

**STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700**

No. 55,476-CW

DIAMOND STEWART

VERSUS

DOMINIQUE DORSEY

FILED: 08/02/23

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On application of Dominique Dorsey for SUPERVISORY WRIT in No. 169,187 on the docket of the Twenty-Sixth Judicial District, Parish of BOSSIER, Judge Charles A. Smith.

JEFFERSON LAW FIRM, APLC
LaKeisha N. Jefferson

Counsel for:
Dominique Dorsey

RON CHRISTOPHER STAMPS, LLC
Ron Christopher Stamps

Counsel for:
Diamond Stewart

Before STEPHENS, THOMPSON, and ROBINSON, JJ.

WRIT GRANTED AND MADE PERMPTORY.

Applicant, Dominique Dorsey, seeks review of a judgment rendered in open court denying his exceptions of *lis pendens*, lack of subject matter jurisdiction, no cause of action and no right of action. After review, we conclude that the district court when it denied Mr. Dorsey's exception of *lis pendens* based the following facts established by this record:

- On January 27, 2022, Mr. Dorsey filed a petition in Civil District Court of the Parish of Orleans to make the Florida custody judgment executory in Louisiana. An order making the Florida judgment executory in the Civil District Court for the Parish of Orleans was signed on April 6, 2022.
- On July 6, 2022, Mr. Dorsey filed an emergency motion to modify custody, a rule for contempt, and a request for attorney fees and court costs. A hearing date of September 8, 2022, for Mr. Dorsey's motion and rule.

- Prior to the hearing, on August 15, 2022, Mr. Dorsey filed a second rule for contempt, attorney fees and court costs.
- On September 6, 2022, Ms. Stewart filed a motion for an extension of time to respond to file responsive pleadings. The matter was reset for a hearing on December 1, 2022. Because Ms. Stewart appeared *pro se*, the district court in Orleans decided to move the hearing back for her to obtain counsel. The matter was again reset.
- On January 19, 2023, Ms. Stewart filed her own petition to establish custody, visitation and support in the 26th Judicial District Court, Parish of Bossier.
- On May 18, 2023, Mr. Dorsey filed declinatory exceptions of *lis pendens* and lack of subject matter jurisdiction and peremptory exceptions of no cause of action or no right of action.

It is clear that Mr. Dorsey initiated the proceedings in this child custody and support one year prior to Ms. Stewart's petition to modify custody by making the Florida judgment of paternity and the custody and support decree executory in Louisiana. He filed a motion to modify the judgment of custody, visitation and support six months prior to the date Ms. Stewart's petition was filed. The matter was set for a hearing and is still pending due to being re-set to accommodate Ms. Stewart's ability to avoid service.

The record clearly indicates that there were pending proceedings in Orleans Parish. The written motion filed by Mr. Dorsey raising the exceptions indicates that there were pending matters in the Orleans Parish proceeding. Ms. Stewart knew of the pending proceedings and counsel for Ms. Stewart either knew or should have known of the pending proceedings. Ms. Stewart was served with notice of the hearing on the exceptions, and she made an appearance of record two times regarding the hearings which were re-set to accommodate her. Counsel certainly should have been aware of the pending matters as well, at least after she had notice of the exception of *lis pendens*.

We therefore conclude Mr. Dorsey is entitled to dismissal of Ms. Stewart's petition filed in the Bossier Parish District Court pursuant to La. C.C.P. art. 531. The two pending actions filed in this case concern the same subject matter or transaction and involve the same parties. See, *An Erny Girl, L.L.C. v. BNOG 4, L.L.C.*, 16-1011 (La. App. 4 Cir. 3/30/17), 216 So. 3d 833. Moreover, a final judgment in Mr. Dorsey's suit would be *res judicata* in the subsequently filed suit by Ms. Stewart. *Aisola v. Louisiana Citizen's Property Ins. Corp.*, 14-1708 (La. 10/14/15), 180 So. 3d 266.

For these reasons, we reverse the judgment overruling Mr. Dorsey's exception of *lis pendens*. On *de novo* review, the exception is sustained. This writ is granted and made preemptory, dismissing the petition filed in the 26th Judicial District Court, Bossier Parish, captioned *Diamond Stewart v. Dominique Dorsey*, #C-169187, with prejudice.

Our ruling pretermits the need for any discussion of Mr. Dorsey's remaining exceptions. Mr. Dorsey's motion to stay is denied. U.R.C.A. Rule 4-4.

Shreveport, Louisiana, this 24 day of October, 2023.

JMS JRT JLR

FILED: October 24, 2023

Shandra Jaylor
DEPUTY CLERK