

After 10 years of marriage, a husband and wife decided to separate. The husband remained in the family home in State A, while the wife moved into an apartment in State B.

Seven months later, the wife filed for divorce in a state court in State B. She knew that her husband would be attending a professional conference in State B the following week, so she hired a process server to personally hand-deliver a copy of the divorce petition and the State B summons to him at the conference.

The husband moved to dismiss for lack of personal jurisdiction.

Should the court grant the husband's motion to dismiss?

- A. No, because the husband was personally served with process in State B.
- B. No, because there is no other state that is more convenient for both of the parties than State B.
- C. Yes, because State A was the couple's home state for 10 years.
- D. Yes, because the husband was in State B for a matter unrelated to the marriage.

Explanation:

Personal jurisdiction

(court's authority over defendant)

Type	Requirements
Service of process	<ul style="list-style-type: none">• Serving process on defendant voluntarily in state where court is located (ie, forum state)
Consent	<ul style="list-style-type: none">• Express – contractual agreement (eg, forum-selection clause)• Implied – engaging in specific activity that state has substantial interest in regulating (eg, driving on public roads)• Waiver – untimely objection to personal jurisdiction• Appearance – voluntarily appearing in court to litigate merits of case
Specific (case-linked)	<ul style="list-style-type: none">• Plaintiff's claim arises from or is closely related to defendant's minimum contacts (ie, purposeful availment) with forum state AND• Exercise of jurisdiction complies with notions of fair play & substantial justice
General (all-purpose)	<ul style="list-style-type: none">• Defendant has continuous & systematic contacts with forum state so substantial that defendant is essentially "at home" (ie, defendant's domicile)

Due process requires that a court have **personal jurisdiction** over all of the parties in a dispute before it. One way to establish personal jurisdiction is through **tag jurisdiction** (ie, transient jurisdiction). Under this method, personal jurisdiction is acquired by **serving the defendant*** with **formal process** while the defendant is **voluntarily in the forum state**—even if briefly and for a purpose **unrelated to the plaintiff's claim**.

Here, the husband was served with the divorce petition and State B summons while he was in State B for a conference—a matter unrelated to the marriage (**Choice D**). Therefore, the court has personal jurisdiction over the husband and should deny his motion to dismiss.

*Personal jurisdiction is always focused on the defendant because the plaintiff consents to personal jurisdiction by filing the suit in that court.

(Choice B) Whether another state or court is a more convenient forum for the parties is only considered when a change of **venue** is requested.

(Choice C) Although State A was the couple's home state for 10 years, State B has personal jurisdiction since the wife initiated the suit there and the husband was served with process there.

Educational objective:

Personal jurisdiction can be established by serving the defendant with formal process while the defendant is voluntarily in the forum state even if briefly and for a purpose unrelated to the plaintiff's claim.

References

- Burnham v. Super. Ct. of Cal., 495 U.S. 604, 619 (1990) (holding that personal jurisdiction is established when the defendant is served with process in the forum state).

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