

NOT PRECEDENTIAL

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 19-1053

**JASON L. BROWN,
Appellant**

v.

LISA M. BROWN

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 3:18-mc-00676)
District Judge: Honorable Robert D. Mariani

Submitted Pursuant to Third Circuit LAR 34.1(a)
November 1, 2019
Before: SHWARTZ, RESTREPO and RENDELL, Circuit Judges

(Opinion filed: November 7, 2019)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Jason Brown filed in the District Court a collection of state court documents under the mistaken belief that doing so was the next step in the appeals process for his child custody case in Schuylkill County.¹ The District Court permitted Brown to proceed in forma pauperis under 28 U.S.C. § 1915. The District Court then dismissed his action with prejudice because it neither resembled any pleading contemplated by the Federal Rules of Civil Procedure, nor presented “any case or controversy over which this Court has jurisdiction or can grant relief.” ECF 3 at 2. Brown appealed; we have jurisdiction, see 28 U.S.C. § 1291; and our review is plenary, see SEC v. Infinity Grp. Co., 212 F.3d 180, 186 & n.6 (3d Cir. 2000); Allah v. Seiverling, 229 F.3d 220, 223 (3d Cir. 2000).

Dismissal of Brown’s case with prejudice was proper, for the reasons stated by the District Court. Additionally, the District Court was not obligated to sua sponte offer leave to amend, cf. Fletcher-Harlee Corp. v. Pote Concrete Contractors, Inc., 482 F.3d 247, 252-53 (3d Cir. 2007), and amendment would have been futile, regardless, see, e.g., Ankenbrandt v. Richards, 504 U.S. 689, 703 (1992) (holding that divorce, alimony, and child custody decrees fall under “domestic relations exception” to federal courts’ subject matter jurisdiction); Great W. Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d

¹ Brown’s Notice of Appeal, see ECF 5 at 1, pro se opening brief, and related appeal, see Brown v. Brown, 775 F. App’x 722 (3d Cir. 2019), all confirm as much.

159, 166 (3d Cir. 2010) (setting forth test for application of jurisdictional bar of Rooker-Feldman doctrine). Accordingly, the judgement of the District Court will be affirmed.

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JASON L. BROWN,

Petitioner,

v.

LISA M. BROWN,

Respondent

3:18-MC-676
(JUDGE MARIANI)

ORDER

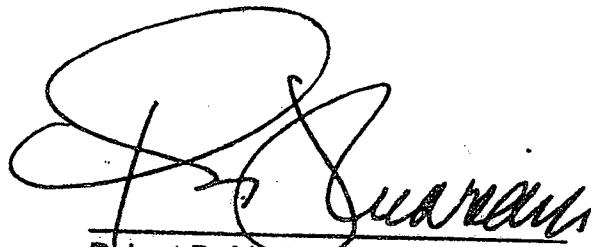
The background of this Order is as follows:

On November 26, 2018, Jason Brown began this action by filing a document entitled "Notice of Stay while Petitioning for Allowance of Appeal to [sic] the U.S. Supreme Court" (Doc. 1). Mr. Brown's filing comprises only of (1) a "Petition for Allowance of Appeal" and accompanying brief that he filed in the Supreme Court of Pennsylvania, and (2) the State Supreme Court's Order denying the Petition for Allowance of Appeal. (See Doc. 1). No part of the filing requests any form of relief from this Court or sets forth a case or controversy properly subject to judicial review by this Court. At best, it appears by the title of Mr. Brown's filing that he may be requesting that this Court "stay" a state court action in which he is a defendant, pending an appeal to the U.S. Supreme Court. This Court is without any legal authority or jurisdiction to grant such relief.

