invoke the UCCJEA to have an Ohio court modify an existing order that determined her children’s custody, we find her petition still fails. Based on the evidence in the record, it appears that prior to the filing of Bishop’s petition, a Texas court issued an order terminating Bishop’s parental rights and placing her children in the custody of Texas Child Protective Services. Even if we accept Bishop’s assertion that her children

resided in Ohio at the time she filed her petition making Ohio their home state, she cannot satisfy R.C. 3127.17(A) or (B), because there is no evidence that the Texas court has “determine[d] that it no longer has exclusive, continuing jurisdiction” over the children, and neither an Ohio court, nor the Texas court have “determine[d] that the child[ren], the child[ren]’s parents . . . do not presently reside in Texas.”

{¶18} Finally, if Bishop was asserting that the trial court had temporary emergency jurisdiction over custody of her children under R.C. 3127.18(A), aside from other deficiencies, her petition was insufficiently pleaded. Emergency temporary jurisdiction arises only if a child in Ohio “has been *abandoned*[,] or “[i]t is necessary in an emergency to *protect the child* because he or she is being subjected to or threatened with *mistreatment* or *abuse*.” (Emphasis added.) *In re B.P.*, 2011-Ohio-2334, ¶ 52-54 (11th Dist.). Bishop’s petition asserted that her “son is seriously upset from being separated from his mother and is having behavior issues[.]” These allegations are insufficient to invoke emergency jurisdiction under R.C. 3127.18(A).

{¶19} Therefore, we find that the trial court did not err when it concluded that it lacked jurisdiction to order Bishop’s children to be transported to Oklahoma or to determine their custody under the UCCJEA.

B. Habeas Corpus

1. Law

{¶20} Even if Bishop had jurisdiction to file a petition to issue a writ of habeas corpus to challenge the jurisdiction of a judgment from another state, it nevertheless lacks merit.

{¶21} Our standard of review of a denial of a writ of habeas corpus is de novo. *In re D.H.*, 2009-Ohio-6009, ¶ 49 (4th Dist.). “Under a de novo review, we afford no deference to the trial court’s decision.” *State v. Scott*, 2025-Ohio-1244, ¶ 16 (4th Dist.).

{¶22} “[H]abeas corpus is an extraordinary remedy and as with every extraordinary remedy is not available as a means of relief where there is an adequate remedy in the ordinary course of law.” *Howard v. Cath. Soc. Serv. of Cuyahoga Cty., Inc.*, 1994-Ohio-219, 70 Ohio St. 3d 141, 145 (1994). The Sixth District Court of Appeals has held that “the petitioner for a writ of habeas corpus . . . has the burden of showing that he or she has no adequate remedy at law.” *Tovatt v. Lucas Cnty. Child. Servs. Bd.*, 1982 WL 6576, *1 (6th Dist. September 24, 1982).

{¶23} Furthermore, “[i]n order to prevail on a petition for a writ of habeas corpus in a child custody case, the petitioner must establish that (1) the child is being unlawfully detained, and (2) the petitioner has the superior legal right to custody of the child.” *State ex rel. Bruggeman v. Ct. of Common Pleas of Auglaize Cty.*, 1999-Ohio-52, 87 Ohio St.3d 257, 258 (1999). The petitioner is “required to allege with particularity the extraordinary circumstances entitling them to the requested extraordinary relief in habeas corpus.” *In re Bailey*, 2003-Ohio-859, ¶ 9 (2003), citing *Holloway v. Clermont Cty. Dept. of Human Serv.*, 92

Ohio St.3d 553, 555 (2001). “Unsupported conclusions contained in a habeas corpus petition are not considered admitted and are insufficient to withstand dismissal.” *Chari v. Vore*, 91 Ohio St.3d 323, 328 (2001).

{¶24} Finally, a petition for habeas corpus must be verified or it will be dismissed. *Estep v. State*, 2009-Ohio-4349, ¶ 6 (4th Dist.). ‘Verification’ means a ‘formal declaration made in the presence of an authorized officer, such as a notary public, by which one swears to the truth of the statements in the document.’ ” *Chari* at 327, quoting Garner, Black's Law Dictionary (7 Ed.1999) 1556.

2. Analysis

{¶25} The record appears to indicate that a court in Cooke County, Texas has exercised jurisdiction over Bishop’s children and adjudicated the children to be “deprived” and placed them with Texas Child Protective Services. [Attachment to Petition, 8-6-18 Decree of Dissolution of Marriage from Oklahoma Court indicating that a Court in Cooke County, Texas adjudicated children as deprived and placed them with Texas Child Protective Services] In Texas, a parent facing termination of their parental rights is entitled to a jury trial as well as an appeal of that decision. See *In re J.C.*, 108 S.W.3d 914, 915-916 (Tex. 2003). “[Bishop] did not allege in her complaint in even a conclusory manner that she lack[ed] an adequate remedy at law[]” even though it was her burden to do so. *In re Complaint for Writ of Habeas Corpus for Goeller*, 2004-Ohio-5579, ¶ 15, citing *Rammage v. Saros*, 2002-Ohio-6669, ¶ 9. Thus, Bishop had a remedy in the

ordinary course of the law by way of a trial on the custody determination and appeal of that decision.

{¶26} Bishop also failed to allege with particularity the extraordinary circumstances regarding why she claims that her children were being unlawfully detained, or why she has the superior legal right to custody of her children. Rather, Bishop merely conclusively asserts that the Texas court committed fraud in terminating her parental rights and placing the children in protective custody of the State of Texas. Her unsupported conclusion that the Texas custody order is void and unenforceable is insufficient to withstand dismissal.

{¶27} Finally, Bishop did not verify her petition because it was not notarized or otherwise verified. This failure alone is fatal to her petition.

{¶28} Thus, we find that the trial court did not err dismissing Bishop's petition seeking a writ of habeas corpus for lack of jurisdiction and her petition otherwise lacked merit. Accordingly, we overrule Bishop's first assignment of error.

ASSIGNMENTS OF ERROR II, III, and IV

{¶29} Having affirmed that the trial court lacked jurisdiction to consider Bishop's habeas petition and her petition otherwise lacks merit, we find Bishop's second, third, and fourth assignments to be moot.

CONCLUSION

{¶30} Because we overruled Bishop's first assignment of error and find her other three assignments of error moot, we affirm the trial court's judgment that dismissed Bishop's petition for a writ of habeas corpus.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Vinton County Common Pleas Court, Juvenile Division, to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Smith, P.J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 14, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.