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SUPERIOR COURT OF WASHINGTON
IN AND FOR KING COUNTY

IN RE: THE PARENTAGE OF:)

No. 01-5-00795-6SEA)

DOB: [REDACTED], Child)

JAMES D. CHRISTIANSON,
father)

PETITIONER,)

and)

[REDACTED] Mother)

RESPONDENT.)

ORIGINAL

Official record of proceedings
held before Commissioner Stephen M. Gaddis
Held on March 17, 2004

Johanna Rau, Transcriptionist
Flygare & Associates, Inc.
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10 **BEHALF OF ATTORNEY DONALD W. FERRELL:**

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1 COMMISSIONER GADDIS: Thank you. Now, this is the big one.
2 The big load.

3 UNIDENTIFIED VOICE: Yes.

4 MS. HERBERT: Good afternoon, Your Honor. I am Fern
5 Herbert, for Donald Ferrell. Counsel, Donald Ferrell, is
6 counsel of record for the respondent.

7 COMMISSIONER GADDIS: Okay. Well, we will go through
8 introductions then we will come back. I have a concern.

9 MR. BARTOW: Christopher Bartow, I represent Mr.
10 Christianson, who is here to my right.

11 COMMISSIONER GADDIS: All right.

12 MS. EWALT: I am Renee Ewalt, (inaudible)

13 COMMISSIONER GADDIS: All right. I don't have any initial
14 working papers for Mr. Ferrell or from your office. I have a
15 note for hearing. That's all. I do have papers in depth from
16 Mr. Christopher and Mr. Bartow. And I have from your, or Mr.
17 Ferrell's office late reply papers. See that big late stamp
18 they came in? Late.

19 But once again, I don't have your papers. I have several
20 volumes of the court file before me, but in view of the history
21 of this case, I wasn't prepared to go through them document by
22 document and do the work that either you or Mr. Ferrell had
23 failed to do.

24 MS. HERBERT: Well...

25 COMMISSIONER GADDIS: So, I presume...

1 MR. HERBERT: I'm just here for the hearing. I understood
2 that working copies were supposed to have been dropped off.

3 COMMISSIONER GADDIS: They were supposed to have been?

4 MS. HERBERT: Yeah.

5 COMMISSIONER GADDIS: But there's just no sign of them.

6 MS. HERBERT: But they weren't? You're saying you haven't
7 received them?

8 COMMISSIONER GADDIS: Well, we--well, you can--why don't you
9 check your file for your messenger slip. If the error is on our
10 part, I'm certainly willing to--

11 MS. HERBERT: No, I...

12 COMMISSIONER GADDIS: --bend over backwards, but all I have
13 is a note for hearing.

14 MS. HERBERT: Okay.

15 COMMISSIONER GADDIS: See it's...

16 MS. HERBERT: Well, I know for a fact that...

17 COMMISSIONER GADDIS: I had the coordinator check with me
18 back in chambers.

19 MS. HERBERT: Yeah. I know for a fact that working copies
20 were to have been dropped off, but I wasn't the one to--who was
21 responsible for doing that so...

22 COMMISSIONER GADDIS: Well, here is the package.

23 MS. HERBERT: That's...

24 COMMISSIONER GADDIS: And their document No. 1 is called
25 "Notice of Hearing."

1 MS. HERBERT: Right. I'm familiar with that but you don't
2 have a...

3 COMMISSIONER GADDIS: And it says the request is based on--
4 and it lists a whole number of documents, like I'm supposed to
5 go fishing for them or something. Although, I've got most of
6 them in Mr. Christopher's (inaudible)

7 MR. BARTOW: Christianson.

8 COMMISSIONER GADDIS: Christianson, excuse me. And then I
9 have a proposed order, is Document No. 2.

10 MS. HERBERT: Right.

11 COMMISSIONER GADDIS: And I have a Notice of Association by
12 counsel and then another proposed order and that's it.

13 MS. HERBERT: Right. Yeah. I have all of those. Those
14 were what Mr. Ferrell gave to me before he left, and then I know
15 he has an assistant, Judy, who was responsible for dropping off
16 a Strict Reply Memorandum and a declaration, along with the
17 Guardian Ad Litem's report.