ACCORDINGLY, THIS 4th DAY OF DECEMBER, 2018, in light of the fact that Mr. Brown's "Notice of Stay while Petitioning for Allowance of Appeal to the U.S. Supreme

Court" (Doc. 1), filed in the above captioned case is neither a filing contemplated by the Federal Rules of Civil Procedure nor does it present any case or controversy over which this Court has jurisdiction or can grant relief, **IT IS HEREBY ORDERED THAT:**

1. Mr. Brown's Application for Leave to Proceed in Forma Pauperis (Doc. 2) is **GRANTED**.
2. The action is **DISMISSED WITH PREJUDICE**.
3. The Clerk of the Court is directed to **CLOSE** the above-captioned action.

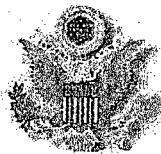


Robert D. Mariani
United States District Judge

OFFICE OF THE CLERK

PATRICIA S.
DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET

PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE
215-597-2995

November 7, 2019

Jason L. Brown
695 State Road
Barnesville, PA 18214

RE: Jason Brown v. Lisa Brown
Case Number: 19-1053
District Court Case Number: 3-18-mc-00676

ENTRY OF JUDGMENT

Today, November 07, 2019 the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.
Certificate of service.

Certificate of compliance if petition is produced by a computer.
No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

s/ Patricia S. Dodzuweit
Clerk

By: James King
Case Manager
267-299-4958

DLD-172

April 25, 2019

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 19-1053

JASON L. BROWN, Appellant

v.

LISA M. BROWN

(M.D. Pa. Civ. No. 3-18-mc-00676)

Present: GREENAWAY, JR., Circuit Judge

Submitted is Appellant's motion for appointment of counsel
in the above-captioned case.

Respectfully,

Clerk

ORDER

Appellant's motion for appointment of counsel is denied. See Tabron v. Grace, 6 F.3d 147, 155-57 (3d Cir. 1993).

By the Court,

s/Joseph A. Greenaway, Jr.
Circuit Judge

Dated: August 14, 2019

JK/cc: Jason L. Brown

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-1053

JASON L. BROWN,
Appellant

v.

LISA M. BROWN

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Civil Action No. 3:18-mc-00676)
District Judge: Honorable Robert D. Mariani

Submitted Pursuant to Third Circuit LAR 34.1(a)
November 1, 2019

Before: SHWARTZ, RESTREPO and RENDELL, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Middle District of Pennsylvania and was submitted pursuant to Third Circuit L.A.R. 34.1(a) on November 1, 2019. On consideration whereof, it is now hereby ORDERED and ADJUDGED by this Court that the judgment of the District Court entered December 4, 2018, be and the same is hereby affirmed. Costs will not be taxed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: November 7, 2019

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
CIVIL ACTION - LAW

LISA M. BROWN : No. S-362-16

Plaintiff :

VS.

JASON L. BROWN

Defendant : CUSTODY

Leo Breznik, Esquire - for Plaintiff
Defendant - Pro se

ORDER OF COURT

DOLBIN, J.

AND NOW, this 26th day of March 2018, after hearing on Father Jason L. Brown's ("Father's") Petition for Modification of Custody, **IT IS HEREBY ORDERED** as follows:

1. LEGAL CUSTODY shall be HELD SOLELY by Mother, Lisa M. Brown ("Mother") for the minor child, ABIGAIL M. BROWN, DOB 12/03/13. That is, Mother shall make all decisions regarding the health, well-being, education, and religion of the minor child. Mother shall keep Father informed of her decisions.

2. PRIMARY PHYSICAL CUSTODY shall be held by Mother.

3. PARTIAL PHYSICAL CUSTODY shall be held by Father for the minor child as follows:

3a. Every Tuesday and Thursday from 7:45AM until 4:30PM, and every other weekend from Saturday at 5:00PM until Sunday at 5:00PM, provided Father maintains a suitable residence for the child. If Father cannot provide the child with a suitable residence with the child having her own bedroom, Father's weekend custody time shall change to either Saturday or Sunday from 9:00AM until 5:00PM every other weekend, with Mother determining the day taking into consideration Father's work schedule, Mother's schedule and the child's schedule.

