

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

July 14, 2022

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

**15. BELINDA WRIGHT V. KYLEY WRIGHT**

**PFL20210583**

On April 7, 2022, Respondent filed an ex parte request for Emergency custody of the minors. On April 8, 2022, the court denied the request, and ordered no one is to transport the minors in a vehicle with any measurable amount of alcohol or other drug in their system. On April 8, 2022, Respondent filed a Request for Order (RFO) requesting the court modify the custody and parenting time orders. The parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on June 2, 2022 and a review hearing on July 14, 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. Therefore, the court finds Petitioner had actual notice of the requested modifications. The parties met with the counselor separately and were not able to reach any agreements regarding custody. A copy of the report was mailed to the parties on July 6, 2022.

The court has read and considered the CCRC report and recommendations and finds them to be in the minors' best interests. The court further finds that Family Code section 3044 applies in this case, as there has been a finding of domestic violence in the last five years. The court further finds the presumption against sole physical custody for Respondent has been overcome, as it is in the minors' best interests. The court adopts the recommendations as its orders. Respondent shall have temporary sole physical custody. The parties shall continue to have joint legal custody. Petitioner shall have supervised parenting time two times per week for two hours each. Supervision shall be provided by a mutually agreed upon third party. If the parties are unable to agree, the paternal grandmother shall provide supervision. If paternal grandmother is unable and/or unwilling to provide supervision, the visits shall be professionally supervised, with Petitioner to pay the costs. Petitioner shall have supervised visitation until shall has demonstrated 90 days of random drugs testing with negative results. Any missed or dilute tests will be considered positive. Petitioner shall also demonstrate substantial progress in or completion of a drug treatment program. Upon proof of negative tests and substantial progress in a drug treatment program, Petitioner shall have unsupervised parenting time in the home of the maternal grandmother or public setting for four hours every Saturday. Petitioner's boyfriend Paul is not to be present. After 90 days of unsupervised parenting time on Saturday for four hours, the parenting time may be increased to eight hours. After 90 days of eight-hour visits, Petitioner's parenting time will increase to one overnight per week, from Saturday at 10:00 to Sunday at 10:00 am. Petitioner's boyfriend Paul may not be present. After 90 days of overnight visits, Petitioner shall have alternating weekends from Friday after school until Sunday at 6:00 pm. The court adopts the transportation provisions as set forth in the CCRC report. The court adopts the additional provisions, including the notification of parties' current address, with the following modification. Parties shall notify the other parenting within 14 days

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of any changes. The court adopts the canceled parenting time provision and the telephone contact between the parties and children provision. Parties shall utilize the talkingparents.com application to relay information to each other about the minors' education, health, and general welfare. The court adopts the respect guidelines. Petitioner shall not consume alcoholic beverages, narcotics, or restricted dangerous drugs, except with a valid prescription, within 24 hours before and during her parenting time. Petitioner shall also not permit any third parties from doing so. Neither party shall expose the minors to secondhand smoke of any type. The minors are to have no contact with Petitioner's boyfriend Paul. The court adopts the counseling provisions as set forth in the CCRC report. Petitioner shall participate in individual counseling with a licensed clinician at a frequency and duration as directed by the counselor. When appropriate, Petitioner and the minors shall participate in conjoint counseling.

All prior orders not in conflict with these orders shall remain in full force and effect. Respondent shall prepare and file the Findings and Orders After Hearing.

**TENTATIVE RULING #15: THE COURT ADOPTS THE RECOMMENDATIONS AS CONTAINED IN THE CCRC REPORT AND OUTLINED ABOVE AS ITS ORDERS. ALL PRIOR ORDERS NOT IN CONFLICT WITH THESE ORDERS SHALL REMAIN IN FULL FORCE AND EFFECT. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**

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**16. DENISE PANE V. FRANK WARD JR.**

**PFL20150624**

On April 20, 2022, Respondent filed a Request for Order (RFO) requesting a custody order regarding equal timeshare of the dogs owned jointly by Petitioner and Respondent. Or, in the alternative, a division of the dogs. There is no proof of service on file. Without having been properly served, the matter must be dropped from calendar.