18 COMMISSIONER GADDIS: And those I have.

19 MS. HERBERT: And you have those. Okay.

20 COMMISSIONER GADDIS: Those are what came in late.

21 MS. HERBERT: Late. I see. I see.

22 COMMISSIONER GADDIS: But nonetheless, in the spirit of
23 trying to get to a conclusion, I read them trying to understand
24 what your client's motion was.

25 MS. HERBERT: Right.

1 COMMISSIONER GADDIS: So, I'm still lacking a petition to
2 find adequate cause on. Now, if I read Mr. Christianson's
3 materials, I understood that there was a Notice of Objection to
4 Relocation and Petition for Change of Parenting Plan, but that
5 objection to relocation has been withdrawn as I understand it.

6 MS. HERBERT: Right.

7 COMMISSIONER GADDIS: So, what does that leave for the
8 Court?

9 MS. HERBERT: Well, Mr. Ferrell wants to proceed forward
10 to-on trial to basically discuss or argue the merits of
11 modifying the parenting plan.

12 COMMISSIONER GADDIS: Okay. What are the substantial
13 changes of circumstances upon which I would be basing this?
14 Because I understand that the current parenting plan was drawn
15 by your client's attorney.

16 MS. HERBERT: Right.

17 COMMISSIONER GADDIS: And she lives a thousand miles away?

18 MS. HERBERT: California, yes.

19 COMMISSIONER GADDIS: So what's different?

20 MS. HERBERT: Well, basically he's saying that based on the
21 law of the Relocation Act, the fact that Mr. Christianson, the
22 petitioner, filed for a relocation or made a Motion for
23 Relocation gives him, Mr. Ferrell, us, leave to proceed forward
24 with a modification of the parenting plan on that grounds.

25 COMMISSIONER GADDIS: Do you have any legal authority for

1 that, now that the relocation matter has been resolved?

2 MS. HERBERT: I think it's all laid out here in his memo,
3 Your Honor.

4 COMMISSIONER GADDIS: Would that be a document I don't have?

5 MS. HERBERT: Well, it may be within the late stack, but you
6 do have it.

7 COMMISSIONER GADDIS: I have...

8 MS. HERBERT: On page--here, on the memo starting on Page 2,
9 under Argument and Authority.

10 COMMISSIONER GADDIS: Okay. And I don't have the memo. And
11 I'm holding up--this is the late stack and it's still paper
12 clipped intact, called "Index to Respondents Reply Pleadings,"
13 Guardian Ad Litem report--

14 MS. HERBERT: Right.

15 COMMISSIONER GADDIS: --which I think is 27 pages. I did
16 read that. Then a Strict Reply Declaration.

17 MS. HERBERT: Yes.

18 COMMISSIONER GADDIS: And this is nine pages.

19 MS. HERBERT: Yes.

20 COMMISSIONER GADDIS: And then there's a fax or a e-mail
21 cover sheet and then a second--oh, okay the Strict Reply
22 Memorandum.

23 MS. HERBERT: Memorandum, yes.

24 COMMISSIONER GADDIS: So that's what you're referring to.

25 MS. HERBERT: Yes.

1 COMMISSIONER GADDIS: Okay. So, we're looking for legal
2 authority for...

3 MS. HERBERT: Under Argument and Authority, Page 2.

4 COMMISSIONER GADDIS: On Page 2?

5 MS. HERBERT: Yeah.

6 COMMISSIONER GADDIS: Now, I'm looking for a legal
7 authority. It would be a statute for a case decision that says-

8 -

9 MS. HERBERT: Okay. Well...

10 COMMISSIONER GADDIS: --when you file a relocation matter
11 and you get a case schedule and then you settle it, why the case
12 should, nonetheless, go to trial on a different issue.

13 MS. HERBERT: Well...

14 COMMISSIONER GADDIS: That's what I'm looking for.

15 MS. HERBERT: Yeah. Well, what we're using is RCW29.09 and
16 the fact that--yeah RCW29.09.260.

17 COMMISSIONER GADDIS: You know, this thing that's called a
18 Strict Reply Memorandum, what I have--the footer says Strict
19 Implied Declaration.

20 MS. HERBERT: Yeah. I have...

21 COMMISSIONER GADDIS: And it goes on and says the same
22 argument. I'm not seeing any case law. I'm not seeing any
23 statutory citations. I'm only seeing argument.