3b. The parties will share the major holidays of New Year's Day, Easter, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas Day with Mother having from 9:00AM until 3:00PM the day of the holiday and Father from 3:00PM until 9:00PM. Mother will have every Mother's Day and Father will have Father's Day from 10:00 a.m. until 6:00 p.m. The parents will share the child's birthday.

3c. Mother and Father shall each have one week of vacation with the minor child over the summertime, and not during school time, provided they provide the other party with 30 days of advance written notice.

4. Any ADDITIONAL PARTIAL CUSTODY can be arranged by the parties by mutual consent.

5. Father shall immediately obtain safe and reliable transportation that he can use to transport the child. If Father has legal and working transportation for the child, custody exchanges shall take place at the Brown Bag grocery store. If Father does not have such transportation, Mother shall have unlimited access to Father's driveway to park her car therein for pick up and drop off the child.

Mother shall remain in her vehicle and Father shall remove the child from Mother's car or place the child in Mother's car, as the case may be. Father is prohibited from walking the child to the Brown Bag grocery store.

6. Father shall not take the child with him to job sites and shall not leave his door open or unlocked when in custody of the child. The child must wear a flotation device when in or near the water until she has learned how to swim. Father shall more closely supervise the child. Father shall successfully complete a parenting course in addition to his attendance at the Kids First class, which both parties have successfully completed, and Father shall file proof of his attendance and completion of the course with the Prothonotary. Father shall not smoke in the presence of the child.

7. Father's telephone communication with the child shall be limited to a five minute conversation with the minor child at 7:00PM, only on the days that Father has no custody time with the child, and Mother shall make the child available for a telephone call from Father at 7:00PM on those dates. If Father fails to abide by the five minute limit, his telephone rights may be curtailed or eliminated.

8. Father shall not make derogatory remarks about Mother to the child or discuss any court or court related proceeding with the child including child support, custody or criminal charges against either Father or Mother. Father's failure to abide by this requirement shall result in the loss of all custody rights of the child. It is not in the child's best interest for Father to be discussing these matters with her.

9. Father shall complete a Mental Health evaluation as ordered in CR 979-2017 and shall file a copy of his evaluation along with a confidential document form with the Prothonotary.

10. Father shall attend anger management counseling as ordered in CR 979-2017 and file proof of his attendance along with a confidential document form with the Prothonotary.

11. Father shall immediately obtain employment with sufficient income that he is capable of providing for the basic needs of the child during his periods of partial custody including an adequate home with a bedroom for the child, food, clothing, and safe and reliable transportation.

12. Mother shall not consume alcohol in the child's presence or prior to transporting the child.

13. The failure of either Mother or Father to abide by the requirements set forth in this Order may result in the loss of their current custody rights.

14. **Each parent, and any third party, in the presence of the child shall exert every reasonable effort to foster a feeling of affection between the child and her parents. Both parents are directed to encourage the child to love and respect the other parent and are prohibited from making any derogatory remarks about the other parent in the presence of the child or permitting anyone else to make such remarks about the other parent while the child is in their custody. The parents shall communicate directly with each other concerning the child, rather than through the child. It is critical to the well-being of the child that the parents put aside their personal**

differences and communicate directly with one another (not through third parties) in the best interests of the child.

15. The parties are hereby notified that if either intends to relocate from their current location, he or she must follow the requirements of 23 Pa.C.S. § 5337 pertaining to relocation.

16. The attached general guidelines are incorporated herein and made a part of this Order.

17. This ORDER OF COURT shall supersede and vacate any prior Order of Court.

BY THE COURT:



Cyrus Palmer Dolbin, J.

4/9/18
Copies mailed
Attn: Breznik
J. Brown

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
CIVIL ACTION - LAW

LISA M. BROWN,

v.

