Circuit Court for Montgomery County
Case No. 148475 FL

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2264

September Term, 2018

MARC BROOKS

v.

BROOKE BROOKS

Leahy,
Reed,
Friedman,

JJ.

Opinion by Reed, J.

Filed: May 6, 2019

On October 5, 2017, Marc Brooks (hereinafter "Appellant") filed a complaint for Limited or in the Alternative Absolute Divorce, Child Custody, Child Support and Other Relief. On December 7, 2017, Brooke Brooks (hereinafter "Appellee"), Appellant's wife, filed a motion to dismiss Appellant's complaint. After multiple motions and hearings, the Circuit Court for Montgomery County relinquished exclusive and continuing jurisdiction and transferred all pending child custody issues to the Superior Court of Los Angeles County, California. It is from this decision that Appellant files this timely appeal. In doing so, Appellant brings the following questions for our review, which we have rephrased for clarity:[1]

> I. Did the circuit court err in determining that Maryland is not a convenient forum?
>
> II. Did the circuit court fail to consider the best interest of the parties' minor child before relinquishing jurisdiction?

For the foregoing reasons, we answer in the negative and affirm the decision of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

The parties were married on June 5, 2013. After getting married, the parties lived in Maryland and purchased a home in Montgomery County. The parties have one minor child

[1] Appellant presents the following questions:

1. Did the court err in determining that Maryland is not a convenient forum and relinquishing jurisdiction?

2. Did the court err in failing to consider the minor child's best interest before relinquishing jurisdiction?

that was born on June 23, 2016. At the time of the minor child's birth, Appellant was in the process of obtaining his second Baccalaureate degree in Computer Science. On July 22, 2017, the parties moved to San Antonio, Texas. The parties moved to Texas because Appellee took a job offer as a JAG officer at Randolph Air Force Base and Appellant took a job offer with the Southwest Research Institute. Appellant's employer paid for the parties to move to Texas on the condition that Appellant remain employed with the company for a minimum of one year. Upon relocating, the parties rented their home in Maryland and rented an apartment in Texas for a one-year term. Appellant transferred his finances to a financial institution in Texas, received mail at his home in Texas, and was required to register his car to his Texas address within 30 days and change his driver's license to a Texas driver's license within 90 days.

Shortly after relocating to Texas, the parties were involved in a domestic violence altercation resulting in Appellant being charged with assault. Appellee sought and obtained a protective order against Appellant. Appellant was later found not guilty of assault against Appellee by a jury. The jury found that Appellant was defending himself against Appellee. In September 2017, Appellee moved to California with the parties' minor child.

Court Filings in Texas, California, and Maryland

On September 18, 2017, Appellant filed a Petition for Divorce in the District Court for Bexar County, Texas. In Appellant's petition, Appellant stated that he was a domiciliary of the State of Texas and had been for the preceding 90 days. Appellant further swore that he and Appellee had no intention of returning to Maryland and that he intended to reside in Texas. On September 28, 2017, Appellee filed a motion to dismiss requesting that the

District Court for Bexar County decline jurisdiction or in the alternative that the matter be stayed until a custody matter could be promptly commenced in Maryland.

On October 2, 2017, Appellee filed for legal separation in the State of California. On October 5, 2017, Appellant filed a complaint for Limited and/or in the Alternative Absolute Divorce, Child Custody, Child Support and Other Relief in the Circuit Court for Montgomery County, Maryland. At the time Appellant filed his complaint in Maryland, Appellant was still living in Texas. On October 9, 2017, four days later, Appellant filed an additional pleading in the District Court for Bexar County, Texas in which Appellant reaffirmed his intention to reside in Texas and affirmatively stated that he had no intention of returning to Maryland. In that same pleading, Appellant further stated:

> On October 5, 2017, [Appellant] filed a Complaint for Limited or in the Alternative Absolute Divorce, Custody, Child Support or Other Relief in the Circuit Court of Maryland for Montgomery County … [Appellant] intends to request that the Maryland Court transfer the divorce proceedings to Texas because the parties, witnesses, and evidence related to the break dissolution [sic] of the marriage are in Texas, or occurred in Texas.

