

C.K.J.

v.

M.J.T.

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IN THE SUPERIOR COURT
OF PENNSYLVANIA

No. 101 WDM 2019

ORDER

Petitioner seeks an immediate appeal from interim custody orders entered April 20, 2019 and June 20, 2019. Another hearing has been set for August 16, 2019. Therefore, the orders in question are unappealable. **See G.B. v. M.M.B.**, 670 A.2d 714 (Pa. Super. 1996) (holding that custody orders are appealable if they are intended as a final resolution of the custody matter). **See also, Kassam v. Kassam**, 811 A.2d 1023 (Pa. Super. 2003) (where further hearings are anticipated, custody order is interlocutory). Further, Petitioner has not sought certification for an immediate appeal in the trial court under 42 Pa.C.S.A. §702(b). Failure to seek proper certification prevents this Court from acting on the petition. **Casani v. Lincoln Bank**, 436 A.2d 1019 (Pa. Super. 1981). Therefore, the Petition for Interlocutory Appeal is hereby **DENIED**.

Per Curiam

001)

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW CUSTODY

MARK JOSEPH TENGOWSKI
Plaintiff

vs.

CHERYL KRISTY JENKINS
Defendant

NO. 1948 of 2017-D

2018 APR 20 AM 9:16
CLERK OF COURT
JENNIFER L. SUTHERLAND
CLERK OF COURT

ORDER OF COURT

AND NOW, this 14th day of April, 2018, it appearing that neither the Mother, Cheryl Kristy Jenkins, Defendant herein, nor counsel on her behalf appeared for the rescheduled Custody Conciliation Conference held on April 16, 2018 at 2:15 p.m., despite effective service upon her, and it further appearing that the Father, Mark Joseph Tengowski, Plaintiff herein, was determined to be the Father of the minor child, Christian Joseph Jenkins, born September 10, 2012, by Order of Court at March 23, 2018, and after a review of all the relevant factors to consider when awarding custody listed at 23 Pa. C.S.A. Section 5328, IT IS HEREBY ORDERED AND DECREED that:

Shared legal custody of the minor child, Christian Joseph Jenkins, born September 10, 2012, is granted to the Mother, Cheryl Kristy Jenkins, Defendant herein, and to the Father, Mark Joseph Tengowski, Plaintiff herein.

Shared legal custody means that the parties share responsibility for all major decisions concerning the education, medical care, dental care, religion, and all other matters which concern the general welfare of each minor child. For this purpose, the parties sharing legal custody shall consult and confer with each other on matters affecting the welfare of the minor child. They shall take into account the best interests of the minor child, and to the extent possible, the wishes of the minor child.

There shall be no discussion about any adult issue existing between the parties either directly with the minor child or in the presence of the minor child.

No party shall permit, either directed to or in the presence of the minor child, the use of disparaging, insulting, vulgar, obscene or threatening language concerning another party, their family or significant other. The prohibition shall include social media.

Each party shall refrain from placing the minor child in a position of relaying or conveying messages to any other party as to custody arrangements. The parties shall discuss these matters directly between themselves without the use of or interference from third parties.

The parties may decide different time arrangements other than those provided in this Order of Court and make decisions whenever they mutually agree on any proposed change. Nothing in this Order of Court shall limit or restrict the ability of the parties to mutually agree on alternative parenting arrangements. If for any reason the parties cannot agree on a proposed change, the terms of this Order of Court shall be followed.

No party may relocate a minor child unless every individual who has custody rights to the child consents to the proposed relocation OR the Court approves the proposed relocation. Notice of the proposed relocation AND a Counter-Affidavit must be served on every individual who has custody rights to the child as set forth at 23 Pa. C.S.A. Section 5337. All parties shall also comply with Westmoreland Local Rule W1915.17.

This ORDER shall become a final order unless a Praecipe for Pre-Trial Conference is filed within thirty (30) days of the date of service of the temporary order.

The parties sharing legal custody shall be entitled to complete access and information from any doctor, dentist or other health care provider treating each minor child. The names, addresses and telephone numbers of each party sharing legal custody shall be listed by each health care provider with a notation that all parties sharing legal custody shall be notified in case of an emergency involving the minor child.

