

Christopoulos v. Gardella, No. 69814, Order of Reversal and Remand (Unpublished Disposition, Aug. 11, 2016)
COA Unpub

Pursuant to Ogawa and NRS 125A.085(1), to determine a child's home state, the court must look to where the child resided for the six consecutive months before the institution of the proceeding, "including any temporary absence."

Here, Appellant claimed that the child resided in Nevada and had a temporary absence while she was in Michigan. Conversely, the Respondent claimed that the time the child spent in Nevada was only a temporary absence from Michigan, which was her true place of residence.

By concluding that it lacked jurisdiction, the district court failed in relying on whether the child's time in Michigan was "not incidental." The question is not whether the absence was incidental; rather it is whether the absence was temporary.

Moreover, the court did not make any findings as to whether the child was actually living in Nevada or whether she had only come here temporarily from Michigan. Therefore, the case is reversed and remanded for further proceedings.