On January 15, 2018, Appellant entered into a contract with his employer to allow him to live in Maryland and maintain his employment. Subsequently, Appellant returned to Maryland and obtained an apartment in Silver Spring, Maryland. Appellant's complaint in Bexar County, Texas was eventually dismissed for lack of jurisdiction.

Proceedings in the Circuit Court for Montgomery County

On December 7, 2017, Appellee filed a motion to dismiss in the Circuit Court for Montgomery County for the child custody request in Appellant's October 5, 2017 complaint. A hearing was held on March 30, 2018, before the Honorable Debra L. Dwyer,

and Appellee's motion to dismiss was denied. On April 9, 2018, Appellee filed a Motion for Reconsideration, which was also denied. On June 6, 2018, Appellant filed a notice for *In Banc* Review. The circuit court, *sua sponte*, scheduled an evidentiary hearing, which was held on July 24, 2018, before the Honorable Cynthia Callahan.

Appellant was present at the hearing in Maryland with his counsel. However, Appellee was present in the Superior Court of Los Angeles County, California before the Honorable Steve Cochran. Judge Callahan and Judge Cochran spoke to one another both on and off the record. Appellee testified that the parties' minor child's doctor is located in California, Appellee is employed at a law firm in California, and that Appellee's mother provides care for the parties' minor child while Appellee is at work. Appellant testified that he is residing in an apartment in Silver Spring, Maryland, which has sufficient space to accommodate the minor child. Appellant also testified that Appellee has not complied with the terms of the pendente lite access agreement that the parties entered into. Appellant further testified that because of financial reasons he could not travel to California to visit his minor child and was not able to attend any of the proceedings in California. Moreover, Appellant testified that he was unable to obtain counsel in California and that all of his witnesses are located in Maryland.

On August 2, 2018, the circuit court issued an Order finding that Maryland is an inconvenient forum and relinquished exclusive and continuing jurisdiction. The circuit court relied on the factors set forth in Maryland Code Ann. Family §9.5-207 and determined the following:

(i) whether domestic violence has occurred and is likely to continue

in the future and which state could best protect the parties and the child;

[Appellee] alleged that [Appellant] had committed an act of domestic violence while the parties lived in Texas. There is no indication that similar allegations were made in Maryland or California.

(ii) the length of time the child has resided outside this State;

[the minor child] has been residing outside Maryland for more than a year.

(iii) the distance between the court in this State and the court in the state that would assume jurisdiction;

The distance between Montgomery County, Maryland and Los Angeles, CA is 2,620 miles.

(iv) the relative financial circumstances of the parties;

Each parent is gainfully employed. Each can support the child.

(v) any agreement of the parties as to which state should assume jurisdiction;

None.

(vi) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

In this case, this factor is the most significant. [The minor child] is 2 years old. Given her age and developmental status, she is unlikely to testify. Thus, the people with whom she lives, those who provide her care, professional and otherwise, and her day to day activities are critical to the court's ability to determine her best interests and an appropriate parenting arrangement. Additionally, [Appellant] has not visited the child in over a year.

(vii) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence;

This Court knows of no impediment to expeditious resolution in either jurisdiction.

> *(vii) the familiarity of the court of each state with the facts and issues in the pending litigation.*
>
> Each court has had interactions with the parties. While there is no doubt that there have been more court proceedings in Maryland than in California, no determinative evidentiary hearings have occurred.

It is from this decision that Appellant files this timely appeal.

STANDARD OF REVIEW

The decision to relinquish the circuit court's jurisdiction is within its discretion. *See Krebs v. Krebs*, 183 Md. App. 102, 117 (2008) (reviewing a court's decision to decline jurisdiction for abuse of discretion). "Before finding an abuse of discretion we would need to agree that, 'the decision under consideration [is] well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *In re Yve S.*, 373 Md. 551, 583-584 (2003) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312–13 (1997) (some internal citations omitted)). In *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006), we have defined abuse of discretion more expansively:

> We have defined abuse of discretion as discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons. *Jenkins v. City of College Park*, 379 Md. 142, 165 (2003) (emphasis not included). *See also Garg v. Garg*, 393 Md. 225, 238 (2006) (The abuse of discretion standard requires a trial judge to use his or her discretion soundly and the record must reflect the exercise of that discretion. Abuse occurs when a trial judge exercises discretion in an arbitrary or capricious manner or when he or she acts beyond the letter or reason of the law.) quoting *Jenkins v. State*, 375 Md. 284, 295–96 (2003); *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (There is an abuse of discretion where no reasonable person would take the view adopted by the trial court, or when the court acts without reference to any guiding rules or principles. An abuse of discretion may also

> be found where the ruling under consideration is clearly against the logic and effect of facts and inferences before the court, or when the ruling is violative of fact and logic.) (citations and some internal quotations omitted).