24 So, did--was there a mistake in the document? This isn't
25 the memorandum at all. It's another...

1 MR. BARTOW: I believe that counsel has actually signed that
2 document along with his client. At the end I guess he's
3 making--well...

4 COMMISSIONER GADDIS: On Page 7, I only see Ms. Wright's
5 signature.

6 MS. HERBERT: Yeah. I have that document. It says...

7 COMMISSIONER GADDIS: And ordinarily she would not be
8 signing a memorandum.

9 MS. HERBERT: No. She signed her declaration. I know that
10 there is a document that says Strict Reply Memorandum.

11 COMMISSIONER GADDIS: Can you take yours out and tell me
12 what the footer says, because mine goes right into the
13 declaration.

14 MS. HERBERT: My footer says Strict Reply Memorandum.

15 COMMISSIONER GADDIS: The footer says that too?

16 MS. HERBERT: Yes. Yes.

17 COMMISSIONER GADDIS: Okay. I got something that you don't
18 have then. You see? And I'm holding up in open court. It
19 says...

20 MS. HERBERT: I think I have what you have also.

21 COMMISSIONER GADDIS: No. But it says Strict Reply
22 Declaration--

23 MS. HERBERT: Down at the footer?

24 COMMISSIONER GADDIS: --in the footer and it goes into
25 argument. This is not a legal memorandum.

1 MR. BARTOW: I don't believe I ever received your Strict
2 Reply Memorandum either, except I do have...

3 COMMISSIONER GADDIS: Hand your memorandum over to counsel.

4 MR. BARTOW: I have--this is the Strict Reply Declaration.
5 Then Page 9 it's--and I don't know if somehow we've stapled it
6 wrong. It becomes Strict Reply Memorandum Page 9, following
7 page--Strict Reply Declaration Page C11.

8 COMMISSIONER GADDIS: Mr. Ferrell signs this--well, his
9 declaration (inaudible) by declaration as a signature line for
10 the client on Page 7. Curiously, no Page 8 and then on Page 9
11 are some paragraphs, and then Mr. Ferrell signs it and the
12 footer now says Strict Reply Memorandum.

13 MS. HERBERT: Yeah. I think there's been a big, big..

14 COMMISSIONER GADDIS: So, I'm seeing: (1), no initial
15 working papers; (2), late reply papers; (3), reply papers are
16 not what they say they are. And, you know, I'm certainly
17 willing to hand them down if you want to see them, but I don't
18 have what you have.

19 So that puts us in a situation of, "Can we proceed today?"
20 Ordinarily there would be a--there could be a denial of the
21 relief requested or there can be a continuance with an award of
22 terms or any other solution parties think of. I'll hear what
23 you are advocating for now.

24 MS. HERBERT: Well, well...

25 COMMISSIONER GADDIS: Or Mr. Bartow could waive it all and

1 we could proceed to a Hearing on the Merits.

2 MR. BARTOW: I would like to proceed to a Hearing on the
3 Merits, Your Honor.

4 COMMISSIONER GADDIS: I understand from the procedural
5 history why that would be so.

6 MS. HERBERT: Your Honor, I don't think Mr. Ferrell would
7 have a problem with that.

8 COMMISSIONER GADDIS: Well, then let us proceed to a Hearing
9 on the Merits. Have you all--have you any comment on this?

10 MS. HERBERT: Maybe I...

11 MS. EWALT: I guess my comment would be, if the correct
12 papers aren't in, then I don't see how we could proceed.

13 MR. BARTOW: I have a response to that, Your Honor.

14 COMMISSIONER GADDIS: Well, and we have this legal issue of-
15 -which I have yet to hear from Mr. Bartow on, and I didn't mean
16 to anticipate anyone's argument, I just want to be sure I had a
17 full deck, and now it's clear I don't. But what--we need to
18 hear the preliminary legal argument on whether there is anything
19 before the Court to set for the trial.

20 MS. HERBERT: Yeah. Well, Your Honor, I guess a Hearing on
21 the Merits would not be the right idea since we don't--since you
22 seem to not have all of the documents. Mr. Ferrell has an
23 assistant who takes care of all this. I was just supposed to
24 come today to handle the hearing.

25 COMMISSIONER GADDIS: Right. But do you have the right

1 document? Do you have his memorandum?