**TENTATIVE RULING #16: MATTER DROPPED FROM CALENDAR DUE TO LACK OF SERVICE.**

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**17. JUSTIN SIMARRO V. YAJAIRA SIMARRO**

**PFL20200099**

On January 13, 2022 the court adopted its tentative ruling appointing a CASA for the minor. The court set a review hearing for April 14, 2022 for receipt of the CASA report. Parties were ordered to file any Supplemental Declarations at least 10 days prior to the next hearing.

On April 6, 2022, Respondent filed a Supplemental Declaration. Respondent was served via mail on the same day. Respondent requests the court order sole physical and legal custody or in the alternative grant her final decision-making authority. Respondent is also requesting the court order Petitioner to pay one-half the cost of extracurricular activities for the minor, as well as that Petitioner take the minor to extracurricular activities that are scheduled during his parenting time. Respondent requests the court grant her the ability to enroll the minor in one sport per season over Petitioner's objection. Order that neither party be under the influence of alcohol or intoxicating substance during their parenting time. Respondent further requests the court order parties to use a third-party application for communication. Respondent is also requesting Petitioner submit to a full Family code 730 evaluation. Last, Respondent requests the exchange location be Taylor's Ice Cream Place, at 3636 Taylor Road in Loomis, California.

On April 14, 2022, the court continued the matter to July 14, 2022 as it had not yet received a CASA report.

CASA filed a report on June 27, 2022. The parties were served electronically on June 27, 2022. CASA was able to visit both parties' homes to do safety inspections as well as follow up on the parties participate in parenting classes and therapy. CASA reports Respondent's home is safe and well kept. There are no obvious safety concerns. Respondent is currently engaged with an individual therapist who she sees approximately one time per month. Petitioner's home does have some safety risks for the minor including an eight-foot ladder to access the loft area where the minor sleeps. Petitioner is not currently participating in parenting classes or anger management. He is scheduled to begin individual therapy. It is unclear whether Petitioner owns any firearms, as he reported to CASA that he does not. CASA observed a spent shotgun shell near the fire pit at Petitioner's home. Further, Respondent reported to CASA that Petitioner owns two firearms, a rifle and a shotgun.

No further Supplemental Declarations have been filed by either party.

The court has read and considered the CASA report and makes the following findings and orders: All prior orders remain in full force and effect. If Petitioner owns firearms, he is to ensure they are properly stored and not accessible to the minor. Any ammunition should also be properly secured and not accessible to the minor. Parties are to utilize the talking parents.com application to communicate about the minor. CASA is thanked and relieved.

Respondent shall prepare and file the Findings and Orders After Hearing.

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**TENTATIVE RULING #17: ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. IF PETITIONER OWNS FIREARMS, HE IS TO ENSURE THEY ARE PROPERLY STORED AND NOT ACCESSIBLE TO THE MINOR. ANY AMMUNITION SHOULD ALSO BE PROPERLY SECURED AND NOT ACCESSIBLE TO THE MINOR. PARTIES ARE TO UTILIZE THE TALKING PARENTS.COM APPLICATION TO COMMUNICATE ABOUT THE MINOR. CASA IS THANKED AND RELIEVED. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING**

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**18. MATTHEW HICKS V. TIFFINE WOODSIDE**

**22FL0345**

On May 10, 2022, Petitioner filed an Order to Show Cause and Affidavit for Contempt alleging Respondent had violated the court's April 29, 2022 order to not access funds in Petitioner's EBT/cash aid account. Respondent was personally served on June 10, 2022, with Proof of Service filed on the same day.

Parties are ordered to appear for arraignment.

**TENTATIVE RULING #18: PARTIES ARE ORDERED TO APPEAR FOR ARRAIGNMENT.**

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**19. NATHAN SPEARS V. ASHLEY SPEARS**

**PFL20190707**

On April 15, 2022, Respondent filed a Request for Order (RFO) requesting the court modify child custody, parenting time, order the parties to use the talkingparents.com application for communication about the minors, custody exchanges to take place at a public location at the midway point between the parties' homes, and for the court to reiterate prior orders. Parties were referred to Child Custody Recommending Counseling for an appointment on May 26, 2022 and a review hearing on July 14, 2022. Petitioner was served by mail on April 25, 2022.

