

No. NNH-FA 22-5055586

MAY 06 2024 SUPERIOR COURT

ISAAC THOMPSON

JUDICIAL DISTRICT OF NEW HAVEN

CHIEF CLERK'S OFFICE

V.

AT NEW HAVEN

TYSHANDAH ROBINSON MOODY

MAY 6, 2024

MEMORANDUM OF DECISION

This is a custody action involving the minor child Isaac Thompson, Jr., who was born in January 2022, and twins, Ahmel Thompson, and Melonie Thompson, who were born in November 2022. A trial was held on April 2, 2024. After considering the evidence presented, the court finds the following facts and issues the following orders.

On December 22, 2022, the plaintiff father filed the present action seeking joint custody of the minor children with primary residence of the children with him. He did so because the defendant mother, with whom the children resided, had informed him that she planned on relocating out-of-state with the three children.¹ The plaintiff did not consent to the planned relocation of the children. During the week of January 23, 2023, the defendant moved to South Carolina with the children without the plaintiff's consent in violation of the automatic orders. On March 17, 2023, the plaintiff filed a motion for emergency order of custody seeking temporary legal and physical custody of the children and a court order requiring the return of the children to Connecticut.

The issues before the court are custody of the minor children and the plaintiff's motions for contempt.² The plaintiff asks the court to order that the children return to Connecticut.

¹Though the defendant emailed the plaintiff on December 18, 2022 notifying him that she was moving out-of-state with the children, she did not identify the state or address of her planned relocation.

²The issue of child support orders regarding the three minor children is being handled by the family support magistrate. Temporary child support orders were issued by the magistrate on

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Should the defendant choose to stay in South Carolina, the plaintiff seeks primary custody of the children in Connecticut. Should the defendant return to Connecticut with the children, the plaintiff requests shared physical custody. The defendant seeks sole custody of the children in South Carolina with parenting time provided to the plaintiff.

The evidence establishes the following additional facts. The defendant never resided with the plaintiff. The children have always resided with her. The plaintiff provided care to Isaac during the day while the defendant was at work during the period from approximately April through October 2022. The plaintiff never provided care to the twins.

In October 2022, the defendant was evicted from her apartment in New Haven. She and Isaac then temporarily lived with her aunt in New London. The twins were born prematurely in November 2022 and were in the neonatal intensive care unit at a hospital in New Haven. The defendant moved to Hamden with Isaac to be near the hospital. In Hamden, she was temporarily living with a friend at the friend's house. The defendant was unable to locate affordable housing in Connecticut when the twins were released from the hospital. She relocated with the children to Longs, South Carolina.

The defendant is thirty-six years old. She grew up in South Carolina and has family, including her grandmother and cousins, residing there. She and her children receive support from her family in South Carolina which was not available to them when they resided in Connecticut. In South Carolina, the defendant is employed full-time as a manager at Dunkin' Donuts and the children attend day care. The defendant is also currently enrolled in on-line surgical technology classes. She resides with the children at 100 Rolling River Road in Longs,

March 4, 2024.

South Carolina in a home with three bedrooms and two bathrooms. The home is well kept and adequately furnished.

The plaintiff is thirty-eight years old. He is employed part-time at Columbus House. The plaintiff resides at a two-family home at 160-162 Read Street in New Haven. His home is not well kept and it is not adequately furnished for young children.

The defendant's relationship with the plaintiff was punctuated by domestic violence. The plaintiff physically assaulted the defendant on multiple occasions from February 2021 through May 2022. The violence committed by the plaintiff included punching the defendant in the face, pushing her against a wall, choking her and sexually assaulting her.

Family services conducted a comprehensive evaluation at the request of the court and issued a report. Schaene Shatto, the family relations counselor who authored the report, testified at trial and the report was admitted into evidence. Based on the testimony of Shatto and the information in her report, I find that the children are doing well in the defendant's care in South Carolina. They are medically up to date with physical examinations and immunizations. They attend day care regularly and appear at day care well groomed and dressed appropriately. Their home in South Carolina is appropriately furnished and well kept.

