

DOCKET NO. KNO-FA23-6109388-S

SUPERIOR COURT

TRISH PIEKARSKI

J.D. OF NEW LONDON

V.

AT NORWICH

TROY CARTER

MAY 21, 2024

MEMORANDUM OF DECISION

The court heard the trial of this custody application on May 8, 2024. The parties disagree over the custody, access, and financial orders concerning their two minor children. The plaintiff was represented by counsel at trial, while the defendant represented himself. The court, after careful consideration of the testimony and evidence presented by the parties, the parties' proposed orders, and the applicable statutes and case law, including Conn. Gen. Stat. §§ 46b-56, 46b-56a, 46b-56c, and 46b-215a, makes the following findings of fact and enters the following orders.

FINDINGS

The parties are the parents of two minor children, Troy Carter, born September 23, 2021 and Trinity Carter, born September 2, 2022. The court has jurisdiction over this matter, as the minor children have resided in Connecticut since birth, and because Connecticut is the home state of the children. The plaintiff mother resides in Sprague, Connecticut. She resides in a home owned by her mother, which is shared by other members of her family. The defendant father resides in New Haven, Connecticut, in a home leased by his mother through a government housing subsidy. The defendant resides with his mother, his sister, his brother-in-

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*Chris Hodgkinson
CFC*

law, and his sister's children in this home. There is an approximate driving distance of 75 to 90 minutes between the parties' respective residences.

During the parties' relationship, they lived together with the children, alternatively in New Haven and Sprague, usually spending a few weeks at a time at each home before moving to the other grandparent's home. The parties ended their romantic relationship and separated in July of 2023. The plaintiff mother did not permit father to have access with the minor children during this initial time of separation, citing her fears that the defendant father would take custody of the children and would not return them to her in the absence of court orders.

Following the filing of this action, the parties entered into a temporary custody agreement in October of 2023 providing that they would share joint legal custody of the minor children. Pursuant to this agreement, mother has primary residence of the children, and father has parenting access each weekend, from Friday at 10:00 a.m. or later, until Sunday at 5:00 p.m. The parties have followed this access schedule since October of 2023. Mother proposes to transition to an alternating weekend schedule for father's access, and expressed significant concern that transitions occur earlier on Sunday, so that the children can be brought back to Sprague for a reasonable dinner and bedtime routine.

Father proposes that the parties should follow a week-on, week-off schedule, with exchanges of the children occurring on Sundays. He does not wish to pay child support. Although neither party raised significant parenting concerns with the other, both parties expressed concerns about the children's hygiene and appropriate garment changes while in the

other party's care. These are relatively minor concerns and are likely primarily attributable to the parties' respective economic constraints.

Father did not have transportation for his access time during the early portion of the parties' agreement, and so relied on ride-sharing applications to transport him and the children for his access time. The parties' temporary agreement provided flexibility to father to pick up the children at some time after 10:00 a.m., to accommodate his temporary transportation problem. The defendant father now relies upon his brother-in-law to drive him for parenting access time, which he describes as a more reliable source of transportation. Both parties have struggled with the exchange times, due to these transportation issues, and mother's concerns about traveling with the children late at night and disrupting their meal and sleep times. The parties agree that they need definite exchange times, as the parties have had disagreements over the appropriate exchange times, most recently for the Easter holiday.

The plaintiff mother has just recently secured part-time temporary seasonal employment, earning a net income of \$235.00 per week. She is working towards obtaining full-time, minimum wage employment. Mother relies upon supplemental nutritional assistance benefits to provide for the essential needs of the children. The children are covered by HUSKY health insurance through the State of Connecticut. Mother has also accrued over four thousand dollars in credit card debt, and is not able to make minimum payments on these debts. Father is not currently paying child support. The court finds that mother is able to work a full-time,

minimum wage job, and therefore has an earning capacity of \$565.00 in net weekly income, based upon the current Connecticut minimum wage of \$15.69 per hour.