The parties sharing legal custody shall be entitled to have complete access and information from any school or school authority instructing the minor child. The names, addresses and telephone numbers of each party sharing legal custody shall be listed on school records with a notation that all parties sharing legal custody shall be notified in case of an emergency involving the minor child.

Each party sharing legal custody shall have complete access to the religious records of the minor child.

Each party sharing legal custody shall have full authority to sign for emergency medical care, school absences, and any other activity requiring a signature of a parent or guardian. Each party sharing legal custody shall endeavor to keep the other party notified of school conferences and programs, as well as other extracurricular school and community activities affecting the minor child.

Primary physical custody of the minor child is granted to the Mother.

In consideration of 23 Pa. C.S.A. Section 5328 (4) for the need for stability and continuity in the child's life, Father shall have supervised physical custody of the minor child as scheduled and facilitated by Justice Works Youth Care, 245 Humphreys Road, Suite 4, Greensburg, PA 15601, (724) 832-2688. Father shall be solely responsible for the cost of his supervised physical custody and shall keep his payments current.

This Order of Court shall remain in full force and effect until further Order of Court.

BY THE COURT:

Mukul D. Bomm
Judge

RECOMMENDED:

B. C. Tonn

Bruce C. Tonn, Custody Hearing Officer

ATTEST: Christina O'Brien

Christina O'Brien, Prothonotary

cc: William B. Memon, Counsel for Plaintiff
Cheryl Leidy-Jenkins, Defendant
2901 Locust Street, Greensburg, PA 15601
Public Works, South Core

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION - CUSTODY

MARK JOSEPH TENGOWSKI,
Plaintiff,

vs.

CHERYL KRISTY JENKINS,
Defendant.

No. 1948 OF 2017-D

ORDER OF COURT

AND NOW, to wit, this 20th day of June, 2019, after a hearing on various Petitions filed by each party in the above-captioned matter, and after the Court's Review of this matter, it is hereby ORDERED and DECREED that:

1. Defendant/Mother is found in Contempt of Court for failure to follow all previous custody orders. However, no further sanctions will be imposed due to the Judge's review of this matter and Dr. Bush's testimony, the Court finds the change in custody is appropriate.
2. Defendant/Mother's Petition for Special Relief and Petition to Assume Jurisdiction are denied.
3. Primary physical custody of the minor child, Christian Joseph Jenkins (d.o.b. September 10, 2012) is awarded to Plaintiff/Father, Mark Joseph Tengowski. The parties shall continue to have shared legal custody.


4. Mother shall have supervised physical custody of the minor child weekly for up to four hours each visit. The Court will issue an Order within forty-eight (48) hours as to where these periods of partial custody shall take place as the Court is attempting to make them closer to Mother. Mother shall be solely responsible for the cost of her supervised physical custody and shall keep her payments current. Mother's visits shall be terminated in the event Mother talks to the child about the custody.

5. Both Mother and Father are to contact the "Our Family Wizard" website within ten (10) days of the date of this Order by the e-mail address or toll free number provided in the materials given to them. A copy of the relevant materials has been provided to both parties with a copy of the within Order of Court. All communications, except in the case of an emergency shall occur through the "Our Family Wizard" website. The parties shall designate the Court and their respective counsel if any, on the "Permission for Professional Access" document. The website is to be used solely for the purpose of communicating about a minor child and not to harass the other parent. The parties shall check the website at least once daily for any e-mails received and respond within 24 hours of their receipt. The parties are advised that there is an app available for "Our Family Wizard" for use on their smartphone. Each party is responsible for their costs associated with

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H.A Review of this matter is scheduled before the undersigned on Friday,
August 16, 2019 at 10:30 a.m., in Courtroom No. 8, Westmoreland County
Courthouse, Greensburg, PA

12. This Custody Order will supersede the custody provisions entered
on June 19, 2019 in the Temporary Protection from Abuse Order filed
on No. 19-1205 in the Court of Common Pleas of Northumberland
County, PA.

BY THE COURT,


Michele G. Bonomi, Judge

Attest

Christina O'Brien, Prothonotary

CC: Nancy Madaya, Esq.

