

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2006-052424

05/29/2007

HONORABLE GREGORY H. MARTIN

CLERK OF THE COURT
L. Slaughter
Deputy

IN RE THE MATTER OF
SHAWN MURRAY

JOEL E MILBURN

AND

CHARLA LEIGH

RONALD V THOMAS

ANNE KATHERINE HOOLE
IV-D JUDICIAL ASSISTANT - NE

MINUTE ENTRY

Respondent's exhibits 1 through 6 and Petitioner's exhibits 7 through 13 are marked for identification.

Courtroom 102 NE RCC

3:32 p.m. This is the time set for Trial re: Father's Petition to Establish Custody, Parenting Time ("Visitation") and Child Support. Petitioner is present with above-named counsel, Joel Milburn. Respondent is present with above-named counsel, Ronald Thomas.

A digital audio recording of this proceeding is being made by the "For the Record" recording system in lieu of a court reporter.

Discussion is held regarding Petitioner's Motion in Limine regarding character letters for Respondent.

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Counsel for Respondent withdraws the letters, deeming Petitioner's Motion in Limine moot.

James Murray, Cindy Murray, Michon Leigh, Joelle Treharne and Delyte Robertson are sworn.

Counsel for Petitioner invokes the rule of exclusion of witnesses.

Shawn Murray is sworn and testifies.

Petitioner's exhibits 9, 10, 12 and 13 are received in evidence.

Charla Leigh is sworn and testifies.

Defendant's exhibits 1 and 2 are received in evidence.

James Murray, who was previously sworn, testifies.

The witness is excused.

Cindy Murray, who was previously sworn, testifies.

Petitioner's exhibit 11 is received in evidence.

The witness is excused.

Michon Leigh, who was previously sworn, testifies.

The witness is excused.

Joelle Treharne, who was previously sworn, testifies.

The witness is excused.

Closing statements are presented.

IT IS ORDERED taking this matter under advisement.

5:12 p.m. Hearing concludes.

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There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee. Counsel/party shall have the right to re-file relevant exhibits as needed in support of any appeal. Re-filed exhibits must be accompanied by a Notice of Re-filing Exhibits and presented to the Exhibits Room of the Clerk's Office. The Court's exhibit tag must remain intact on all re-filed exhibits.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

ISSUED: Exhibit Release Form. (2)

LATER:

The Court has had under advisement the issues of legal and physical custody of the parties' minor child tried to it as a result of Father's Petition to Establish Custody, Parenting Time ("Visitation") and Child Support. The Court has considered the evidence adduced at the hearing and the arguments of counsel.

This is a paternity matter. The parties have a young daughter, Alisha, who is just past one year old. The parties have never lived together. Mother has been the primary care-giver for Alisha since birth and moved to Washington not quite a year ago, before Father filed his petition. To be clear, there were no existing court orders at that time for custody or parenting time. Father says he was aware that Mother and Alisha were in Washington, but thought that they were there only for a visit. When he realized that Mother intended to relocate permanently to Washington with Alisha he filed his petition. Mother says that she has been going to Washington for years to visit and decided to move there to start anew. She has extended family there. Though her mother resides in Arizona, her mother has testified that it is her intention to move also to Washington shortly to be near Mother and Alisha.

Father wants an order that Mother and Alisha are to return to Arizona. Mother argues this is not really a relocation case as Mother moved before any court orders and, accordingly, she should be permitted to stay in Washington with Alisha as Alisha's sole legal custodian and that long-distance parenting time orders for Father should issue. She contends that Father's time should be a graduated plan in light of Alisha's young age and the fact that Father has had minimal contact with Alisha. She agrees that with a graduated parenting time plan for Father that progresses satisfactorily, Father should have, in relatively short time, overnight visits.

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THE COURT FINDS that Mother should be made the sole legal custodian as the Court will not order that Mother move back to Arizona with Alisha and the long distance between the parties will therefore make it difficult, in the Court's mind, for a joint legal custody order to be feasible, effective, and in Alisha's best interests; and as Mother has provided the primary care of Alisha since birth. Though there are some doubts in the Court's mind about whether Mother will make a good faith effort to comply with court orders and allow Father contact with Alisha as will be ordered, Mother's testimony at the hearing seems to acknowledge Father's rights as a parent and the need for him to be prominent in Alisha's life. To Father's credit, he has completed the Parent Information Class and Mother has not.

Accordingly,

IT IS ORDERED awarding sole legal custody of Alisha, (DOB: 3/31/06), to Mother (Charla Leigh). She shall be the primary residential parent and may continue to reside in Washington.

IT IS FURTHER ORDERED, however, that Mother shall keep Father advised at all times of Alisha's schedule, any dietary or health issues, as well as any other issues that may be related to Alisha's well-being.

IT IS FURTHER ORDERED that Father's parenting time shall be for the months of June and July, 2007, on alternate weekends for at least 4 hours a day on Saturdays and Sundays. For the months of August and September, 2007, Father's parenting time shall be on alternate weekends for at least 6 hours a day on Saturdays and Sundays. For the month of October, 2007, Father's parenting time shall be on alternate weekends for at least 8 hours a day on Saturdays and Sundays.

One of Father's parenting time weekends during these months shall be in Arizona and one shall be in Washington.

Father's time in both states may be supervised by Mother or someone else who is agreeable to her. However, only one person, whether it is Mother or someone else, shall be permitted to be present during Father's parenting time.

Father's parenting time in Arizona shall occur at his place of residence provided that the pool at his parent's residence where he presently resides is fenced and the residence is otherwise child-safe or at any other suitable location as selected by Father.

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Father's parenting time in Washington may occur at Mother's residence or at any other suitable location as selected by Father. It shall not, however, be at a motel or hotel unless agreed to by Mother.

Provided that Father is exercising his parenting time as ordered by the Court above, beginning with November, 2007, Father shall have unsupervised and overnight parenting time one weekend a month from Friday evening until Sunday evening. This parenting time shall alternate on a monthly basis between Arizona and Washington.

The holidays of Thanksgiving and Christmas, 2007 shall be alternated with Father having first choice.

IT IS FURTHER ORDERED that all travel costs for Father, Mother, any other supervisor, and Alisha shall be shared equally by the parties.

IT IS FURTHER ORDERED that Mother shall complete the parent information class or a comparable class or program in Washington and file her certificate or other evidence of completion within two months of this minute entry.

IT IS FURTHER ORDERED that each party shall seek out any literature, support groups, and any agencies anywhere that focus on the dynamics involved in parenting an infant when the parents do not live together and/or that may relate to long-distance parenting of any child.

IT IS FURTHER ORDERED that each party shall continue to submit to random weekly drug tests for two months from the date of this minute entry. If a party tests negatively for those two months that party's obligation to test will terminate. Any positive or diluted tests will extend the obligation to test until that party tests negatively on a random weekly basis for two months.

The parties are advised that they need to comply with all court orders. Mother must make every good faith effort to afford Father the parenting time ordered herein. Her failure to do that may cause the Court to revisit the orders issued now for legal and/or physical custody.

IT IS FURTHER ORDERED that each party shall pay their own fees and costs incurred herein.

IT IS FURTHER ORDERED referring this matter to the IVD Commissioner for any further child support proceedings.

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IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HONORABLE GREGORY H. MARTIN

JUDICIAL OFFICER OF THE SUPERIOR COURT

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