The defendant father is not currently employed. He has worked sporadically in various minimum-wage retail positions in recent years, albeit inconsistently. He most recently participated as a subject in a research study for a Connecticut-based pharmaceutical company, which provides him with a modest net weekly stipend of \$180.76. The defendant has completed his responsibilities related to this research study and will receive this stipend for a few more weeks. The defendant acknowledged, and the court finds, that he is able to work a full-time, minimum wage job, and therefore has an earning capacity of \$565.00 in net weekly income, based upon the current Connecticut minimum wage of \$15.69 per hour.

The parties do not communicate significantly regarding the care and custody of the minor children. Mother wishes to enroll the oldest minor child in a preschool program that will begin in September of 2024, after the child's third birthday. She intends to enroll the parties' youngest child in a preschool program in September of 2025, also after the child's third birthday. The parties have not discussed these plans with each other. Although father expresses his concern that mother did not discuss these plans with him, he is not opposed to the enrollment of the children in school in accordance with the timeline that mother proposes. He also proposes that the children's enrollment in preschool should be delayed, or that the children should be enrolled in the New Haven school system. Mother has investigated the details of the preschool program in Sprague, Connecticut, which will initially be a half-day program, in

either the morning or the afternoon. The school will determine the children's placement in the morning or afternoon program.

The court found the plaintiff mother to be more attentive and sensitive to the developmental needs of the minor children, and the particular needs and concerns raised by their young age. The court finds that a parenting plan wherein the mother remains the primary custodial parent is in the best interests of the minor children. The parties' geographical distance from each other and father's transportation constraints make midweek parenting access for father difficult.

As mother has been and will remain the primary custodial parent, the presumptive amount of weekly child support is determined by the Child Support Guidelines. The presumptive amount of weekly child support, payable by the defendant father, in accordance with the Child Support Guidelines for the State of Connecticut, when applied to the parties' actual incomes, is \$40.00 per week. It would be inequitable and improper to enter such an order, as this is an insufficient amount of support to provide for the children's essential needs, and because the parties each have a full-time, minimum wage earning capacity. The presumptive amount of weekly child support payable by the defendant father, determined by the application of the Child Support Guidelines to the parties' earning capacities, is \$176.00 per week, with mother assuming responsibility for 66% of unreimbursed medical and dental expenses and qualifying childcare costs, and father paying 34% of such expenses. As the parties will require some time to gain full-time employment opportunities, the court will make

this order effective July 1, 2024. The parties also agree that they should share equally in agreed-upon extracurricular activities expenses for the minor children. The court will enter such orders in the best interests of the children and based upon the parties' agreement.

The court has carefully considered the best interests of the children, in accordance with the statutory criteria of Conn. Gen. Stat. § 46b-56(c), in entering the orders below. The parties are currently in a time of transition, as both parties seek to increase their earnings, improve their co-parenting relationship, manage the exchanges of the children amidst the distance between their homes and father's transportation issues, and prepare to enroll the minor children to preschool as they each reach the age of three. The court's orders below are addressed to these transitions, to ensure that the children are adequately provided for, have meaningful access time with both parents, and maintain a stable home environment.

ORDERS

Legal Custody: The parties shall share joint legal custody of the minor children, Troy Carter, born September 23, 2021, and Trinity Carter, born September 2, 2022.

Physical Custody: Mother shall have primary physical custody of the minor children, including for educational purposes. Mother shall be permitted to enroll the minor children in preschool in her town of residence, in September of 2024 for Troy, and September of 2025 for Trinity, in accordance with the applicable registration requirements.

Regular Parenting Access Schedule: Father shall have regular parenting access every first, third, fourth, and fifth weekend from Friday at 10:00 a.m. or after school when the children are

enrolled in preschool, until Sunday at 4:00 p.m. Mother shall have parenting access the second weekend of each month. The parties may discuss and agree for different or additional parenting access time for either parent by mutual agreement, confirmed in writing.

Transportation of the Children: Father shall be responsible for picking up the minor children at the start of his parenting access time and mother shall be responsible for picking up the children when they are returned to her care at the end of father's access time.

