Montana Supreme Court Decides International Child Custody Case

The Uniform Child Custody Jurisdiction and Enforcement Act, which has been enacted by every U.S. state, discourages forum shopping in child custody disputes by assigning subject-matter jurisdiction to the court located in the "home state" of the child. In *Allen v. Allen*, decided on April 21, 2026, the Montana Supreme Court had to determine whether the child's "home state" was Montana or the Netherlands. This case shines an important spotlight on the importance of *timing* in international child custody disputes. The left-behind parent's likelihood of success is strongly correlated with how quickly her or she acts to vindicate their legal rights.

Facts

Jonathan Edward Allen (Father) and Petronella Gerline (Van Oosterom) Allen (Mother) were married in Colorado in 2009. Father is a United States citizen. Mother is a dual citizen of the United States and the Netherlands. Their child (R.A.A.) was born in 2015. In 2020, the family moved from Colorado to Montana.

In August 2023, after Father and Mother began having marital difficulties, Mother and R.A.A. relocated to the Netherlands. In February 2024, Mother filed a petition for divorce and custody with the District Court of Central Netherlands (Netherlands District Court).

In January 2025, Father filed a petition with the District Court of The Hague seeking the return of R.A.A. pursuant to the Hague Convention on the Civil Aspects of International Child Abduction. This petition was denied. Although the court held that R.A.A. had been wrongfully removed from the United States, the court reasoned that the one-year automatic return period had passed and that R.A.A. had become settled in her new environment in the Netherlands. This decision was affirmed on appeal.

In September 2025, Father filed an Emergency Motion for Temporary Custody and Petition for Permanent Parenting Plan in Montana state court. That court dismissed the petition on the grounds that it lacked subject-matter jurisdiction.

Specifically, it held that it lacked the power to adjudicate the dispute because Montana was no longer the "home state" of R.A.A. Father, acting pro se, appealed to the Montana Supreme Court.

Analysis

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) assigns exclusive subject-matter jurisdiction to courts located in the child's "home state" when it comes to matters relating to child custody. The "home state" is "the state in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately before the commencement of a child custody proceeding." The UCCJEA specifically provides that courts "shall treat a foreign country as if it were a state of the United States" for purposes of resolving these disputes.

On the facts presented in *Allen v. Allen*, the Montana Supreme Court correctly held that it lacked subject-matter jurisdiction to consider Father's emergency motion. Mother and R.A.A. relocated to the Netherlands in August 2023. Six months later—in February 2024—R.A.A.'s home state shifted to the Netherlands. The Dutch courts—not the Montana courts—now had exclusive subject-matter jurisdiction to resolve custody disputes involving R.A.A. Father did not file his motion in Montana until September 2025, which was nineteen months too late.

Conclusion

If Father had filed his suit in Montana before February 2024, he could have shown that Montana was R.A.A.'s "home state" because the child had not yet resided in the Netherlands for six months. The suit was, however, not filed until September 2025.

If Father had filed suit in the Netherlands before August 2024, he could have argued that R.A.A. should be returned to the United States pursuant to the Hague Convention on the Civil Aspects of International Child Abduction because the child had not yet resided in the Netherlands for a year. The suit was, however, not filed until January 2025.

The takeaway of *Allen v. Allen* is the need for speed in international child custody cases. The timelines baked into the relevant laws and treaties mandate that the

left-behind parent move quickly to assert their rights. If they are slow off the mark, they be forced to litigate in foreign courts under less favorable legal rules.