2 MS. HERBERT: Yes, I do.

3 COMMISSIONER GADDIS: Okay. What would be the statutory or
4 the legal authority? Just go from that. That's my concern.

5 MS. HERBERT: Okay.

6 COMMISSIONER GADDIS: For proceeding with a hearing on
7 (inaudible) and Mr. Bartow has addressed this in great length
8 and he gives case citations, and I appreciate his briefing on
9 the subject.

10 MR. BARTOW: It's actually my client's work, Your Honor.

11 COMMISSIONER GADDIS: Well--

12 MR. BARTOW: He signed it.

13 COMMISSIONER GADDIS: --law school may be the next step.

14 MR. BARTOW: I have advised him of that, and I would hire
15 him in a heartbeat to work for me.

16 COMMISSIONER GADDIS: So, that's what you need to respond
17 to.

18 MS. HERBERT: Okay. Well, argument and authority that the
19 petitioner's motion is so wanting, in any substance without any
20 single citation or legal authority in support thereof, has to be
21 substantially frivolous.

22 The statute RCW26.09.260, Modification of Parenting Plan by
23 Custody Decree Subsections 6 of the statute, specifically
24 provides, and I'm going to read verbatim what it says here.

25 "The Court may adjust to residential aspects, may order

1 adjustments to the residential aspects of a parenting plan
2 pursuant to the proceeding, pursuant to a proceeding to permit
3 or restrain a relocation of a child. The person objecting to
4 the relocation of the child or the relocating person's proposed,
5 revised residential schedule may file a petition to modify the
6 parenting plan, including a change of the residence, in which
7 the child resides the majority of the time, without a showing of
8 adequate cause other than the proposed relocation itself.

9 A hearing to determine adequate cause for modification shall
10 not be required so long as the request for relocation of the
11 child is being pursued.

12 In making a determination of modification pursuant to
13 relocation of the child, the Court shall first determine whether
14 to permit or restrain the relocation of the child under the
15 procedures and standards provided in RCW26.09.405 through
16 26.09.560.

17 Following that determination, the Court shall determine what
18 modification pursuant to relocation should be made, if any, to
19 the parenting plan or custody order or visitation order."

20 So that's the legal authority--that's a brief synopsis of
21 the legal authority that Mr. Ferrell is using here.

22 COMMISSIONER GADDIS: I see. And then... Okay. Mr. Bartow?

23 MR. BARTOW: Your Honor, this is a Motion for a Finding of
24 Adequate Cause. I think there's an acknowledgment that if
25 you're going to have a Motion for Adequate Cause that there's a

1 need for adequate cause.

2 The relocation is no longer being pursued. The relocation
3 has been authorized by the Court. Mr. Ferrell filed an amended
4 petition where he does not ask to restrain the relocation of the
5 child. He simply asked for modification of the parenting plan
6 and he asked for restraints on my client filing any more motions
7 in--with respect to the child.

8 My client highlighted the case of great speed, talking about
9 when a relocation is still being pursued, and the ruling in
10 Grigsby was premised on the fact that the custodial parent was
11 no longer actively pursuing relocation. The Court found the
12 legislature's language noteworthy in RCW26.09.2606, which has
13 been quoted. That stated the adequate cause for modification is
14 not required so long as the relocation is being pursued.

15 Again, it's not being pursued anymore. It's been agreed to.
16 They have agreed to allow relocation. Now, my client moved from
17 Kenmore to Federal Way. What possible reason could there be to
18 modify the parenting plan because my client has moved 28 miles
19 within the same county? And the mother hasn't seen the child
20 for a year and a half and hasn't called the child since
21 February. What possible reason could there be to allow a
22 modification of the parenting plan on those grounds? None.

23 The statute for the State case, Grigsby, talks about
24 26.09.2606 and says that if relocation is no longer being
25 pursued the case is over.

1 At this juncture it is acknowledged that there needs to be
2 an adequate cause threshold because they filed this as an
3 adequate cause threshold and we state there is no substantial
4 change of circumstances that make it necessary to modify the
5 parenting plan.