Summer and Holiday Access Priority. The summer and holiday access orders below shall take priority over the regular access schedule. Following the specific summer and holiday access times, the parties shall resume their regular access schedule.

Summer Access: Each party shall be entitled to two full nonconsecutive weeks of summer access with the minor children. The parties shall discuss and agree upon their respective weeks of summer access by June 1st of each year. If the parties are unable to agree, mother shall have priority in odd years, father in even years.

Holiday Access:

Easter Access: Easter access shall be from 9:00 a.m. to 5:00 p.m. Mother shall have such access in odd years, father in even years.

Fourth of July: Fourth of July access shall be from 4 p.m. on July 3rd to 6 p.m. on July 5th. Father shall have such access in odd years, mother in even years.

Thanksgiving: Thanksgiving access shall be from the day before Thanksgiving at noon or after school until the day after Thanksgiving at noon. Mother shall have such access in odd years, father in even years.

Christmas Eve/Christmas Day: Christmas Eve/Christmas Day Access shall be from Christmas Eve at 2 p.m. to Christmas Day at 11:00 a.m., or Christmas Day at 11:00 a.m. until the day after Christmas at 5:00 p.m. Father shall have Christmas Eve into Christmas morning in odd years, and mother shall have Christmas Day until the day after Christmas in odd years. The parties shall switch this access schedule in even years.

Mother's Day/Father's Day: Mother's Day and Father's Day Access shall be from 9:00 a.m. to 5:00 p.m. Mother shall have access every Mother's Day, and Father shall have access every Father's Day.

Parental Communication. The parties shall each enroll in the free parenting communication application AppClose, or such other parenting communication application that they both agree to in writing, within seven (7) days of the date of this decision. The parties shall utilize this application for all non-emergency communication concerning the minor children.

Children's Records. Both parents shall have full access to all medical and educational records pursuant to Conn. Gen. Stat. § 46b-56(g). Neither party shall be denied access to any academic, medical, therapeutic, or other records concerning the minor child. Both parents shall ensure

that the other parent is listed as the children's parent on all enrollment, intake, contact, registration and similar forms concerning the minor children.

Travel with the Children. A parent who travels overnight outside of Connecticut with the minor children will keep the other parent informed of the travel plans, including transportation information and addresses and telephone numbers at which the travelling parent and child may be reached.

Child Support: Effective July 1, 2024, and continuing on thereafter, father shall pay weekly child support of \$176.00 per week to mother, by immediate wage withholding.

Unreimbursed Medical Expenses and Qualifying Childcare Costs: Mother shall be responsible for 66% of all unreimbursed medical and dental expenses and qualifying child care costs, and father shall be responsible for 34% of such expenses.

Extracurricular Activities and Expenses: The parties shall discuss and agree upon extracurricular activities for the minor children. The parties shall not enroll the minor children in extracurricular activities that will impede upon the other parent's access time, without the consent of the other party, confirmed in writing. The parties shall share equally in agreed-upon extracurricular expenses for the minor children.

Health Insurance for the Minor Children: The parties shall maintain the minor children on their current coverage, Husky Health Insurance, until such time as health insurance should become available to either party at reasonable costs, defined as less than 7.5% of net income, or

5% in the case of a low-income obligor, including if such health insurance should become available through private employment.

Health Insurance Claims for the Minor Children. The provisions of Conn. Gen. Stat. § 46b-84 (e) are incorporated by reference into these orders, as if fully restated herein.

Post-Majority Educational Support. The court retains jurisdiction to determine whether to enter a post-majority educational support order and the terms thereof in accordance with the provisions of Conn. Gen. Stat. § 46b-56c.

Tax Considerations: The parties shall each claim one child for all state and federal tax purposes each year. Mother shall claim Troy each year, and Father shall claim Trinity each year.

Parenting Education Classes. Any parent who has not completed the parenting education classes shall do so within one hundred and twenty (120) days of the date of this judgment.

SO ORDERED.

BY THE COURT,



Judge Cecil J. Thomas