Cheryl Kristy Jenkins, Pro Se

Patricia Elliott-Remler, Esq., Guardian ad Litem

registration on Our Family Wizard

6. Mother shall enroll in individual counseling with a licensed therapist.

Mother shall provide to the Court and Guardian ad Litem the name of the therapist. Mother shall sign any authorizations necessary for the Guardian ad Litem to communicate with the therapist. Mother shall provide a copy of the psychological report submitted by Dr. Bush to the therapist. Mother is responsible for all costs. The counselor shall provide a written report to the Court prior to the Review Hearing scheduled herein.

7. Father will enroll the minor child, Christian Joseph Jenkins, in individual counseling with a licensed therapist to address the current custody issues in place. Father is responsible for all costs associated with the counseling.

The counselor shall provide a written report to the Court prior to the Review Hearing scheduled herein.

8. Father is to continue to attend his AA meetings and provide documentation to the Court at the next review hearing.

9. Mother shall provide a recent copy of the drug and alcohol evaluation to the Court at the next review hearing.

10. The Guardian ad Litem shall make two (2) unannounced visits within the next month to Father's residence and speak with the child regarding the current custody situation.

ATTEST:

Christina O'Brien, Prothonotary

cc: Nancy Madeya, Esquire, for Plaintiff
William Manion, Esquire, for Plaintiff
Cheryl Jenkins, *pro se*
Patricia Elliott-Rentler, Esquire, GAL
Endeavor Family Services
File

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL DIVISION-CUSTODY

MARK JOSEPH TENGOWSKI,
Plaintiff,

vs.

CHERYL KRISTY JENKINS,
Defendant.

No. 1948 of 2017-D

ORDER OF COURT

AND NOW, to wit, this 28th day of August, 2018, the Court finds that the appointment of a Guardian ad Litem in this case is necessary to assist the undersigned in determining the best interests of the child children. It is hereby ORDERED and DECREED:

1. Pursuant to Pa. R.C.P. No. 1915.11-2, Patricia Elliott-Rentler, Esquire is appointed as Guardian ad Litem for the minor child, Christian Joseph Jenkins (d.o.b. 9.10.2012), in connection with the civil proceedings related to the custody of the minor child.
2. The child's Guardian ad Litem shall represent the best interests of the child. The Guardian ad Litem shall not act as the child's attorney or represent the child's legal interests.
3. It is ordered and decreed that all relevant schools, police departments, hospitals and social service agencies including home and school agencies who have records, reports, and/or information pertaining to the child relevant to the custody of the child, shall allow the Guardian ad Litem access to all files and records in its possession, custody or control and shall cooperate in responding to all relevant inquiries. These files records may include but are not limited to medical, psychological, or psychiatric charts including evaluations and progress notes, and records, X-rays, photographs, tests, test evaluations, intake and discharge summaries, police records, and school records including report cards, educational assessments and educational plans, relevant to this custody dispute and/or relevant to any special needs or requirements of the child. The Guardian ad Litem shall have the right to copy any part of the files and records maintained in connection with the child.
4. It is further ordered and decreed that the Guardian ad Litem shall be permitted to see and speak with the child, and family, medical and/or social service providers connected with this case, and take all steps appropriate to and consonant with this Order.

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY,
PENNSYLVANIA
CIVIL ACTION - CUSTODY

MARK JOSEPH TENGOWSKI
Plaintiff,

vs.

CHERYL KRISTY JENKINS,
Defendant.

No. 1948 OF 2017-D


ORDER OF COURT

AND NOW, to wit, this 16th day of August, 2019, after a Review Hearing in the above-captioned matter, it is hereby ORDERED and DECREED that:

1. Sole temporary legal custody of the minor child, Christian Joseph Jenkins (d.o.b. September 10, 2012) is awarded to Plaintiff/Father, Mark Joseph Tengowski. Father on Our Family Wizard shall keep Mother apprised of all issues pertaining to the minor child.
2. Primary physical custody of the minor child, Christian Joseph Jenkins (d.o.b. September 10, 2012), shall remain with the Father, Mark Joseph Tengowski.
3. Partial supervised custody of the minor child is awarded to Mother for up to four (4) per week. Said periods of supervised partial custody shall take place through Raystown Developmental Services, Inc., 306 Penn Street, Huntingdon, PA 16652. Since Mother alleges to not have Father's contact information and refuses to take it, Father shall contact the agency to assist in setting up the periods of partial custody. Mother is responsible for all costs. Mother's periods of partial custody shall be terminated in the event Mother talks to the child about this custody action.