6 The statute looks at parental continuity. It looks at
7 stability for the child, looks at the parents behaviors. The
8 mother, in this case, moved. She gave the child to my client
9 and moved. She says in Exhibit 24, which I'm not sure if the
10 GAL has seen says, "The health, safety, and liberty of a party
11 would be jeopardized by disclosures of address information
12 because James D. Christianson is dangerous to women and
13 children."

14 Now, if he's dangerous to women and children, Your Honor,
15 how come she's not asking for full custody of this child? How
16 come the GAL hasn't said, "Why is Mr. Christianson being accused
17 of being a danger to women and children?"

18 This is a frivolous action, Your Honor. It was only brought
19 because it was allowed under the Relocation Statute and as Mr.
20 Christianson's declaration so clearly elaborates, "That when
21 there is no longer an objection to the relocation this case must
22 end, and then, if the Court wants to proceed or if the Court
23 will proceed, it has to be based on a substantial change of
24 circumstances."

25 Now, in this case it appears that the mother is asking for a

1 change of more than over 90 nights per year, which makes it a
2 major modification, not a minor modification, and I would
3 suggest that we need some very serious changes of circumstances.

4 Now, what's changed in the life of my client or the child
5 since the mother abandoned the child a year and a half ago?

6 Nothing. Nothing's changed.

7 The child is better. The child is no longer subjected to
8 surgeries that aren't needed. The father has been willing to
9 provide information, has offered visitations to the mother's
10 family, which has not been taken up on. He has been attacked by
11 a (inaudible). He's been accused of being a danger to women and
12 children. He has been accused of engaging in litigious conduct,
13 which is inappropriate; however, he's (inaudible) who prevailed
14 in a Motion for Contempt.

15 He has prevailed at all the anti-harassment hearings that
16 have been entered, except for a temporary one that was
17 eventually dismissed. He was the one who was told, "If you
18 don't drop"--this is by attorney Ferrell, and that's one of our
19 exhibits--"If you don't drop your," and I'm looking at Exhibit
20 32. Mr. Ferrell writes, "I'm authorized to bring a CR60 Motion
21 to vacate Candidate Thirston's." He doesn't even bother
22 mentioning Commissioner Candidate Thirston's order denying
23 contempt.

24 "I'm also authorized to bring an anti-harassment action
25 against you in district court. You have pending an appeal in

1 your anti-harassment action and WSBA complaint. The offer is
2 all actions be left unlaunched or, if pending, dropped."

3 So, he's threatening him with further legal action unless he
4 drops his motions and if--unless he drops a WSBA complaint.
5 That's extortion. That's a crime, Your Honor. And it is a very
6 serious allegation and it has been--

7 MS. HERBERT: Your Honor?

8 MR. BARTOW: --has not been...

9 COMMISSIONER GADDIS: Is there an objection?

10 MS. HERBERT: Yes. Your Honor, at this point, I would
11 object to the character bashing as being irrelevant to the
12 substance of what we are here to discuss.

13 COMMISSIONER GADDIS: The character bashing by Mr. Ferrell?

14 MS. HERBERT: Yes. And anyone else really. I've read the
15 entire response from Mr. Bartow's office and it--there isn't
16 any--I don't see any point there with different references to
17 what has happened with the WSBA or anything like that. It
18 doesn't seem relevant to the point that we are here for to
19 discuss adequate cause.

20 MR. BARTOW: Your Honor, we are talking about intransigence.
21 We are talking about attorney's fees at this point, and we are
22 talking about the reasons to dismiss this petition outright.

23 The only substantial change of circumstance that they seem
24 to be claiming, which hasn't been claimed, is that my client has
25 gone to court and that several years ago he may have engaged in

1 phone harassment to try to have visitation with his child. But
2 the mother still, on her own attorney's pleading paper,
3 presented the parenting plan, which my client signed. It was
4 her proposed plan. She was the one who was found in contempt,
5 not my client.

6 The Guardian Ad Litem, in this case, says there was a
7 misunderstanding. The commissioner in this case said it was
8 willful violation. So, what's the substantial change of
9 circumstances? The mother's prior willful violations and the
10 father having to go to court to see his child, which is, of
11 course, litigious.

12 Litigation is not a friendly place. It's not a happy place
13 to be. Litigation is abusive when you're served with a piece of
14 paper that says you have to come to court. That's abusive. And
15 the Guardian Ad Litem has prescribed to this; that it's abusive
16 for Mr. Christianson to want to see his child as much as
17 possible.

