

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,

Complainant,

v.

WESLEY C. SMITH,

Defendant.

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Chancery No. 53360

PRAECIPE

THE CLERK will kindly place the attached motions on this Court's docket for

Wednesday, Nov 3, 2004 at 10:00 a.m. for hearing or as soon thereafter as this matter may be

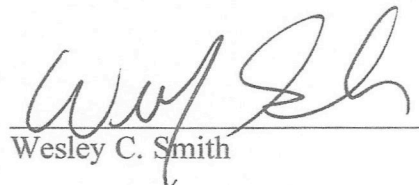
heard.



Wesley C. Smith
3215 Ridge View Ct. Ap 104
Woodbridge, VA 22192
(703) 220-2637
Defendant, pro se

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served to Loretta Vardy and Ronald Fahy (GAL) via first-class mail and/or hand delivered, this 25 day of October, 2004.


Wesley C. Smith

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,)	
)	
Complainant,)	
)	
v.)	Chancery No. 53360
)	
WESLEY C. SMITH,)	
)	
Defendant.)	

**DEFENDANT MOTION TO RECONSIDER DENIAL OF MOION
TO APPOINT A NEW GUARDIAN AD LITEM**

COMES NOW the Defendant, Wesley C. Smith, and requests that this court reconsider is order denying the motion to appoint a new Guardian Ad Litem and in support of this request and states as follows:

1. The Defendant in his motion made specific statements of how the performance of the Guardian Ad Litem did not meet the standards as defined by the state in “STANDARDS TO GOVERN THE PERFORMANCE OF GUARDIANS AD LITEM FOR CHILDREN” which has been referenced by the Virginia Appeals court to justify rulings.

2. On October 5th the Court ruled on the motion but did not allow the Defendant to question the Guardian ad Litem, the Guardian ad Litem did not state he had followed the standards or even attempted to, nor did the court ask the Guardian ad Litem any specific questions about his performance of his duties as compared to the standards, thus it failed to hear the motion on its merits.

3. The performance of the Guardian has been so contrary to the standards that had the judge actually heard the motion on its merits that a new Guardian would have been assigned.

4. In Fact it is shameful that while the Standards require Mr. Fahy to prepare

motions, collect evidence, call witnesses, etc. that he showed up to what he thought was the final trial without having done that, not having filed any motions and not having subpoenaed any witnesses, and that to date the only motion he has filed has been to collect payment for his deficient services. There is no doubt whatsoever that our son deserves significantly better representation that the state has provided him – especially now that the Plaintiff has abused him enough to get Social Services involved.

5. The lack of performance of the Guardian ad Litem is significant enough to cause the case to be appealed or removed to Federal Court in order to protect the child's rights if this court is unwilling to do so. Proceeding without correcting this flaw in the case makes any further rulings of this court suspect.

WHEREFORE the Defendant requests the rehear the motion on its merits.

**Respectfully submitted,
WESLEY C. SMITH
Defendant**

Wesley C. Smith
3215 Ridge View Ct. Ap 104
Woodbridge, VA 22192
(703) 220-2637
Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served to Loretta Vardy and Ronald Fahy (GAL) via first-class mail and/or hand delivered, this ____ day of _____, 2004.

Wesley C. Smith.