Respondent is requesting the court order custody return to the prior orders of joint legal and physical. Respondent is requesting Petitioner no longer have final decision making. Respondent asserts the issues which lead to the court granting the ex parte orders have been ameliorated.

Respondent filed a further declaration on May 13, 2022. Petitioner was served by mail on May 11, 2022.

Parties attended CCRC on May 26, 2022. The parties were unable to reach any agreements. A report with recommendations was filed on June 20, 2022. Parties were mailed a copy of the report on June 22, 2022.

Minors' Counsel filed a Statement of Issues and Contentions on July 1, 2022. Parties were served electronically on July 1, 2022. Minors' Counsel requests the court adopt the recommendation of the CCRC counselor as to legal custody, vacating Petitioner's final decision making authority. Minor's Counsel also agrees with the recommendation for the parties to participate in co-parenting therapy. Minors' Counsel recommends the parties start the session via Zoom, but that after 60 days the sessions transition to in person. Minor's Counsel also requests the telephone/Facetime calls between Respondent and the minors include video, with Respondent to pay for and send an I-pad or similar device directly from the retail site to Petitioner's home, to alleviate Petitioner's concerns about tracking devices or applications. As to the parenting plan, Minor's Counsel recommends the current orders for parenting time remain in place, but that the minors immediately begin reunification therapy, which includes the minor A.B. and Respondent's husband. Minor's Counsel requests Petitioner be ordered to ensure the minors' participation in reunification counseling. Last, Minor's Counsel requests the court set a further review hearing in 120 days to receive input from the reunification therapist and review the parenting plan.

Petitioner has not filed a Responsive Declaration.

The court has read and considered the filings as outlined above and makes the following findings and orders:

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The court adopts the recommendations as set forth in the CCRC report with the modifications recommended by Minor's Counsel. The parties shall have joint legal custody as set forth in the CCRC report. The court adopts the parenting plan and holiday schedule. The court adopts the exchange plan. Parties are to enroll and participate in co-parenting counseling. Parties are authorized to attend the first 60 days remotely but shall attend in person thereafter. Petitioner shall provide Respondent with the names of three therapist who are taking new clients on or before July 29, 2022. Respondent shall select one of the three on or before August 5, 2022. Parties shall participate at a frequency and duration as directed by the therapist. Parties shall abide by the therapist's treatment recommendations. Petitioner shall participate in individual therapy to address his Post-Traumatic Stress issues. Petitioner shall locate a therapist as soon as possible and attend at a frequency and durations as recommended by the therapist. The minors and Respondent shall participate in family therapy. Petitioner shall locate three therapists in his area and provide respondent that information by July 29, 2022. Respondent shall select one of the three on or before August 5, 2022. The family therapy shall begin as soon as possible. Petitioner must ensure the minors attend all the schedule appointments. The frequency and duration of family therapy shall be in the therapist's discretion. The parties shall utilize the talkingparents.com application to communicate about the minors' physical and mental health, education, and their general welfare. In an emergency, the parties shall telephone each other. The minors shall have facetime, or equivalent, contact with the Respondent. Respondent may supply Petitioner with a tablet or similar device directly from a retailer for facilitating the weekly facetime contact. No other parties shall be present during the facetime calls. The minors shall determine the duration of the call. The court adopts the respect guidelines as set forth in the CCRC report.

All prior orders not in conflict with this order remain in full force and effect. The court sets a further review hearing for an update on family therapy and to review the parenting plan on November 3<sup>rd</sup>, 2022 at 8:30 PM in Department 5. Respondent shall prepare and file the Findings and Orders After hearing.

**TENTATIVE RULING #19: THE COURT ADOPTS THE RECOMMENDATIONS OF THE CCRC REPORT AND MINORS' COUNSEL AS SET FORTH ABOVE. ALL PRIOR ORDERS NOT IN CONFLICT WITH THIS ORDER REMAIN IN FULL FORCE AND EFFECT. THE COURT SETS A FURTHER REVIEW HEARING FOR AN UPDATE ON FAMILY THERAPY AND TO REVIEW THE PARENTING PLAN ON NOVEMBER 3<sup>RD</sup>, 2022 AT 1:30 PM IN DEPARTMENT 5. RESPONDENT SHALL PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.**