

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 7, 2022

8:30 a.m./1:30 p.m.

16. ANTONIO OLAEZ V. TANYA SARA VIA

PFL20150664

On April 11, 2022, Petitioner filed an ex parte request for emergency custody orders. Petitioner asserts Respondent provided a falsified drug test result to the court. On April 12, 2022, the court granted Petitioner's request for emergency custody orders in part. Petitioner was granted temporary sole physical custody of the minors. Respondent's visits were ordered to be professionally supervised visits twice a week for two hours each. Respondent was authorized to have phone contact with the minors on Sundays and Wednesdays at 6:00 p.m. The court reserved on the requests to appoint Minors' Counsel and to take judicial notice of the Probate Guardianship case.

On April 12, 2022 Petitioner filed a Request for Order (RFO) for a modification of child custody and parenting time. Parties were not referred back to Child Custody Recommending Counseling (CCRC). Respondent was served by mail on April 20, 2022. Petitioner is requesting the court grant him sole legal and physical custody of the minors. Petitioner is also requesting Elizabeth Bales be appointed as Minors' Counsel. Petitioner is requesting Respondent's phone contact with the minors be limited. Petitioner asserts Respondent has altered drug test results and provided the court with falsified drug tests. Further Respondent failed to appear at appointments for hair testing on March 8 and March 11, 2022. Petitioner asserts the minors have been in a pattern of chaos due to Respondent's substance abuse. Petitioner is requesting the court appoint Minors Counsel to allow the children an opportunity to have their voices heard. Petitioner is also requesting the court take judicial notice of the current guardianship case involving Respondent's other minor.

On May 10, 2022, Petitioner filed a Declaration. Respondent was served by mail on May 10, 2022. Petitioner requests the court hold Respondent accountable under Penal Code section 115 for filing an altered document with the court. Petitioner also requests the court find Respondent in contempt for not following the court's order regarding telephone contact with A.O.

Respondent filed responsive declarations on May 13, 2022. Upon review of the court file, there is no Proof of Service showing those documents were served on Petitioner. As such, the court has not read or considered them.

On May 26, 2022, there were no requests for oral argument. The court adopted its tentative ruling, appointing Elizabeth Bales as Minors Counsel. The court continued the matter to allow Minors' Counsel to meet with her clients and prepare a Minors' Counsel's Statement for the next hearing. The court reserved jurisdiction on the reallocation of costs for Minors' Counsel. Parties were ordered to file and serve updated Income and Expense Declarations at

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least 10 days prior to the next hearing. The court continued the remaining requests of Petitioner to the next hearing, on July 7, 2022.

On June 22, 2022, Petitioner filed an Income and Expense Declaration. Upon review of the court file, there is no Proof of Service showing Respondent was served.

On June 24, 2022, Respondent filed an Order Shortening Time with an RFO requesting to change Minors' Counsel as well as child custody and parenting time. The Order Shortening Time was denied and the RFO is currently set for a review hearing on September 8, 2022.

On June 28, 2022, Minors' Counsel filed a Statement of Issues and Contentions, as well as a request for orders. The parties were served by mail on June 28, 2022. Minors' Counsel has had an opportunity to meet with the minors. Minors' Counsel requests the court make the following orders: the minors. H.O. and K.O. shall continue to participate in counseling services at a frequency and duration as set by the counselor; the minor A.O. be enrolled in counseling if he wishes to resume counseling services; the court grant Petitioner sole legal and physical custody of the minors and Respondent to have professionally supervised parenting time twice a week for two hours each at Respondent's expense; Respondent shall have telephone contact with the minors on Sundays and Wednesdays at 6:00 pm; Respondent to submit to fingernail test each month by the last day of the month beginning in July and submit the test results to the court, Petitioner, and Minors' Counsel to demonstrate continuous sobriety; and all prior orders remain in full force and effect.

Respondent has not filed an Income and Expense Declaration as ordered.

The court has read and considered the filings in this matter as outlined above. The court finds Minors' Counsel's requested orders to be in the best interest of the minors. The court adopts the requested orders as its orders. Petitioner shall have sole legal and physical custody. Respondent shall have professionally supervised parenting time twice a week for two hours each, at Respondent's expense. Respondent shall have telephone contact with the minors on Sundays and Wednesdays at 6:00 pm. Respondent shall submit to monthly fingernail substance use testing, no later than the last day of each month; the results shall be provided to the court, Petitioner, and Minors' Counsel. The court finds Petitioner's request to find Respondent in contempt for phone calls with A.O. is not properly before the court. The court continues the allocation of costs for Minors' Counsel, as Respondent has not filed an Income and Expense Declaration, to be heard on September 9, 2022 with Respondent's RFO. The court reserves jurisdiction on the reallocation of costs. Parties are ordered to file updated Income and Expense Declarations at least 10 days prior to the next hearing.