18 However, if I come to court and say my client wants to see
19 his child as much as possible, I'm doing my job. He did a great
20 job, and the reason I mentioned that he did this reply is
21 because he did a wonderful job and it wasn't abusive. It was
22 factual. It was to the point. And he also indicated that
23 there's no substantial change of circumstances.

24 Why are we here today? Adequate cause. Well, they're
25 saying that you don't need adequate cause. It's their Motion

1 for Adequate Cause. How can you say you don't need it if you're
2 filing a motion to say that there is? It makes no sense.

3 And I would ask for \$3000 attorney's fees for having to sit
4 down, review, and go over this with my client; and that this
5 matter be dismissed and that this matter not go to trial because
6 there has been no substantial change of circumstances
7 whatsoever.

8 COMMISSIONER GADDIS: What are your... Okay. Ms. Ewalt?

9 MS. EWALT: I have to say, procedurally, I'm a little
10 confused. My understanding is that we have a trial coming up on
11 April 5th. I'll just respond to a couple points.

12 I did conclude in my report that it appeared that the
13 Contempt Order was an error, which is the same position that the
14 (inaudible). I did talk to the mom's former attorney, who said
15 that the error was strictly by his office. It was a mistake
16 that--in the letter that he wrote that caused confusion about
17 the visitation.

18 In respect to--I'm confident that the (inaudible)

19 COMMISSIONER GADDIS: Well, or are you aware of any legal
20 authority that would allow us to go--have a parenting plan
21 dispute--go to trial without a showing of adequate cause or
22 without a relocation issue?

23 MS. EWALT: Quite frankly, Your Honor, as an Guardian Ad
24 Litem I would not really be looking at this from a legal
25 standpoint and, you know, my end of the (inaudible) really has

1 to do with the order (inaudible) that I was to investigate the
2 behavior of both parents and report on that and report on when
3 (inaudible) parenting plan, which I did.

4 So, and in my report, what I concluded is that it was in the
5 child's best interest for her to have more involvement with the
6 mother and more consistent (inaudible) but in regards to making
7 a legal argument, you know, I really didn't approach it from
8 that way.

9 COMMISSIONER GADDIS: Well, and, if we get passed the legal
10 conclusion of adequate cause, are you aware of any substantial
11 or material changes in circumstances as would favor increasing
12 the mothers visitation or contact with the child?

13 MS. EWALT: I guess...

14 COMMISSIONER GADDIS: What has happened that you would point
15 to?

16 MS. EWALT: I guess what I would point to is the--that there
17 has been some time separating the initial proceedings; that the
18 mother is in a position to be able to come up, that at the--my
19 understanding is that the--I wasn't involved at that time, but
20 during the initial proceedings that she was pretty overwhelmed
21 and distraught. Shortly after having the child that (inaudible)
22 a lot of stress, both in regards to a high risk pregnancy and
23 also in regards to the parties relationship at that point.

24 And so she, again, my understanding is that she has--she's
25 in the position now--wants to be involved. She recognizes that,

1 I guess, that the only way that she can do that is if she comes
2 forward now and to attempt to do that. I don't think it's
3 also--even though that the parenting plan was presented by the
4 mother, my understanding is that, I guess, the question remains
5 of what circumstances were attached to agree to sign that, and I
6 don't think it's quite as black and white as that.

7 COMMISSIONER GADDIS: Thank you. Then back to moving party.

8 MS. HERBERT: Your Honor, I would just like to reiterate
9 that. The legal authority is RCW 26.09 and that the Guardian Ad
10 Litem's report on data also mentioned that she didn't find that
11 there was sufficient time.

12 The mother had sufficient time in the present parenting plan
13 to form a relationship with the child and, as the respondent
14 mentioned, some of the things that are taken into consideration
15 are the parental relationship with the child.

16 MR. BARTOW: If I may, Your Honor?

17 COMMISSIONER GADDIS: Briefly.

18 MR. BARTOW: On August 22, 2000, the mother already
19 contemplated moving out of this state. I think there was just
20 argument by the GAL that the mother felt that she was forced to
21 sign the parenting plan. It was her proposed parenting plan.
22 It's the one that was presented to Mr. Christianson and that he
23 signed.

