

VIRGINIA: IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,

Complainant

v.

WESLEY C. SMITH

Defendant

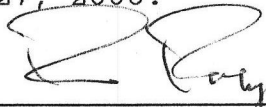
Chancery No. 53360

ANSWER

The Guardian ad Litem hereby complies with paragraph 9 of the Court's Order of February 15, 2006, as follows:

1. Attached is my report addressing the matters to be considered pursuant to Va. Code Section 20-124.3 in determining the best interest of Liam Smith in the custody/visitation portion of this case.


2. Attached are copies of my time sheets and bills for this case up to today's date, April 27, 2006.



Ronald Wayne Fahy
Guardian Ad Litem
9236 A Mosby Street
Manassas, Virginia 20110

CERTIFICATE

I hereby certify that I mailed true copies of the foregoing Answer to Loretta Vardy, counsel for Cheri Smith, 12388 Silent Wolf Drive, Manassas, Va. 20112, and to Wesley Smith, 5347 Landrum Road, Apt. 1, Dublin, Va. 24084-5603, on April 27, 2006.



Guardian Ad Litem

BEST INTERESTS OF THE CHILD/CUSTODY OR VISITATION

VA. CODE SECTION 20-124.3

1. Age, physical & mental condition of child:

Liam Raleigh Smith, DOB 7/22/97, age 8, grade 2, is a delightful, loving, inquisitive young boy in reasonably good physical health who has mild form of Down's Syndrome.

2. Age, health of parents:

Wesley C. Smith, DOB 5/26/65, age 40, is in reasonably good physical health. His mental health is addressed below.

Cheri Smith, DOB 2/4/69, age 37, is in reasonably good physical and mental health.

3. Parent/child relationships:

The child is strongly attached to his mother, and the mother is deeply devoted to her child. The father/child relationship appears to have suffered from the father's refusal (since he moved to Michigan in 2004 and then elsewhere) to resume visitation with the child on anything other than his own terms. Both parents are capable of assessing and meeting the emotional, intellectual and physical needs of their child, and the child has and would continue to benefit from the combined contributions of the parents to his welfare and development, provided the father ceases his preoccupation with the mother's adultery and alleged mental illness. The father has made public demonstrations of his apparent hatred for the mother such that the child is aware of his father's feelings and is suffering as a result.

4. Needs of the child:

The child has special needs as a result of Down's Syndrome. These needs are being adequately addressed at this time. The paramount unmet need to the child at this time is to be protected from the conflict between his parents.

5. Roles of the parents:

In the past both parents have contributed to the development and upbringing of their child. Since the custody decision of the J&DR Court in July 2003, the mother has had sole legal and primary physical custody, and the father exercised full, regular visitation until he moved to Michigan in December 2004 and this Court entered an Order on January 18, 2005, suspending visitation until the father submitted a report from the child's psychologist and an acceptable plan for visitation. The father refused to do either.

At issue at this time is whether the father wishes to play a construction or destructive role in the future.

6. Parents' support of children's relationship with other parent:

The mother has supported the child's contact and relationship with his father; the father has not reciprocated.

7. Parents' relationships with children/cooperation in resolving disputes affecting children:

Except for the father's refusal to comply with the Court's Order of January 18, 2005, each parent is willing and able to

maintain a close and continuing relationship with the child. The mother has demonstrated a willingness to cooperate and resolve disputes regarding matters affecting the child; the father has not.

8. Preference of child:

The child has expressed love for and attachment to both parents.

9. Abuse:

There are no founded incidents of abuse.

10. Other factors:

The father states that the mother is committing adultery and suffers from mental illness (borderline personality disorder). Having considered these allegations, the GAL is of the opinion that the child has not been exposed to inappropriate physical or sexual actions, and that the alleged adultery, while an obsession of the father, is not a basis for granting custody to the father. Similarly, the alleged mental illness of the mother, another obsession of the father, is not a basis for granting custody to the father. Nothing in the psychological evaluations done at the J&DR Court level support the father's contention that the mother is so mentally ill that the child must be protected from her. Rather, his own psychologist saw that when someone disagrees with him, the father becomes fixed on the issue of disagreement, becomes entrenched and unable to move on to other relevant issues; he can be so self-absorbed and self-centered such that what others need or think is not attended

to.

One can sympathize with the father, who has lost custody of a child he loves and whose wife wishes to divorce him, but his negative acts with respect to the mother are hurting his son. By taking the child to Michigan and refusing to comply with the Court's Order of January 18, 2005, to restore visitation, the father put other interests above promoting his child's best interest. The father's intransigence makes one wonder if he doesn't enjoy being a "victim."

Finally, the father's account of the incident in my office on or about August 10, 2004 (which account appears in paragraph 37 of his Motion to Reconsider/Rehear Motions #40 Thru #53) is a deeply troubling fabrication.