The plaintiff is understandably upset that the defendant took the children to South Carolina without adequate notice and without his consent. It was also done in violation of the automatic orders. The court finds, however, that it is in the best interest of the children that they remain living in South Carolina with the defendant. They are well cared for by the defendant and live in a suitable home. The defendant has been the primary care taker of all three children throughout their lives and the plaintiff has had minimal contact with the two youngest children. Though the means by which she relocated was unjustifiable, the move itself was understandable.

She lacked adequate housing for the children in Connecticut. She had family support and an affordable place to live in South Carolina, both of which were lacking in Connecticut.

I further find that it is in the best interest of the children that the defendant be awarded sole legal and physical custody of the three minor children. The children have adjusted well to their home in South Carolina and they are well cared for by the defendant. The defendant has always been their primary caretaker with the plaintiff's care limited to a four-month period providing care to the oldest child while the defendant worked. The parties are unable to co-parent due to profound difficulties communicating with each other. They are unable to work together to identify and address issues affecting their relationship and issues related to the care of their children.

The plaintiff has filed three motions for contempt. The first motion asserts that the defendant violated the automatic orders by moving out of state with the children after this custody action was filed. The defendant does not dispute that she relocated to South Carolina in violation of the automatic orders. The remedy which the plaintiff seeks for the violation is an order that the children return to Connecticut. I decline to enter such an order as it is not in the children's best interest.

The plaintiff's second and third motions for contempt assert that the defendant violated the court's orders regarding his daily telephone calls with the children. On May 24, 2023, the court ordered that the plaintiff shall have daily telephone access with the children at 6:00 p.m. The plaintiff asserts and the defendant admits that on multiple occasions the plaintiff attempted to call the children but was unable to reach them. I credit defendant's testimony that the lack of telephone access most often occurred when she was without a working phone and when her cell phone service was discontinued due to nonpayment. She did admit that on occasion she was not

available to receive the plaintiff's telephone call. I find that the defendant has violated the court's order regarding telephone access but decline to hold her in contempt. At the time of the missed calls, the defendant was struggling with caring for three children, maintaining a full time job and taking an on-line class. The defendant is advised that any further violation of the court's order regarding the plaintiff's telephone access to the children risks the defendant being found in contempt.

In determining the orders contained herein, I have carefully considered all the relevant statutory criteria, including those contained in General Statutes § 46b-56 as they relate to custody and visitation. The court enters the following orders:

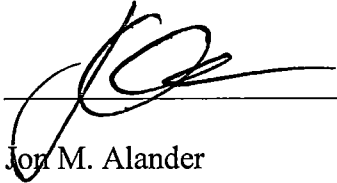
1. The defendant is awarded sole legal and physical custody of the three minor children, Isaac, Ahmel and Melonie. The defendant shall inform the plaintiff of major issues and decisions involving the children's health, safety, welfare and education. The defendant shall immediately notify the plaintiff of any change in her address.

2. The plaintiff shall have parenting time with the minor child in South Carolina during one weekend each month from Friday at 6:00 p.m. until Sunday at 6:00 p.m. The parties shall mutually agree on the appropriate weekend and shall do so at least one week prior to the visit. The plaintiff shall provide the defendant with the location and address at which visitation will occur in South Carolina and a telephone number through which he can be contacted when in South Carolina. Overnight visitation with the plaintiff in Connecticut is not in the children's best interest at this time given the plaintiff's lack of suitable accommodations for the children.

3. The plaintiff shall have daily phone contact with the children at 8:00 p.m. The parties may mutually agree on an alternative time. The parties shall not make any comment disparaging each other in the presence or hearing of the children. No adult other than the defendant shall be

present during the phone calls.

BY THE COURT



Jon M. Alander
Judge Trial Referee

Judgment entered 5/6/24 20
Counsel/Self-rep. Ind. notified 5/6 20 24
By JDND copy of memo Other
 Copy to Reporter of Judicial Decisions

mailed to:

TT SRP I Thompson
TT Atty B. Lambeck
J SRP T Moody
AAG
by N Sasse
AAG