Touzeau v. Deffinbaugh, 394 Md. 654, 669 (2006).

DISCUSSION

A. Parties' Contentions

Appellant argues that the circuit court abused its discretion by finding that Maryland is an inconvenient forum because: 1) Maryland has substantial dealings with the parties; 2) the parties' minor child has substantial contacts in Maryland; and 3) that Appellant lacks financial resources to litigate the matter in California. Specifically, Appellant contends that the circuit court erred when it found that Maryland was an inconvenient forum. Appellant asserts that the circuit court failed to consider the totality of the circumstances when evaluating the statutory factors. Appellant maintains that the circuit court placed a significant amount of emphasis on one factor, which is the nature and location of the evidence in this case. Appellant argues that Appellee presented no evidence or testimony indicating that she would be calling an expert witness that is located in California. Moreover, Appellant argues that Appellee is an attorney and is in a "financial superior position than [] Appellant" and was able to obtain counsel in both Maryland and California.

Next, Appellant contends that the circuit court erred by only applying a cursory overview and/or analysis of the other statutory factors. Specifically, Appellant argues that the circuit court failed to consider the parties' financial circumstances, the ability of the court to decide the issues expeditiously, the familiarity of the court of each state with the facts and issues in the pending litigation, the distance between the courts, and the circuit

court's misplaced belief that the parties' minor child had no home state. Appellant argues that the circuit court abused its discretion when it found that Appellant was gainfully employed. Appellant maintains that Appellee is in a financially advantageous position because she was able to travel to Maryland to attend two hearings and Appellee was able to retain counsel in both Maryland and California. Appellant further argues that the circuit court was further along in the proceedings compared to the Superior Court in California and thus, "Maryland is the jurisdiction which would be able to expeditiously conclude the matter and resolve the issue of custody and access."

Lastly, Appellant contends that the circuit court abused its discretion when it failed to consider the best interest of the minor child prior to declining jurisdiction. Specifically, Appellant maintains that a best interest of child analysis can be done in conjunction with the factors set forth in considering whether Maryland is a convenient forum.

Appellee responds that the circuit court did not abuse its discretion by finding that Maryland is an inconvenient forum and relinquishing jurisdiction. Appellant further argues that the circuit court considered each factor set forth in Maryland Family Law §9.5-207. Specifically, Appellee contends that the trial court has received and considered significant testimony regarding each of the factors set forth in Maryland Family Law §9.5-207. Appellee argues that Appellant's argument that he is not financially stable has no merit. Specifically, Appellee maintains that at the time of the July 2018, hearing Appellant's yearly income was $100,835.04 and Appellee's yearly income was $75,000.00. Moreover, Appellee contends that Appellant was able to afford counsel in Texas and Maryland simultaneously. Lastly, Appellee maintains that the circuit court did not abuse its

discretion. We agree.

B. Analysis

i. Inconvenient Forum

Appellant contends that the circuit court abused its discretion by finding that Maryland is an inconvenient forum. Appellant argues that the circuit court failed to consider the totality of the circumstances when evaluating the statutory factors. Moreover, Appellant argues that Appellee is an attorney and is in a "financial superior position than [] Appellant" and was able to obtain counsel in Maryland and California. Appellant maintains that Appellee is in a financially advantageous position because she was able to travel to Maryland to attend two hearings and Appellee was able to retain counsel in both Maryland and California.

Jurisdiction in this instant case is governed by the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"), which was promulgated in 1997 by the National Conference of Commissioners on Uniform State Laws. *See* 9, Part IA, U.L.A. 655 (1999).

