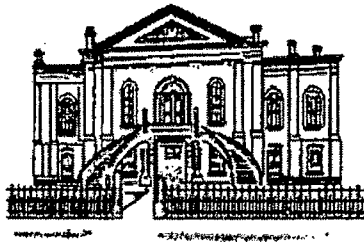


JOHN J. FLOOD
CLERK
(618) 242-3120



APPELLATE COURT, FIFTH DISTRICT
14TH & MAIN ST., P.O. BOX 867
MT. VERNON, IL 62864-0018

April 27, 2017

Brady Smith
520 Canyon Stone Circle
Lake Mary, FL 32746

RE: Smith, Amanda v. Smith, Brady
General No.: 5-16-0409
County: Madison County
Trial Court No: 14D52

Pursuant to the attached order, the court today denied the petition for rehearing filed in the above entitled cause. The mandate of this Court will issue 35 days from today unless a petition for leave to appeal is filed in the Illinois Supreme Court.

A handwritten signature in black ink, appearing to read "Kathleen Anne Buckley", is written over a horizontal line.

Clerk of the Appellate Court

c: Kathleen Anne Buckley

5-16-0409

AMANDA SMITH,
Petitioner-Appellee,
v.
BRADY SMITH,
Respondent-Appellant.

Madison County
Trial Court No.: 14D52

ORDER

This cause has been considered on respondent-appellant's petition for rehearing and the court being advised in the premises:

IT IS THEREFORE ORDERED that the petition for rehearing be, and the same hereby is, denied.

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

FILED

AUG 10 2016

CLERK OF CIRCUIT COURT #51
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

AMANDA SMITH,

Petitioner

vs.

BRADY SMITH,

Respondent

No. 14-D-52

ORDER

This matter came on for hearing on May 9, 2016 and July 29, 2016. The Petitioner, AMANDA SMITH (hereinafter referred to as "Amanda"), was present in person and with attorney Kathleen Buckley. The Respondent, BRADY SMITH (hereinafter referred to as "Brady"), was present in person pro se. After hearing evidence, including the report of the Guardian Ad Litem and the Family Evaluation Report, the Court rules as follows:

Grounds

1. A separate order was entered on July 29, 2016 pursuant to 750 ILCS 5/401(a) dissolving the bonds of matrimony existing between the parties.

Allocation of Parental Responsibility

2. The Court makes the following findings pursuant to 750 ILCS 5/602.5(c):

- (1) **the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision making;**

Jovey is currently 8 years old. Given her young age and the fact that she has not seen Brady in over one year, the Court does not feel that she would be able to exhibit the maturity and/or ability to reasonably express her preferences.

- (2) **the child's adjustment to his or her home, school and community;**

Jovey lives with her mother and grandmother in Troy, Illinois. By all indications she is a well-adjusted young girl. She will start the second grade at CA Henning Elementary School in Troy,

Illinois. Her teacher indicated that Jovey is doing very well in school both academically and socially.

(3) the mental and physical health of all individuals involved;

On October 22, 2015, the Court appointed Dr. Robert Clipper to conduct a psychological evaluation of the parties pursuant to 750 ILCS 5/604(b). Amanda fully cooperated in this evaluation. Brady only partially cooperated. With the limited amount of Brady's participation, Dr. Clipper opined that Brady exhibits a Narcissistic Personality Disorder and possibly the effects of PTSD due to his Army deployment.

(4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making;

There is no possibility of the parties cooperating to make any decisions in regard to Jovey or otherwise. There is currently in place a Plenary Order of Protection (13-OP-1384) which was recently extended through April 14, 2018 prohibiting Brady from making any contact with Amanda.

(5) the level of each parent's participation in past significant decision-making with respect to the child;

Amanda has been the sole decision maker for Jovey since 2012.

(6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child;

Since 2012 there has been no agreement or course of conduct between the parties.

(7) the wishes of the parents;

Both parties want sole parental responsibility for Jovey.

(8) the child's needs;

Jovey does not seem to exhibit any special needs.

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

Amanda lives in Illinois and Brady lives in Florida. In addition to the distance problem the parties are unable to cooperate as referenced above.

- (10) whether a restriction on decision-making is appropriate with Section 603.10;**

The Court finds by a preponderance of the evidence that Brady's past conduct, in particular his inability to control his anger, requires a restriction of his parental responsibilities.