All prior orders not in conflict with this order remain in full force and effect. Petitioner all prepare and file the Findings and Orders After Hearing.

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TENTATIVE RULING #16: PETITIONER SHALL HAVE SOLE LEGAL AND PHYSICAL CUSTODY OF THE MINORS. RESPONDENT SHALL HAVE PROFESSIONALLY SUPERVISED PARENTING TIME TWICE A WEEK FOR TWO HOURS EACH, AT RESPONDENT'S EXPENSE. RESPONDENT SHALL HAVE TELEPHONE CONTACT WITH THE MINORS ON SUNDAYS AND WEDNESDAYS AT 6:00 PM. RESPONDENT SHALL SUBMIT TO MONTHLY FINGERNAIL SUBSTANCE USE TESTING, NO LATER THAN THE LAST DAY OF EACH MONTH; THE RESULTS SHALL BE PROVIDED TO THE COURT, PETITIONER, AND MINORS' COUNSEL. THE COURT FINDS PETITIONER'S REQUEST TO FIND RESPONDENT IN CONTEMPT FOR PHONE CALLS WITH A.O. IS NOT PROPERLY BEFORE THE COURT. THE COURT CONTINUES THE ALLOCATION OF COSTS FOR MINORS' COUNSEL, AS RESPONDENT HAS NOT FILED AN INCOME AND EXPENSE DECLARATION, TO BE HEARD ON SEPTEMBER 9, 2022 WITH RESPONDENT'S RFO. PARTIES ARE ORDERED TO FILE INCOME AND EXPENSE DECLARATIONS AT LEAST 10 DAYS PRIOR TO THE NEXT HEARING. THE COURT RESERVES JURISDICTION ON THE REALLOCATION OF COSTS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. PETITIONER ALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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17. CAMERON OLSON V. SELINA HOOD

22FL0487

On June 2, 2022, Petitioner filed an Ex Parte Application and Declaration for Orders and Notice, wherein he requested physical custody of the minor child with weekend visitations allowed with the Respondent unless it was deemed that there was a risk Respondent would leave with the minor. A responsive declaration was filed by Respondent on June 3, 2022. The court denied the ex parte request, referred the parties to Child Custody Recommending Counseling (CCRC), and set a review hearing for July 7, 2022.

On June 3, 2022, Petitioner filed a Request for Order (RFO) requesting legal and physical custody to be awarded solely to him. Respondent was served with the RFO, the referral to CCRC, and additional documents as required.

CCRC issued its report on June 20, 2022, with recommendations regarding custody and visitation. The report was served on all parties. To date, neither party has filed an opposition to the CCRC recommendations.

The court finds the recommendations of the CCRC report to be in the best interest of the minor. Accordingly, the court adopts the recommendations of the June 20, 2022, CCRC report as the order of the court.

TENTATIVE RULING #17: THE COURT ADOPTS THE RECOMMENDATIONS OF THE JUNE 20, 2022, CCRC REPORT AS THE ORDER OF THE COURT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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18. ERIKA LARSSON V. MATTIAS LARSSON

PFL20150771

On April 11, 2022, Petitioner filed a Request for Order (RFO) requesting full legal and physical custody of the minor children and an entry of judgment on terms of the 2016 agreement of the parties. Upon review of the file, there is no Proof of Service indicating that the RFO was served on Respondent. As such, the matter is dropped from the court's calendar.

TENTATIVE RULING #18: MATTER DROPPED FROM COURT'S CALENDAR FOR LACK OF SERVICE

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20. JESSICA BELIZ V. JUAN BELIZ

PFL20150768

On September 3, 2021, Respondent filed a Request for Order (RFO) requesting that the court modify the custody, visitation, and spousal support orders and to determine whether there is a spousal support overpayment by Respondent and, if so, order reimbursement. A Child Custody Recommending Counseling (CCRC) session was set on October 8, 2021 with a hearing on the RFO set for November 4, 2021.

