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Child Custody Jurisdiction & Venue: Parental Relocation Within New Mexico

A parent's decision to relocate can obviously have a significant and lasting impact on parents' custody and time-sharing agreement. Even if the parents initially agree on a parenting plan that accommodates the parent's decision to relocate, problems may arise if the parties disagree later.

The first question that arises is what Court will handle the case? This can be a complicated question of jurisdiction and venue. If the parent relocates within New Mexico, this becomes a question of venue, or which court of general jurisdiction within New Mexico is the proper location for the filing of a subsequent motion and response regarding child custody. The answer can be found in the case of *Dugie v. Cameron*.

In *Dugie*, the parties were initially divorced in the Second Judicial District Court in Albuquerque. Later, one parent and the children moved to Grant County, which is governed by the Sixth Judicial District Court. Several years later, the parties had a disagreement about custody and time-sharing. The parent living in Grant County then filed a motion to modify time-sharing in Grant County. The other parent objected and argued that jurisdiction and venue over child custody issues remained with the Second Judicial District Court in Albuquerque. The New Mexico Supreme Court ruled that the Court that issues the initial child custody decision maintains jurisdiction over child custody matters and remains the proper venue for hearing all subsequent custody modifications.

On the other hand, parents can agree to a change of venue. In addition, if one parent does not object to the other parent filing in a different court, that parent might inadvertently waive his or her objection to the change of venue. Failure to oppose the change of venue in a written Response to a Motion filed in the new county can result in a waiver of the objection and a resultant change of venue to the new county.

Thus it is very important for both parents to consult an attorney before they relocate. It is equally important to consult with an attorney before filing any response to a motion or petition filed in a county other than the county of original jurisdiction to avoid possible waiver of the objections.

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