JASON L. BROWN,

Plaintiff : No. S-362-2016
Defendant : CUSTODY

Leo Breznik, Esquire - for Plaintiff
Jason L. Brown - Defendant (Pro se)

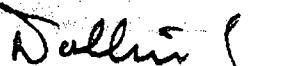
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OFFICE
2018 APR 9 PM 2 32
SCHUYLKILL CTY PA
17901

ORDER OF COURT

DOLBIN, J.

AND NOW, this 4th day of April, 2018, IT IS HEREBY ORDERED that
Defendant/Petitioner's Motion for Reconsideration filed April 2, 2018 is DENIED and
DISMISSED.

BY THE COURT:



CYRUS PALMER DOLBIN, JUDGE

IN THE COURT OF COMMON PLEAS FOR SCHUYLKILL
COUNTY CIVIL ACTION-LAW.

Lisa M Brown

Plaintiff,

VS

Jason L. Brown

Defendant

NO: S-362-16

RECEIVED
SCHUYLKILL COUNTY COURT
APR 2 A.M 2016
15451

Motion For Reconsideration.

This 30th day of March I Jason L. Brown am filing this motion for reconsideration within the 10 day time frame to do so, I ask that the Order of Court on the 26th of March be reconsidered, and reverse the Legal Custody to be held solely by the mother Lisa M. Brown. Who has endangered the child on numerous accounts, causes conflict that the court loves, She had me arrested for meeting her in a public place, and the court dealt a double standard verdict. (Line 11) you say father shall immediate obtain employment, I own a self operated business for purpose of retirement income, The United States Department Of Labor and Industry States retirement may begin at 65 years of age, 62 years of age, 50 years of age, or when ever employment is terminated!, This is extortion of my business, as stated before I only hold an 8 th grade education, the court should provide me with the job if they say I'm so in need of it, ruining my , and my daughter's lively hood, and well being for refusing too the courts is wrong also. I did not terminate employment too prevent paying child support. My employment was terminated in 2006, my daughter was born in 2013.

line (6) I was working and making income for us and this line is a double standard too, it prevents us from making income. and the fact of no work on tuesday and thursdays, hinders my income, I believe a parenting class also hinders our income, and time time too earn income. this sounds more like how can the courts raise money for there own concern.

This also leads too the new situation that Ms Brown's employment at Quad Graphic's has been terminated, and will end on June 1 st of 2018, The News said, no jobs will be relocated , and the plant will be closed! So, now how does the mother plan too provide for this child

(line 5) again I will state driving is a priviledge, and now the plaintiff also has no priviledges no more with refusing a blood test for DUI,

The property paper I presented to the courts, is the property that the plaintiff moved the child too, and I believe you misstakin it as my residents at 695 state rd. That place is unsafe, it is made of asbestos. it is a cancer causing product.

I have the Home for the child with her own bedroom. you took her from it!

God gave us 2 feet for a reason! reliable transpertation!

as too the responding too mother's communication for dental , that was never the issue, she never asked me of it, except in the pre hearing, and I told her , and the hearing officer, I don't refuse my daughter medical attention, and the courts have me ordered no contact, she continue's too cause conflict too make things worse for our daughter, I called her the other week and told her of a broken tooth, she still has made no effort too have it fixed, or any other matters in such! so with this I request a reconsideration of everything put before you in this case involving Abigail Marie Brown, and request you return her too her father who was the daytime caregiver, and who holds the meterinal home for the child.

3-30-2018

Jason Brown

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

L.M.B.,

No. 568 MAL 2018

Respondent

Petition for Allowance of Appeal from
the Order of the Superior Court

v.

J.L.B.,

Petitioner

ORDER

PER CURIAM

AND NOW, this 23rd day of October, 2018, the Petition for Allowance of Appeal is

DENIED.

A True Copy, Elizabeth B. Zisk
As of 10/23/2018

Attest: *Elizabeth B. Zisk*
Chief Clerk
Supreme Court of Pennsylvania