- (11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;**

Amanda told Dr. Clipper that she tried to encourage a relationship between Brady and Jovey. At trial there was no testimony to this effect. Brady never presented any evidence to the Court on this factor; however, he did testify that he hated Amanda.

- (12) the physical violence or threat of physical violence by the child's parent directed against the child;**

Amanda presented evidence that Brady on one occasion spanked Jovey hard enough to leave marks on her, which Brady admitted. What is of concern to the Court is Brady's lack of anger control which might lead to physical violence in the future.

- (13) the occurrence of abuse against the child or other member of the child's household;**

There is currently in place a Plenary Order of Protection prohibiting Brady from contacting Amanda due to past harassment.

- (14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment is which the parent has successfully participated; and**

There was no evidence at trial as to this factor.

- (15) any other factor that the court expressly finds to be relevant.**

There is no other factor the Court finds to be relevant.

3. Based upon the factors as set forth in 750 ILCS 5/602.5(c) the Court grants Amanda Smith sole parental responsibility for Jovey Smith's educational training, medical treatment, religious training and extracurricular activities. For the purposes of all State and Federal statutes that require a designation or determination of custody or custodian, Amanda Smith is designated as the custodian.

Allocation of Parenting Time:

4. While the Court has considered all 17 factors as set forth in 750 ILCS 5/602.7 the one it will address in particular is the following:

(10) whether a restriction on parenting time is appropriate;

5. 750 ILCS 5/603.10 states in part:

(a) After a hearing, if the court finds by a preponderance of the evidence that a parent engaged in any conduct that seriously endangered the child's mental, moral, or physical health or that significantly impaired the child's emotional development, the court shall enter orders as necessary to protect the child. Such orders may include, but are not limited to, orders for one or more of the following:

(1) a reduction, elimination, or other adjustment of the parent's decision-making responsibilities or parenting time, or both decision-making responsibilities and parenting time;

(2) supervision, including ordering the Department of Children and Family Services to exercise continuing supervision under Section 5 of the Children and Family Services Act;

6. Throughout this entire proceeding, Brady has exhibited behavior which is very troubling to the Court. In particular, when things do not go Brady's way or people do not do as he demands, he uses vile language, aggressive actions, intimidating postures, and glares to try to force others to do what he wants. This can be seen in his text messages to Amanda, his conduct at the mediator's office, his behavior toward the Guardian Ad Litem, his phone calls to the Circuit Clerk's office, and his behavior in Court.

7. At trial Brady testified how much he loved Jovey. He entered a number of photographs of him and Jovey enjoying time together. He also presented many witnesses to describe his relationship with Jovey. The Court believes that Brady does in fact love Jovey. That is not the issue. Like all children, as Jovey grows older she will become more independent and push boundaries. This is especially true during the teenage years. The issue is Jovey being subjected to the same vile language, aggressive actions, intimidating postures, and glares in the future if she refuses to do as Brady demands.

8. On October 22, 2015, the Court appointed Dr. Robert Clipper, pursuant to 750 ILCS 5/604(b), to conduct a psychological evaluation of both parties and Jovey. Brady never fully cooperated with Dr. Clipper even though the Court admonished him to do so at the time Dr.

Clipper was appointed and at the Court hearings on December 18, 2015 and February 19, 2016. Even after the first day of trial on May 9, 2016, the Court admonished Brady to contact Dr. Clipper so Dr. Clipper could finish his entire examination of Brady prior to the next trial date on July 29, 2016 and file an amended report. Brady never contacted Dr. Clipper.

9. Even though Brady did not fully cooperate, Dr. Clipper was able to observe that “Brady presents in a rather paranoid manner, assuming and accusing all who deny him his wishes as ignorant and prejudiced. His anger seems to escalate in situations whenever things don’t go his way.... I believe his current state of mind has little regard for the law and thus visitation away from Amanda and in another state is likely to be seen as his license to do whatever he pleases.... I see it highly unlikely that he can be trusted with anything but supervised visitation... Visitation should be supervised and not by Brady’s mother or father.”