24 How could she have been forced? Did her own attorney, Mark
25 Livis, who should be writing declarations on behalf of his

1 client. Was it her own attorney who prepared this thing? Did
2 she not have counsel? And I'm sort of talking in a
3 condescending tone because my client has been raked over the
4 coals consistently in this case and accused of being a danger to
5 women and children when it was her parenting plan and the GAL
6 seems to refuse to acknowledge that; that she was represented by
7 counsel.

8 And the GAL also says she read the declaration of the
9 attorney, who said that he was forced out of this case by Mr.
10 Christianson's litigation, which once again, he wrote this
11 declaration, which is very comprehensive and has always been the
12 case where he's just sought something called "justice," which in
13 this case, he has and I believe he will receive, which is that
14 the Court cannot go against the statute.

15 The GAL is an attorney, Your Honor, and she has not looked
16 at the best interest of this child. The mother has not called
17 this child since February 2003; yet the GAL suggests that we
18 should forward. Sorry?

19 UNIDENTIFIED VOICE: 2004?

20 MR. BARTOW: 2004, please forgive me, which is still a sham
21 because here we are in the middle of March and the mother, given
22 the opportunity to call, hasn't. The mother, given the
23 opportunity to visit substantially since filing the relocation
24 action, hasn't.

25 Now that the mother feels that she should have more

1 visitation, my client indicated that if she moves back to
2 Washington she could see the child quite frequently. But she
3 doesn't even want to do that, Your Honor. There's--nothing has
4 changed in the life of this child except that my client has
5 taken outstanding care of her. There has been no complaints
6 about this child's health, safety, or welfare at all, except by
7 the mother who claims that James D. Christianson is dangerous to
8 women and children.

9 And then, if you look at Exhibit 30--I can't find the
10 exhibit right now. It's the one where Mr.--where the mother's
11 attorney starts off her letter to Mr. Christianson with "jerk."
12 But he starts--his salutation is...

13 COMMISSIONER GADDIS: Right. Well, we are not going to
14 review all of the name calling. And this was going to be in
15 brief. And thank you because there's no right to reply to a
16 reply--

17 MR. BARTOW: Thank you. Thank you.

18 COMMISSIONER GADDIS: --but I appreciate your (inaudible)

19 MS. HERBERT: We object to that also, Your Honor.

20 COMMISSIONER GADDIS: Oh. Your objection is sustained.

21 MR. BARTOW: Thank you, Your Honor.

22 COMMISSIONER GADDIS: All right. Okay. On the Motion for
23 Finding of Adequate Cause by the mother, that motion is denied.
24 Case will be dismissed and the case schedule will be cancelled.

25 Asserting the facts upon which I base my conclusions are:

1 First of all, we are working off the parenting plan that was the
2 mother's wish and desire. It's her proposed parenting plan that
3 the father signed.

4 Secondly, it was entered into knowingly with counsel and at
5 that time there had been litigation between the two of them.
6 These people were not strangers to the Court. I've reviewed
7 several volumes of the court file.

8 Third, the mother's arguments are disingenuous and I really
9 don't even want to repeat it again, but I guess I need to.
10 They're arguing on one hand that the father is dangerous to
11 women and children and, on the other hand, she abandons her
12 child in favor of the father.

13 Fourth, she has had precious little contact with her child
14 and, Mr. Bartow, if called upon in a revision hearing or
15 otherwise, you'll probably need to in the order (inaudible).
16 There's a long period of time in which she had no contact with
17 her child at all, but now she comes to court not having had even
18 telephonic contact in the last month in a half.

19 The next finding is that, when called upon, the father has
20 exceeded the amounts of visitation provided for in the parenting
21 plan. And the next item--can I--and the next item is that the
22 father has attempted to keep the visitation going through
23 maternal relatives and that's been a failure.

24 If we get on to the law, the case is closer to an action for
25 termination of parental rights than it is an action for the

1 mother to seek more contact with the child.

2 Secondly, there is no authority to proceed with a parenting
3 plan with modification when the adequate cause or when the
4 relocation petition has been resolved. The statute quoted by
5 counsel, by the way, waived adequate cause when the Court was
6 granting a relocation, but in this case we have what's called a
7 major modification and there is nothing that would favor giving
8 the mother, that I'm aware of, that favors giving the mother
9 more contact; rather there should be guarded less contact and
10 reunification.