On September 21, 2021 and again on September 23, 2021, Petitioner was personally served with the RFO and referral to CCRC.

On October 22, 2021, Petitioner filed a Responsive Declaration, Income and Expense Declaration, and Memorandum of Points and Authorities, served on Respondent by mail the day prior.

On October 28, 2021, Petitioner filed a Supplemental Declaration, served on Respondent by mail that same day.

Both parties participated in the CCRC session but came to no agreements. A CCRC report was issued on October 18, 2021 with copies mailed to the parties on October 19, 2021.

The report recommends that the minor attend individual therapy and that Respondent participate in an intake to determine his need for therapy. The report further recommends that Respondent complete the previously ordered co-parenting, parenting, and anger management classes. Finally, Respondent to have supervised visits with the child and the child's therapist.

Petitioner in her filings opposes Respondent having any visits with the minor, arguing that an abrupt reintroduction of Respondent into the minor's life would be detrimental to his well-being, and states that she is seeking the termination of Respondent's parental rights.

At the initial hearing on the RFO on November 4, 2022, the court resolved the spousal support issues. The minute order was unclear as to whether or not the recommendations contained within the CCRC report were adopted. At the hearing on February 3, 2022, the court issued a tentative ruling finding that the recommendations contained within the CCRC report are in the best interest of the minor and adopted them as the orders of the court as modified below. The provision in the parenting time section was stricken. The minor's therapist shall determine if and when it is appropriate for Respondent to begin having contact with the minor in a therapeutic setting. The court declined to appoint a Court Appointed Special Advocate. Petitioner was ordered to sign any and all consents to allow the minor's therapist to submit a letter to the court regarding the child's well-being and the appropriateness of him having contact with Respondent. The parties appeared and the court ordered Respondent to provide proof of completion of anger management. Parties were ordered to select a counselor and

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provide the information to the court no later than 10 days prior to the next hearing. The court stayed the remainder of the tentative ruling. The court set a further review hearing for April 7, 2022.

Respondent filed a Declaration on March 16, 2022 with attachment showing completion of a parenting class, co-parenting class, and a letter from Veterans Affairs documenting Respondent's participation in anger management groups. However, Respondent did not file a Proof of Service. Parties were ordered to appear for the April 7, 2022 hearing.

Both parties appeared for the hearing on April 7, 2022. Petitioner waived any defect in notice, as she had received Respondent's Declaration with attachments. The court adopted its tentative ruling with the following modification: the court waived further documentation showing the minor is enrolled and participating in counseling. The court set a further review hearing for July 7, 2022 and ordered any supplemental declarations be filed at least 10 days prior to the next court date.

Petitioner filed a Supplemental Declaration on June 27, 2022. Respondent was served by mail on June 27, 2022. Petitioner states the minor has been enrolled in counseling, but that due to the counselor's illness, has been unable to participate. The next available session is July 7, 2022. The minor is adamant he is not ready to see or have visitation with Respondent. Petitioner requests the court affirm its prior orders that the therapist shall have the discretion as to when to begin reunification therapy as well as the frequency and duration of the sessions.

Respondent has not filed a Supplemental Declaration.

The court finds the prior orders remain in the best interest of the minor. All prior orders remain in full force and effect. Petitioner shall prepare and file the Findings and Orders After Hearing.

TENTATIVE RULING #20: THE PRIOR ORDERS REMAIN IN THE BEST INTEREST OF THE MINOR. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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21. MARISSA DIVODI-LESSA V. ANDREW DIVODI-LESSA

PFL20190299

On April 8, 2022, the parties were referred by the court to attend Child Custody Recommending Counseling (CCRC). A hearing to review the CCRC report was set for July 7, 2022.

Both parties participated in the CCRC session and reached agreements regarding counseling and parenting time for the children. A CCRC report was issued on June 21, 2022 and mailed to the parties on June 22, 2022. To date, the court has not received any declarations in response to, or objecting to, the agreements listed in the CCRC report.

Having received no objection to the CCRC report, and in finding that the recommendations of the CCRC report are in the best interest of the minor children, the court hereby adopts the agreements listed in the CCRC report as the orders of the court.

TENTATIVE RULING #21: HAVING RECEIVED NO OBJECTION TO THE CCRC REPORT, AND IN FINDING THAT THE RECOMMENDATIONS OF THE CCRC REPORT ARE IN THE BEST INTEREST OF THE MINOR CHILDREN, THE COURT HEREBY ADOPTS THE AGREEMENTS LISTED IN THE CCRC REPORT AS THE ORDERS OF THE COURT.