> In 2004, Maryland adopted the Maryland UCCJEA to govern child custody actions. This Court has long-recognized that the legislature adopted the Maryland UCCJEA's predecessor, the Maryland Uniform Child Custody Jurisdiction Act ("UCCJA"), "to 'deter abductions and other unilateral removals of children undertaken to obtain custody awards.'" *Cronin v. Camilleri*, 101 Md .App. 699, 710 (1994) (quoting FL § 9–202(5)).

Pilkington v. Pilkington, 230 Md. App. 561, 575-576 (2016).

> This Court has recognized that "[t]he UCCJEA, governing custody and visitation, ... w[as] established to provide systematic and harmonized approaches to urgent family issues in a world in which parents and guardians, who choose to live apart, increasingly live in different states and

> nations." *Friedetzky*, 223 Md. App. at 726–27. The UCCJEA "'provide[s] stronger guidelines for determining which state has jurisdiction, continuing jurisdiction, and modification jurisdiction over a child custody determination[.]'" *Miller v. Mathias*, 428 Md. 419, 452, (2012) (quoting *In re Kaela C.*, 394 Md. 432, 455(2006)).

Cabrera v. Mercado, 230 Md. App. 37, 74-75 (2016).

The Maryland version is codified in Maryland Code, Title 9.5 of the Family Law Article.

Maryland Family Law § 9.5-201 prescribes as relevant:

> (a) Except as otherwise provided in § 9.5-204 of this subtitle, a court of this State has jurisdiction to make an initial child custody determination only if:
>
> (1) this State 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 *6 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;
>
> (2) a court of another state does not have jurisdiction under item (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under § 9.5-207 or § 9.5-208 of this subtitle…

Maryland Family Law § 9.5-201(emphasis added). Maryland Family Law § 9.5-207 states the following:

> (a)(1) A court of this State that has jurisdiction under this title to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum.
>
> ***
>
> (b)(1) *Before* determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate for a court of *another* state to exercise jurisdiction.

> (2) For the purpose under paragraph (1) of this subsection, the court shall allow the parties to submit information and shall consider all relevant factors, including:
>
> > (i) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;
> > (ii) the length of time the child has resided outside this State;
> > (iii) the distance between the court in this State and the court in the state that would assume jurisdiction;
> > (iv) the relative financial circumstances of the parties;
> > (v) any agreement of the parties as to which state should assume jurisdiction;
> > (vi) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
> > (vii) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and
> > (viii) the familiarity of the court of each state with the facts and issues in the pending litigation.

Maryland Family Law § 9.5-207 (emphasis added).

In *Miller v. Mathias*, 428 Md. 419 (2012), Joseph Miller, the appellant, and Amanda Lee Mathias, the appellee, were the parents of a minor child whose custody they agreed to share. The parties had a joint custody agreement that was executed when the parties both lived in Maryland. In the agreement, the parties agreed that future disputes arising out of the agreement would be settled in mediation. Subsequently, the appellee moved to Virginia with her new husband and for about two years the circumstances of the parties remained unchanged. However, the appellee filed a Motion to Modify Custody in the Juvenile and Domestic Relations Court of Fairfax County, Virginia without first pursuing mediation. The appellee also filed a Motion to Relinquish Jurisdiction to the Commonwealth of Virginia in the Circuit Court for Montgomery County. In the appellee's motion to the

circuit court, she acknowledged that pursuant to Maryland Family Law § 9.5-201 that Maryland had exclusive and continuing jurisdiction. However, the appellee argued that the circuit court should relinquish jurisdiction because Maryland was an inconvenient forum.

In response, the appellant filed an Opposition to the Motion to Relinquish Jurisdiction in the circuit court. The appellant argued that the circuit court should reject the applicability of the inconvenient forum provision because the child custody decision has been made by a court that retains jurisdiction. The appellant argued that the inconvenient forum provision is only applicable "in the circumstances of an initial custody determination, not a motion to modify a prior determination." *Id*. at 430. The circuit court denied the appellee's Motion to Relinquish Jurisdiction. However, the juvenile court in Virginia stayed the proceedings and "Adjudged, Ordered and Decreed…" that the Juvenile Court in Virginia shall communicate with the presiding judge in Maryland on the question of jurisdiction.

