

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2012-070961

04/19/2013

HONORABLE KRISTIN HOFFMAN

CLERK OF THE COURT
J. Baddorf
Deputy

IN RE THE MARRIAGE OF
MANDY LYNNE HERVIEUX

ROBERT L HAHN

AND

DAVID DANIEL HERVIEUX

ALEXANDER E MOORHEAD

OFFICE OF PUBLIC DEFENSE
SERVICES-CCC

MINUTE ENTRY

Courtroom 106 – Northeast Regional Court Center

10:03 a.m. This is the time set for Return Hearing regarding the Emergency Motion for Post-Decree Temporary Orders Without Notice for Modification of Legal Decision Making and Parenting Time filed by Respondent/Father on April 18, 2013 and the Temporary Order as signed by the Court on April 18, 2013. Petitioner/Mother is present with above-named counsel. Respondent/Mother is present telephonically with above-named counsel who appears in person.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Mandy Lynne Hervieux, David Daniel Hervieux, Brenda Romanski- Saviano, and Greg Saviano are sworn.

Counsel for Petitioner/Mother presents opening statements to the Court.

Counsel for Respondent/Father presents opening statements to the Court.

Upon request of counsel for Respondent,

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The Rule of Exclusion of Witnesses is invoked and the witness is admonished and exits the courtroom.

David Daniel Hervieux testifies.

Respondent's exhibit 1 is marked for identification and is received in evidence.

Brenda Romanski-Saviano having been previously sworn now testifies.

Greg Saviano having been previously sworn now testifies.

Mandy Lynne Hervieux having been previously sworn now testifies.

Discussion is held with the Court.

Based upon the matter and testimony presented,

THE COURT FINDS that it is appropriate to appoint a Court-Appointed Advisor due to the serious allegations of parental unfitness in this matter. Accordingly,

IT IS ORDERED appointing a court advisor to investigate the case and make recommendations to the Court. The appointment shall be fully set forth by separate minute entry.

LET THE RECORD REFLECT that the issues/allegations in this matter to be addressed by the Court-Appointed Advisor are as follows:

- Mother has had relationships with inappropriate men to the extent that some may have been internet conversations or other contact with a convicted child molester;
- Mother has been in a domestic violence situation of which there is a recording the person in that recording indicates that Mother has placed the minor child in danger on more than one occasion and that Mother engages in reckless sexual behavior;
- The Court-Appointed Advisor is requested to review any and all police records, Child Protective Services records, school records, any doctors records, etc.;
- Father has indicated that Mother has abused pain medication in the past; and
- Mother indicates that Father does not feed the child properly.

THE COURT FINDS that both parties are indigent and are unable to bear the fees and costs of the Court-Appointed Advisor.

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IT IS ORDERED that the Office of Public Defense Services shall reimburse the fees and costs of the Court-Appointed Advisor.

THE COURT FINDS that it is appropriate to enter the following interim orders:

IT IS ORDERED dissolving in full the Temporary Order as signed by the Court on April 19, 2013.

IT IS FURTHER ORDERED that minor child shall remain with Petitioner/Mother for the remainder of the school year.

IT IS FURTHER ORDERED that Mother shall not take the minor child's cell phone from her, and that Father shall continue to have unlimited telephone contact with the minor child or cell phone.

IT IS FURTHER ORDERED that the parties shall abide by the current parenting time orders in place.

IT IS FURTHER ORDERED that Father shall have parenting time with the minor child in Rhode Island beginning that day after school ends for the Summer Break.

IT IS FURTHER ORDERED that the minor child shall be allowed to attend Space Camp during Father parenting time during the Summer Break.

LET THE RECORD REFLECT that the parties are instructed by the Court to attempt to reach an agreement regarding Space Camp and Father's parenting time and submit said agreement to the Court prior to the beginning of Father's parenting time for Summer Break.