10. Prior to starting the second day of trial on July 29, 2016, Brady filed a “Response to Dr. Robert Clipper’s Report”. In essence, this was a request for the Court to appoint another 750 ILCS 5/604(b) examiner at Brady’s choosing. This request is denied. If Brady wished an opinion of another expert he could have done so pursuant to Illinois Supreme Court Rule 213(f)(3) and/or Rule 215 during the discovery phase of this proceeding.

11. Based upon the foregoing, the Court finds that it is in Jovey’s best interest that all of Brady’s parenting time shall occur at the Madison County Kids’ Corner (See attached Kids’ Corner Court Order) until further Court order.

12. The Court would like to be able to grant Brady unsupervised parenting time and allow Jovey to travel to Florida sometime in the future. However, Brady must first fully submit to Dr. Clipper’s examination and comply with any treatments Dr. Clipper may recommend.

Child Support

13. On June 3, 2015, the Court entered an order requiring Brady to pay Amanda \$200.00 on the 30th of each month for child support. Brady admitted to only making one payment since the entry of the order. Therefore, judgment is entered in Amanda’s favor against Brady in the amount of \$2,800.00. This amount will collect statutory interest (9%) until paid in full.

14. The United States Supreme Court stated in the case of *Rose v. Rose* 481 U.S. 619, 95 L.Ed.2d 599 599 (1987) that a trial court may consider a veteran’s disability benefits in setting child support.

15. Brady is currently unemployed but receives \$1,745.55 in veteran disability benefits.

16. Brady shall pay Amanda \$350.00 per month in child support payable on the last day of the month starting on August 31, 2016. In addition, Brady will pay an additional \$50.00 per month until the arrearages as calculated above are paid in full. Once Brady does find employment he shall notify the Court within 30 days of finding said employment so the Court can calculate the correct support payment. All payments are to be made through the State Disbursement Unit, P. O. Box 5400, Carol Stream, IL 60197-5400. Brady will be responsible for all fees associated with these payments. Brady will make these payments until Jovey turns 18 or graduates from high school, whichever is later.

18. Amanda will provide health insurance for Jovey and be responsible for all co-payments, deductibles and uninsured medical, dental, optical, prescription or counseling expenses incurred.

17. Amanda is entitled to claim Jovey as a tax exemption every year.

Personal Property

18. Amanda is awarded the 2012 Ford Escape currently in her possession and any debt associated with said vehicle.

19. Brady is awarded the 2008 Jeep Wrangler currently in his possession and any debt associated with said vehicle. He shall refinance said vehicle within 120 days to have Amanda's name taken off the loan.

20. Amanda is awarded all other property in her possession, including bank accounts, free and clear from any claim by Brady.

21. Brady is awarded all other property in his possession, including bank accounts, free and clear from any claim by Amanda.

Debts

22. Amanda will be responsible for any and all debt in her name.

23. Brady will be responsible for any and all debt in his name.

Maintenance

24. Neither party is awarded maintenance.

Guardian Ad Litem Fees

25. Each party was ordered to pay one-half of the Guardian Ad Litem fees. To date, Amanda owes Ms. Sholar \$1,062.50 and Brady owes Ms. Sholar \$5,220.41. Judgment is entered in favor of Amy Sholar against Amanda Smith in the amount of \$1,062.50, and against Brady Smith in the amount of \$5,220.41. Each of the parties is order to pay his/her amount owed within 60 days.

Attorney Fees

Each party will be responsible for their own attorney fees.

August 10, 2016
Date



Judge Martin J. Mengarelli

Clerk to send copies to parties

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

AMANDA SMITH,

Petitioner

vs.

BRADY SMITH,

Respondent

FILED

SEP 09 2016

CLERK OF CIRCUIT COURT #51
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

No. 14-D-52

ORDER

On September 2, 2016, Brady Smith filed a 49 page Motion to Reconsider. The Court has reviewed the motion and Denies same.

September 9, 2016

Date


Judge Martin J. Mengarelli

Clerk to send copies to parties



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
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Brady Smith
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Lake Mary FL 32746

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

July 17, 2017

In re: Amanda Smith, respondent, v. Brady Smith, petitioner. Leave to
appeal, Appellate Court, Fifth District.
122353

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on August 21, 2017.

Very truly yours,

Carolyn Taft Gosbell

Clerk of the Supreme Court

App.E1