

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-001662

06/26/2012

HONORABLE GLENN M. DAVIS

CLERK OF THE COURT

C. Danos

Deputy

IN RE THE MATTER OF
MARIA I LOPEZ-MALDONADO

MARIA I LOPEZ-MALDONADO
2802 W EL CAMINITO DR
PHOENIX AZ 85051

AND

ALBERTO DIAZ

HOPE E FRUCHTMAN

CITS - CCC SPANISH

MATTER UNDER ADVISEMENT

Courtroom 604 -- Central Court Building

Petitioner's exhibits 1 through 9 and Respondent's exhibits 10 through 24 are marked for identification.

Prior to commencement of this proceeding, Maria I. Lopez-Maldonado, Alberto Diaz, Ofelia Flores, Cecy Mejia, Christini Lopez and Janeen Howard are sworn.

1:36 p.m. This is the time set for trial. Petitioner/Mother, Maria I. Lopez-Maldonado, is present on her own behalf. Respondent/Father, Alberto Diaz, is present with counsel, Hope E. Fruchtmann. Sandra Feijoo Negron, Office of the Court Interpreter, is present.

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

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LET THE RECORD REFLECT that the hearing is conducted with Ms. Feijoo Negron interpreting in the Spanish language for the benefit of Mother.

Counsel for Father objects to Mother requesting to have witnesses testify that have not been disclosed in accordance with the Rules.

The Rule of Exclusion of Witnesses is invoked by the court and the potential witnesses are excused from the courtroom

Following discussion, Mother is advised that the Rules require that if a party is going to call a witness that party is required to advise the other party of the name of the witness and what the witness is being called to testify about. The court has discretion to allow a late-disclosed witness to testify if it is in the best interest of the child. The court will hear the testimony and evidence presented by the parties and if at that time the court determines it is in the best interest of the child to hear from the undisclosed witness the court will permit the witness to testify.

Opening statements are waived.

Father's case:

Alberto Diaz, having previously been sworn, testifies.

Respondent's exhibit 19 is received in evidence.

Respondent's exhibits 14 through 18 are received in evidence.

Respondent's exhibit 21 is received in evidence.

Respondent's exhibit 13 is received in evidence.

Respondent's exhibit 20 is received in evidence.

Respondent's exhibits 10 and 11 are received in evidence.

Janeen Howard, having previously been sworn, testifies.

The witness is excused.

Father rests.

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Mother's case:

IT IS ORDERED granting Mother's request for a brief recess to prepare her testimony in light of Father's testimony.

IT IS FURTHER ORDERED that no one is to speak with the potential witnesses during the break.

2:43 p.m. Court stands at recess.

2:57 p.m. Court reconvenes with respective parties and counsel present. Sandra Feijoo Negron, Office of the Court Interpreter, is present.

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

Maria I. Lopez-Maldonado, having previously been sworn, testifies.

Petitioner's exhibit 4 is received in evidence.

Petitioner's exhibit 1 is received in evidence.

Mother rests.

IT IS ORDERED granting the modification as to some details of the parenting time and support and some terms of custody. The court will address all issues more fully in its under advisement ruling.

IT IS FURTHER ORDERED, effective immediately, that Father will have overnight parenting time with the child every Thursday at 5:00 p.m., returning the child to Mother at 8:00 a.m. on Friday or directly to school when it is in session. On the weekends that Father has the child, he will have the child from Thursday through Sunday night and he will return the child to Mother on Monday at 8:00 a.m. or directly to school when it is in session.

IT IS FURTHER ORDERED taking the issues of expanded parenting time for Father, shared summer parenting time and holiday time under advisement.

The court will not modify legal custody. Custody remains sole custody with the child residing primarily with Mother. However, the court will specify in the under advisement ruling that Mother shall have presumptive decision-making authority and the court will change parenting time. The court will revisit the support order and enter an order that the child is not to

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be removed from the United States by either parent without written permission of the other parent or order of the court.

With respect to the original order stating that the parties may file an agreement for joint custody after exercising the parenting plan for one year, and that one year date being August 9, 2012,

IT IS ORDERED that absent a petition being filed that gives good cause why custody should not be changed, the custody of the child will be designated to be joint custody as of September 1, 2012.

Because of the parties' language difficulties, the court will give Mother presumptive decision-making, meaning that if for some reason the parties cannot agree on something someone has to be able to make the decision and Mother will have presumptive decision-making authority. Father will have the ability to contest Mother's decision if it is not in the child's best interest. That will be more fully stated in the under advisement ruling.

Father requests to have two mid-week days for parenting time with the child, specifically requesting the court add Wednesday to its current order that Thursday be the mid-week time Father has with the child.

The court will consider Father's request for additional mid-week time with the child when deciding the issues under advisement.

With respect to changing the child's Mexican birth certificate in accordance with this court's prior orders, the parties advise the court that the Mexican office of vital records may recognize this court's ruling on the issue if made by signed minute entry order directed to the Mexican birth certificate.

The court will address the child's birth certificate name change when deciding the issues under advisement.

THE COURT FINDS that the parties need to improve their communication with each other.

IT IS ORDERED that the parties communicate primarily by e-mail, and in English, if possible, so the court can read it and see how the communication is going.

There being no further need to retain the exhibits currently in the custody of the division clerk,

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IT IS ORDERED that the Clerk permanently release those exhibits not offered or received in evidence to the counsel/party causing them to be marked, or to a written designee.

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

ISSUED: Exhibit Release Forms (2)

FILED: Exhibit Worksheet.

4:12 p.m. Matter concludes.

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 / HON. GLENN DAVIS

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/SuperiorCourt/Self-ServiceCenter>.