Subsequently, the appellee filed a motion to alter or amend the judgment in the circuit court. The appellee also requested that "this matter to proceed in accordance with the orders issued by the Virginia Court." The communication between the Maryland and Virginia courts did occur in the form of a telephone conference. At the conclusion of the telephone conference, the Circuit Court for Montgomery County relinquished its jurisdiction to Virginia. The appellant filed a timely appeal to this Court but while the case was pending, the Court of Appeals *sua sponte* granted certiorari. One of the issues before the Court of Appeals was whether the circuit court properly applied the factors set forth in Maryland Family Law § 9.5-207. The Court of Appeals held that the circuit court did not

abuse its discretion when it applied the factors set forth in Maryland Family Law § 9.5-207. The Court of Appeals reasoned:

> Section 9.5–207(b)(2) sets out eight factors, the relevant ones of which § 9.5–207(a)(1) requires the court to consider when addressing the question of the convenience of the forum. In her motion to the Circuit Court seeking relinquishment of jurisdiction to Virginia, the appellee addressed some of those factors, emphasizing those that she believed best supported her case for shifting jurisdiction to Virginia… [T]he appellant's main argument was that Maryland, as the continuing, exclusive jurisdiction, was the appropriate venue for determining this custody matter that inconvenient forum analysis did not apply. Having heard the arguments, Judge Harrington issued her ruling, relinquishing Maryland's jurisdiction…That ruling was grounded in the inconvenient forum arguments that counsel, specifically the appellee's counsel, made, to be sure, but, also, implicitly, it reflects an understanding and appreciation of some of the relevant factors, i.e. § 9.5–207(b)(2)(ii), (iii), (vi), (vii) and (viii). Judge Harrington, consequently, had a basis for her conclusion and her rationale was certainly not unreasonable. Her decision was not "beyond the fringe" of what this Court deems acceptable. We discern no abuse of discretion. We hold, therefore, that the Circuit Court did not abuse its discretion when it, pursuant to § 9.5–207, relinquished jurisdiction to the Virginia court.

Miller v. Mathias, 428 Md. 419, 456-457 (2012).

In this case, the circuit court heard testimony and considered evidence presented by both parties. The circuit court applied the relevant facts to this case to the eight factors set forth in Maryland Family Law § 9.5-207. We hold that the circuit court did not abuse its discretion when it held that Maryland relinquish its jurisdiction to California. When applying the relevant facts of this case to the factors set forth in Maryland Family Law § 9.5-207 we find the following:

- **Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.**

  At the July 24, 2018, hearing Appellee testified to the following:

> [Appellee's Counsel]: And without going into great detail, what was the reason for you and the child relocating from Texas to California?
>
> [Appellee]: My husband assaulted me and…
>
> [Appellant's Counsel]: Objection Your Honor.
>
> [Appellee]: … and I had no other friends or family in the area. I was afraid and I left. [2]

Here, Appellee testified that there was a domestic violence altercation that lead to her and the parties' minor child relocating from Texas to California.

- **The length of time the child has resided outside this State.**

Pursuant to Maryland Family Law § 9.5-201 (a)(1) (emphasis added) "this State 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 *6 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."

Here, the parties' minor child was born in Maryland on June 23, 2016. The parties relocated from Maryland to Texas on July 26, 2017, when the minor child was a one year old. On September 7, 2017, Appellee and the minor child relocated from Texas to California. As such it follows that the minor child lived in Maryland for a year, the minor child lived in Texas for 43 days, and at the time of the July 2018, hearing the minor child lived in California for 10 months. This Court concedes that on October 5, 2017, the date when Appellant filed his first complaint in the circuit court, Maryland was the minor child's

[2] The circuit court overruled Appellant's counsel's objection.

home state. However, at the time of the hearing the minor child had resided outside of Maryland for almost an entire year.

- **The distance between the court in this State and the court in the state that would assume jurisdiction.**

Although, there was no direct testimony, the circuit court took judicial notice that the distance between Montgomery County, Maryland and Los Angeles, California is 2,620 miles.