11 UNIDENTIFIED VOICE: Your Honor?

12 COMMISSIONER GADDIS: And there should be an award of
13 attorney's fees in favor of the father. His attorney has in
14 good faith, at one point, said that he had \$5000 in fees. In
15 open court, he said \$3000 and assuming that you can provide fee
16 declaration in that amount, I would award \$2,500 in fees. And
17 that's because initially there was an objection. Actually, I
18 should make that \$2000.

19 Initially there was an objection to the relocation but that
20 was resolved. But all this litigation has happened after the
21 relocation was resolved, which makes it in some measure a
22 frivolous proceeding. It's one more dart in the dartboard that
23 the mother is shooting at the father.

24 The father, in his pleadings, asked for sanctions of \$1000
25 and I will deny that. I think the award of \$2000 in attorney's

1 fees is significant enough. And then at some point Ms. Ewalt
2 will need to bring a motion for payment of her fees. And at
3 that time she can respond to the father's allegations that she
4 interviewed the mother's collateral contacts but only one out of
5 six of the fathers and that she based her recommendation on the
6 wrong signed aged of the child, if we're talking about the same
7 child. And it was critical and according to her report because
8 she used the age--referenced the age bracket that was not
9 pertinent to this child.

10 And thirdly, and at least one significant portion of the
11 report, gave the comment of the mother's version of things but
12 didn't give the father's responsive version. All of which call
13 into question the accuracy, utility, and reliability of that
14 report. But that can be for another day.

15 MS. EWALT: Your Honor?

16 COMMISSIONER GADDIS: Yes, Ms. Ewalt?

17 MS. EWALT: I would like to make a comment. The one comment
18 on (inaudible) about one, the mother not having visitations.
19 There has been a temporary order of this (inaudible) in this
20 case and the mother has been exercising that.

21 COMMISSIONER GADDIS: I thought she was to get telephonic
22 visitations?

23 MS. EWALT: She has been exercising visitation, generally,
24 about once a month.

25 COMMISSIONER GADDIS: Well, what is her authorization, at

1 this point, for telephonic visitations?

2 MS. EWALT: That she can call every Sunday.

3 COMMISSIONER GADDIS: And has she called every Sunday?

4 MS. EWALT: I don't know if she's called every Sunday.

5 COMMISSIONER GADDIS: I have a statement under oath that
6 she's missed seven straight weeks; is that correct, Mr. Bartow?

7 MR. BARTOW: My client's telling me it's nine at this point.

8 COMMISSIONER GADDIS: She has now missed nine straight
9 weeks. So that can be a finding. She is not exercising the
10 visitation that she has.

11 MS. EWALT: She is exercising the physical visitation and
12 monthly visitation.

13 COMMISSIONER GADDIS: You can mention that on revision. The
14 finding will be, "she is not exercising the visitation that
15 she's been accorded."

16 MR. BARTOW: And, if we may, Your Honor, consistency is, I
17 believe, what the GAL talked about and consistency is not being
18 followed here.

19 COMMISSIONER GADDIS: Yes. And that has been lacking by her
20 family also on the visitation. And I saw the reference in the
21 Guardian Ad Litem report that we shouldn't, essentially, put
22 form over substance, but children of this age need to know they
23 are going to see a parent or family member and that that person
24 will show up. Otherwise, it's hopeless disappointment and it
25 calls into question their own trustworthiness of their family.

1 So, take a few minutes and draw up an order, Mr. Bartow.

2 MR. BARTOW: Thank you, Your Honor.

3 MR. CHRISTIANSON: Thank you, Your Honor.

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6 (HEARING CONCLUDED)

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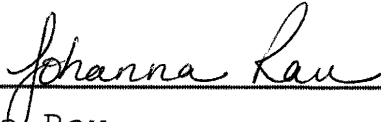
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1 IN RE: THE PARENTAGE OF REED CHRISTIANSON
2 CAUSE No. 01-5-00795-6SEA

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A F F I D A V I T

I, Johanna Rau, do certify that the audio recording provided to me of the proceedings held before the Commissioner Stephen M. Gaddis in King County, Washington, were transcribed by me to the best of my ability.



Johanna Rau,
Transcriptionst