

VAN TONDER v VAN TONDER 2000 (1) SA 529 (O)

Headnote : Kopnota

When one spouse deserts the other and leaves the child born of the marriage in the custody of the latter ('the custodian spouse'), but later unilaterally removes the child from care of the custodian spouse, the Court in whose area of jurisdiction the child was when the violation occurred has jurisdiction to adjudicate the application by the custodian parent and to grant orders concerning the return of the child and ancillary relief. That is the case regardless of whether a divorce action is pending in the Court in whose area of jurisdiction the custodian parent resides. Nor is it necessary for the custodian parent to approach the Division of the High Court to whose area of jurisdiction the child was removed. (At 535C/D - E/F, paraphrased.)