IT IS FURTHER ORDERED that Petitioner/Mother shall have no in person, telephone or internet contact with any person that has a criminal record of any kind.

IT IS FURTHER ORDERED that Petitioner/Mother shall not allow the minor child to have any in person, telephone or internet contact with any person that has a criminal record of any kind.

IT IS FURTHER ORDERED that Petitioner/Mother shall no in person, telephone or internet contact with Mr. Osborne.

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IT IS FURTHER ORDERED that Petitioner/Mother shall not allow the minor child to have any in person, telephone or internet contact with Mr. Osborne.

IT IS FURTHER ORDERED that Petitioner/Mother shall have no in person, telephone or internet contact with Mr. Franks.

IT IS FURTHER ORDERED that Petitioner/ Mother shall not allow the minor child to have any in person, telephone or internet contact with Mr. Franks.

IT IS FURTHER ORDERED that Petitioner/Mother shall have no in person, telephone or internet contact with members of her current church group.

IT IS FURTHER ORDERED that Petitioner/Mother shall not allow the minor child to have any in person, telephone or internet contact with Petitioner/Mother's current church group.

Both parties agree that a hearing of **2 days with 2 hours each day** is sufficient to resolve all of the remaining issues in this case.

IT IS ORDERED setting Trial to the Court on **August 7, 2013 at 1:30 p.m. and on August 12, 2013 at 1:30 p.m. (2 hours each day allowed)** in this Division at:

Maricopa County Superior Court
Northeast Regional Court Center
18380 N. 40th Street
Courtroom 106
Phoenix, Arizona 85032

Failure of a party to appear may result in the Court allowing the party who does appear to proceed in the other party's absence. Failure of both parties to appear may result in this action being dismissed.

Pursuant to Rule 77(C)(5), Arizona Rules of Family Law Procedure, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are expected to complete the trial in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least 30 days prior to the hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

IT IS ORDERED with regard to discovery and disclosure requirements:

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1. Both parties shall exchange updated disclosure statements required by Rules 49, 50 and 91, Arizona Rules of Family Law Procedure, including an exchange of all relevant information, documents and exhibits at least 30 days prior to the hearing.

2. All depositions and discovery contemplated by Rules 49 through 65, Arizona Rules of Family Law Procedure, shall be completed and any motions regarding discovery shall be filed at least 15 days prior to the hearing.

3. Counsel and both parties shall personally meet, face to face, at least 20 days prior to the hearing to conduct settlement discussions, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company or business, medical or health care provider, or employer possessing any relevant and discoverable information.

IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a Joint Pre-hearing Statement pursuant to Rule 76, Arizona Rules of Family Law Procedure, no later than 5 days prior to the hearing.

IT IS FURTHER ORDERED that the Joint Pre-hearing Statement shall include the following attachments:

1. A current Affidavit of Financial Circumstances.
2. A current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.
3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation by each party.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of hearing, or to timely present the Joint Pre-hearing Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D) and 91(Q), Arizona Rules of Family Law Procedure, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

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IT IS FURTHER ORDERED that, if either party has more than 10 exhibits to be marked, arrangements shall be made with the Clerk of this Division at least 5 days prior to hearing to schedule a time to deliver said exhibits to the Clerk. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pre-hearing Statement which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pre-hearing Statement shall be summarily admitted.

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt and child support. To request conclusions of fact and law, you must file a written request with the court before the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

If any party asks the Court to make findings of fact and law on any issue, each party must file written proposed findings of fact on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court as required by Rule 70, Arizona Rules of Family Law Procedure. Should the parties reach a full agreement prior to the date of the hearing, the Court will consider a motion to vacate the hearing **ONLY AFTER A SIGNED STIPULATED AGREEMENT IS PRESENTED TO THE COURT.**

NOTE: All court proceedings are recorded by audio method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division five (5) business days before the scheduled hearing.

12:13 p.m. Matter concludes.

FILED: Exhibit Worksheet

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All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.