- **The relative financial circumstances of the parties.**

The circuit court found that at the time of the hearing both parties were gainfully employed. Appellee was employed by a law firm in California and Appellant was a research engineer. The record also shows that Appellant submitted to the circuit court a financial statement which indicated that his total gross monthly income was $7,157.50. Appellee also submitted a financial statement which shows that her total gross monthly income was $6,250.00. As such, Appellant's argument that Appellee is in a "financial superior position than [] Appellant" has no merit. In fact, the record shows that Appellant makes more than Appellee financially on a monthly basis.

- **Any agreement of the parties as to which state should assume jurisdiction.**

The record indicates that the parties could not reach an agreement as to which state should assume jurisdiction.

- **The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.**

At the hearing, Appellee testified that the parties' minor child is cared for by her mother, who lives in California, while Appellee is at work. Appellee further testified that the minor child's pediatrician is located in California, that the minor child's maternal extended family lives in California, that the minor child has playdates in California, that the minor child is established in a church and bible school in California, and that the minor child attends swimming classes in California. Moreover, the record shows that the circuit court found that given the minor child's age she is unlikely to testify. Thus, the people who the minor child lives with and interacts with on a daily basis could provide the court with some critical information as to the best interest of the minor child. The circuit court further found that the people who are critical in determining the best interest of the minor child are all located in California. In addition, Appellant testified that the minor child has not seen her doctor in Maryland in over a year and the minor child's former nanny has not seen the minor child in over a year. Lastly, Appellant further testified that no lay witnesses in Maryland has seen the minor child in over year.

- **The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.**

The circuit court found that there was "no impediment to expeditious resolution in either jurisdiction."

- **The familiarity of the court of each state with the facts and issues in the pending litigation.**

The circuit court concluded:

Each court has had interactions with the parties. While there is no doubt that

> there have been more court proceedings in Maryland than in California, no determinative evidentiary hearings have occurred.

Moreover, the record shows that Appellee never availed herself to the jurisdiction of Maryland Courts because she never filed an answer. Appellee promptly filed a motion to dismiss the case because she contested the convenience of properly defending her case in Maryland. However, Appellant availed himself to the jurisdiction of California because he filed an answer on June 20, 2018.

Accordingly, we hold that the circuit court did not abuse its discretion when it relinquished jurisdiction to California. The record shows that the circuit court applied the facts before it to the factors set forth in Maryland Family Law § 9.5-207.

ii. Best Interest of the Minor Child

Appellant contends that the circuit court abused its discretion when it failed to consider the best interest of the minor child prior to declining jurisdiction. Specifically, Appellant maintains that a best interest of child analysis can be done in conjunction with the factors set forth in considering whether Maryland is a convenient forum.

During the July 2018, hearing, the circuit court made it clear to Appellant's counsel the there was a distinction between a custody proceeding and determining which forum would be convenient in hearing the merits of this case.

> [Appellant's Counsel]: What information if any do you have regarding that, with [the minor child's] [sic] visit to Maryland?
>
> [Appellant]: I have been calling every Tuesday, Thursday and Sunday …
>
> The Court: So, sir the question was what information do you have about your daughter being in the general vicinity of Maryland?

[Appellant]: None

[Appellant's Counsel]: Why were you calling every Tuesday, Thursday, and Sunday?

[Appellant]: That was the agreement that we…

[Appellee's Counsel]: Objection.

The Court: Again, this isn't a custody proceeding. There's obviously going to be one, eventually, when we figure out to get to the end of this process, but I don't think it helps me particularly to have the details that will go into a custody proceeding. That's not what this is intended to be , this is intended to be a process by which the Court figures out where is most likely for information [sic] about the child to be located so that the right Court ends up with the obligation to make a decision about the child's custody.

We agree with the circuit court. The issue before the circuit court was whether Maryland was an inconvenient forum to hear the case as it pertains to who should have custody over the minor child. The circuit court was not obligated to apply a best interest of the minor child analysis prior to determining if Maryland was the most convenient forum. The only issue before the court was which jurisdiction would be the proper jurisdiction to the hear merits of this case.

Accordingly, we find that the circuit court did not err when it did not consider a best interest of a child analysis prior to declining jurisdiction.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.