

Adultery bar

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,

Complainant,

v.

WESLEY C. SMITH,

Defendant.

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Chancery No. 53360

MOTION FOR PENDENTE LITE RELIEF

COMES NOW the Defendant, Wesley C. Smith ("the Husband"), pro se, and moves this Court pursuant to Va. Code Ann. § 20-103, for entry of an Order granting him *pendente lite* relief as requested below:

1. The Plaintiff has taken repeated actions to remove the Defendant from the child's life and to end or impair his relationship to him. These actions have included: (1) filing a protective order without just cause, depriving the child of contact with his father for 10 days; (2) taking the child and preventing access to him after the preliminary protective order was dismissed; (3) refusing to allow visitation between the child and father and insisting on supervised visitation; (4) removing the child from his fathers care and placing him in an unlicensed home daycare; (5) calling the police when the child chose to spend time with his father. (6) refusing the child's request to spend time with his father for such things as walking the dog even when the Plaintiff and Defendant were still living together.

2. In May of 2002, the same month Mr. Bakhir's divorce became final the Plaintiff stated that she would divorce the Defendant due to false allegations of adultery.

3. Both the Plaintiff and Mr. Bakhir have asserted their 5th amendment rights and have refused to answer questions not only about their sexual misconduct but also as to the contact between

Mr. Bakhir and the child and the effect it is having on him. They have used the 5th amendment as a way of preventing the Defendant from finding out information about the care of the Child that is relevant to the custody matter filed by the Plaintiff.

4. While at the same time denying the father access to the child, denying the child access to the father, and preventing or reducing their ability to participate in activities together the Child has stated the Plaintiff had him participate in activities with her paramour. It would appear she has been making an effort to replace the Defendant as the child father figure with Igor Bakhir.

5. The Plaintiff has not limited the child's involvement with Mr. Bakhir to activities outside the home but has allowed the child to be aware that the Plaintiff and Mr. Bakhir sleep together. The Plaintiff has had Mr. Bakhir overnight at her one bedroom apartment while she had visitation with the child.

6. The Plaintiff has stated and the child's history both indicate that he does sleep with her at times both when going to bed or by getting up and joining her in the middle of the night.

7. Unless the Plaintiff locks the child in his room so she can keep him from seeing, if not hearing, the act of adultery, it is likely that the child's knowledge of them sleeping together is from him personally finding the two of them in bed together and perhaps joining the two of them in bed.

8. The Plaintiff lives in a one bedroom apartment it is also probable that she has been engaging in sexual acts in the child's own bed.

9. The misconduct by the Plaintiff with Mr. Bakhir appears to be the main factor for the Plaintiff choosing to divorce the Defendant and disrupt the child's life and relationships. The result of Plaintiff's selfish actions has resulted in: (1) the child moving from a nice four bedroom single family home with large yard to a one bedroom apartment. (2) Leaving his playset and sand box behind; (3) leaving his own hot tub which he really enjoyed, with the temperature set appropriately for a child; (4)

lack of daily contact with his father whom the child enjoys playing with; (5) no longer able to do activities with both parents at the same time, or at least without it being very stressful; (6) increased stress for both parents as well as increased demands by the court case reducing his quality time with parents. (7) increased commuting time as he now has to shuffle back and forth between daycare, school, back to daycare, then between parents homes instead of the walk to the bus with his father and dog and the before and after school care his father provided in the marital residence.

10. The Plaintiff's continuing selfish behavior with Mr. Bakhir has been causing the child emotional distress. The Child has stated (1) that the divorce is his fault; (2) distress over not being able to spend more time with his father; (3) confusion over family roles including that of Mr. Bakhir; (4) sleeping on the couch so the Plaintiff and Mr. Bakhir could sleep in his bed.

11. The Plaintiff's continuing selfish behavior has also negatively impacted his relationship with his father in ways other than time and access. The child used to spontaneously recite all the activities he had been involved in to the Defendant when picked up for visitation. Once the Plaintiff learned the Defendant was investigating her acts of adultery the child started become much less spontaneous about discussing his life and sometimes will start a story and then just stop when it appears that the activity took place in the presence of Mr. Bakhir. It appears the Plaintiff is teaching the child not to mention Mr. Bakhir and thus adding more emotional stress to the child on top of the other disruptions she has inflicted on him.

12. The Plaintiff allowing the child to be aware of her acts of adultery and actions to hide it is not teaching the child good moral values or relationship skills. Having such a poor role model to emulate may have an adverse effect on his relationships later in life.

13. The Defendant has been advised that the courts are reluctant to order divorcing couples to follow the laws forbidding adultery. The Defendant is at a loss to understand how the