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22. PETER KASHUBA V. ALLISON KASHUBA

PFL20200214

Respondent filed an ex parte application for emergency temporary custody, parenting time, child support, and spousal support orders on April 25, 2022. On May 2, 2022, the court granted the ex parte request as to custody and parenting time, however, denied the requests for support on an ex parte basis. The court ordered temporary sole physical custody of the minor to Respondent, with Petitioner to have professionally supervised parenting time one time per week.

Respondent filed an Income and Expense Declaration on April 25, 2022. Upon review of the court file, there is no proof of service showing Petitioner was served with this document.

On May 2, 2022, Respondent filed a Request for Order (RFO) requesting the court modify custody, parenting time, child support, and spousal support orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on May 26, 2022, and a review hearing on July 7, 2022. Upon review of the court file, there is no Proof of Service showing Petitioner was served with the RFO or referral to CCRC.

Nevertheless, both parties appeared for the CCRC appointment on May 26, 2022. A CCRC report was filed on May 26, 2022. A copy of the report was mailed to the parties on May 26, 2022. The report recites a full agreement reached by the parties.

Petitioner filed a Responsive Declaration on June 15, 2022. Respondent was served by mail on June 15, 2022. Petitioner objects to the requested orders for custody, parenting time, child support, and spousal support. Petitioner asserts the CCRC counselor pressured him into the agreement outlined in the CCRC report, and that he does not agree to supervised visitation. Petitioner is requesting joint legal and physical custody with a week on week off schedule.

On June 17, 2022, Petitioner filed an Income and Expense Declaration. Respondent was served by mail on June 17, 2022.

On June 24, 2022, the parties appeared for a hearing on a Domestic Violence Restraining Order (DVRO), at which Respondent and the minor were named as protected parties. Respondent requested the Temporary Restraining Order (TRO) be dismissed. Respondent further stated she was no longer requesting the court issue a DVRO. After voir dire, the court granted Respondent's request to dismiss the TRO and dropped the request for a DVRO from calendar.

The court rerefers the parties to CCRC for an appointment on July 20th, 2022 with Rebecca Nelson. The court continues the review to September 1st, 2022 at 1:30 PM in Department 5. The court reserves jurisdiction on the requests for child and spousal support, with retroactivity to the date of the filing of the RFO. All prior orders not in conflict with this

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order remain in full force and effect. Respondent shall prepare and file the findings and orders after hearing.

TENTATIVE RULING #22: THE COURT REREFERS THE PARTIES TO CCRC FOR AN APPOINTMENT ON JULY 20th, 2022 WITH REBECCA NELSON. THE COURT CONTINUES THE REVIEW HEARING TO SEPTEMBER 1ST, 2022 AT 1:30 PM IN DEPARTMENT 5. THE COURT RESERVES JURISDICTION ON THE REQUESTS FOR CHILD AND SPOUSAL SUPPORT, WITH RETROACTIVITY TO THE DATE OF THE FILING OF THE RFO. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

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24. A.B. V. H.K.

22FL0521

Petitioner filed a Petition to Establish a Parental Relationship on June 9, 2022. Petitioner concurrently filed a Request for Order (RFO) for custody and parenting time. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on July 8, 2022, and a review hearing on August 25, 2022. Respondent was personally served on June 14, 2022.

Respondent filed an ex parte application for emergency orders requesting the court dismiss the Petition to Establish a Paternal Relationship, or in the alternative postpone the CCRC appointment pending a change of venue request to be heard on the August 25, 2022. Respondent asserts El Dorado County is not the proper jurisdiction for the Petition to Establish a Paternal Relationship, as the minor is not a resident of El Dorado County, was not born in El Dorado County, and cannot be found in El Dorado County. In the alternative, Respondent asserts El Dorado County is not the appropriate venue for the matter to be heard, as both Respondent and the minor are residents of Sacramento County and a child support action has been initiated in Sacramento County. On July 1, 2022, the court granted Respondent's ex parte request as an Order Shortening Time and set the RFO for a hearing on July 7, 2022. Respondent was to serve Petitioner on July 1, 2022. Petitioner's response was due on or before July 6, 2022.

Parties are ordered to appear.

TENTATIVE RULING 24: PARTIES ARE ORDERED TO APPEAR.