4. Father shall continue to keep the child enrolled in counseling with AXIOM Counseling until successfully discharged.
5. Mother shall remain in counseling with Diakon Family Life Services until successfully discharged.
6. The Guardian ad Litem, as well as all counselors and therapists, shall be able to communicate to facilitate the therapy. All parties shall sign any necessary authorizations to effectuate this result.
7. The parties shall communicate on Our Family Wizard about the minor child. Any communication on Our Family Wizard will not violate the temporary PFA in place or in the event a final PFA is put into place.
8. This matter is set for a Custody Trial on **Wednesday, November 20, 2019 at 9:00 a.m.** before the undersigned in Courtroom No. 8, Westmoreland County Courthouse, Greensburg, PA 15601.
9. All parties at least ten (10) days prior to this Trial shall furnish their Pre-Trial Statements to the Court, Guardian ad Litem, and the opposing side.
10. All other provisions contained in previous Orders and not amended by this Order shall remain in full force and effect.

BY THE COURT,


Michele G. Bononi, Judge

Attest:


Christina O'Brien, Prothonotary

M.J.T.	:	IN THE SUPERIOR COURT
	:	OF PENNSYLVANIA
	:	
v.	:	No. 1416 WDA 2018
	:	
C.K.J.	:	
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This appeal has been filed from a contempt order that did not impose any sanctions against Appellant. Such orders are not appealable. **See *Genovese v. Genovese*, 550 A.2d 1021 (Pa. Super. 1988)** (contempt is appealable only after imposition of sanctions). The order also directed psychological studies and provided for review once those studies are completed. Such custody orders are also interlocutory pursuant to ***G.B. v. M.M.B.*, 670 A.2d 714 (Pa. Super. 1996)** (holding that absent a final determination of custody, the matter is interlocutory and unappealable). **See** Therefore, the appellant shall show cause, in the form of a letter addressed to the Prothonotary of this court with a copy to opposing counsel and the trial judge, why this appeal should not be quashed. The letter shall be transmitted so as to be actually received by the Prothonotary by October 29, 2018. Failure to comply with this order shall result in quashal of the appeal without further notice.

Per Curiam

H

M.J.T.

v.

C.K.J.

Appellant

IN THE SUPERIOR COURT
OF PENNSYLVANIA

No. 1416 WDA 2018

ORDER

This appeal has been filed from a contempt order that did not impose any sanctions against Appellant. Such orders are not appealable. **See *Genovese v. Genovese*, 550 A.2d 1021 (Pa. Super. 1988)** (contempt is appealable only after imposition of sanctions). The order also directed psychological studies and provided for review once those studies are completed. Such custody orders are also interlocutory pursuant to ***G.B. v. M.M.B.*, 670 A.2d 714 (Pa. Super. 1996)** (holding that absent a final determination of custody, the matter is interlocutory and unappealable). Therefore, the appeal is hereby **QUASHED**, *sua sponte*.

Per Curiam

$$J(2)$$

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

M.J.T.,

Respondent

v.

C.K.J.,

Petitioner

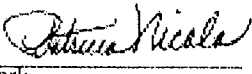
No. 16 WM 2019

ORDER

PER CURIAM

AND NOW, this 10th day of May, 2019, the Motion for Reconsideration is DENIED.

A True Copy Patricia Nicola
As Of 05/10/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

K(2)

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

M.J.T.,

Respondent

v.

C.K.J.,

Petitioner

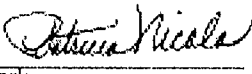
No. 16 WM 2019

ORDER

PER CURIAM

AND NOW, this 10th day of May, 2019, the Motion for Reconsideration is DENIED.

A True Copy Patricia Nicola
As Of 05/10/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

K(2)

**Additional material
from this filing is
available in the
Clerk's Office.**