

DOCKET NO: HHD-FA23-5076556-S : SUPERIOR COURT  
KAYE GORDON : JUDICIAL DISTRICT OF HARTFORD  
V. : AT HARTFORD  
ORITTE TAYLOR : APRIL 12, 2024

**MEMORANDUM OF DECISION**

This is a custody application (#100.30) filed by plaintiff-mother on February 1, 2023. The parties appeared as self-represented individuals at trial on January 29, 2024, and April 5, 2024. The court heard testimony from the parties. The court also heard testimony from Lead Family Relations Counselor, Jaime Ment. This matter was referred to Family Services for General Case Management to obtain records from the Village for Families and Children and the Department of Children and Families to assist the parties in addressing issues related to custody and access. The court has fully considered the rules of practice; full exhibits; testimony from the parties; the demeanor and credibility of the witnesses; applicable case law; and the criteria set forth in General Statutes §§ 46b-56, 46b-56c, 46b-84, and 46b-215a in reaching the decisions reflected herein. The court also reviewed the parties' financial affidavits and child support guidelines.

As financial matters were in dispute, the court unseals the financial affidavits pursuant to Practice Book § 25-59a (h).

**FINDINGS OF FACT**

The court makes the following findings of fact by a preponderance of evidence and by clear and convincing evidence on all contempt matters. The court has jurisdiction over this matter. The parties' only child together is J. (b. September 21, 2018), who is the subject of this custody application. The parties had a brief dating relationship that was

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HARTFORD J.D.

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4/12/2024 - cc K. Gordon, O. Taylor, RSD, S. J. S. O. Garcia

marred by physical violence. The parties separated in 2019. In 2019, the Department of Children and Families (“DCF”) became involved with the parties and DCF placed their daughter in foster care. J. was reunified with plaintiff-mother in 2020. In 2021, DCF became involved again, which ultimately resulted in the child’s placement with defendant-father. Defendant was attentive to the J.’s needs and DCF did not have any safety concerns regarding J. in defendant’s home.

DCF referred plaintiff for services at the Village for Families and Children. Plaintiff participated in a clinical assessment on February 25, 2021. The clinical assessment identified anger and substance abuse issues. Plaintiff attended individual therapy and was discharged on September 28, 2022. Plaintiff also participated in home reunification services with J. and plaintiff’s older daughter through the Village for Families and Children. The Village for Families and Children discharged plaintiff and indicated that she made progress towards her parenting goals. The Village for Families and Children did not have any concerns with plaintiff’s interactions with the minor children. On January 6, 2023, DCF recommended closure of the case reporting low safety risk with defendant and moderate safety risk with plaintiff.

Plaintiff is thirty-four years old and is in good health. She has a high school education and works on a production line at Deringer-Ney. She has worked at Deringer-Ney since 2019. Plaintiff works approximately 30 hours per week. Plaintiff earns \$455 gross weekly income with a net weekly income of \$405.00. (Doc. #126.00). She currently resides in an apartment. Plaintiff has one other child, a 12-year-old daughter, of whom she has joint legal custody and a shared parenting plan with the child’s father. Plaintiff’s involvement with DCF began in 2011 which resulted in multiple investigations, three

substantiations and court involvement. There have been concerns regarding physical abuse of her 12-year-old daughter in the past. Plaintiff has not had any further involvement with DCF since the beginning of 2023. Plaintiff has not engaged in individual therapy or services since her involvement with DCF.

Defendant is thirty-four years old and is in good health. Defendant has a high school education. Defendant works at Donrite Detailing which is a mobile automotive detailing business. He also works two or three days per month at FedEx as a package handler. Defendant's net weekly income is approximately \$400 per week. Defendant has a seventeen-year-old child from a previous relationship. Defendant reports that he is also the father of twin boys born on January 27, 2024. The twin boys reside with their mother. Defendant resides with J., his mother, his stepfather and seventeen year old daughter.

The child has resided with the defendant since DCF's involvement in 2022. There has not been any further DCF involvement while the child has been in defendant's care. J. is five years old and attends kindergarten in Simsbury, CT. According to the school, she has made an excellent transition to kindergarten and is doing well academically. (Def. Exhibit A). J.'s teacher in school noted that she continues to make good progress and models good character every day. (Def. Exhibit C). There was no evidence that she has any specialized needs. The child is described as being very smart and having a lot of energy.

Additional findings of fact are stated or incorporated as applicable in the discussion, conclusion and orders set forth in this decision.

## RELEVANT CASE LAW

### Trial Court's Role

"It is well established that [i]n a case tried before a court, the trial judge is the sole arbiter of the credibility of the witnesses and the weight to be given specific testimony. . . . The credibility and the weight of expert testimony is judged by the same standard, and the trial court is privileged to adopt whatever testimony [it] reasonably believes to be credible." (Internal quotation marks omitted.) *Caciopoli v. Lebowitz*, 131 Conn. App. 306, 327, 26 A.3d 136 (2011), *aff'd*, 309 Conn. 62, 68 A.3d 1150 (2013). "Nothing in our law is more elementary than that the trier is the final judge of the credibility of witnesses and of the weight to be accorded their testimony." *Morande v. Newman Lincoln-Mercury, Inc.*, 5 Conn. App. 423, 423, 499 A.2d 78 (1985), citing *Morgan v. Hill*, 139 Conn. 159, 161, 90 A.2d 641 (1952).

"The factfinding function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties, which is not fully reflected in the cold, printed record which is available to [appellate courts]." *Lupien v. Lupien*, 192 Conn. 443, 445, 472 A.2d 18 (1984).

### Best Interest of the Child

In deciding custody matters, the court is guided by § 46b-56 (a), which provides in relevant part: "In any controversy before the Superior Court as to the custody or care of minor children... the court may make or modify any proper order regarding the custody, care, education, visitation and support of the children if it has jurisdiction under the provisions of chapter 815p. Subject to the provisions of section 46b-56a, the court may

assign parental responsibility for raising the child to the parents jointly, or may award custody to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. . . .”

In deciding the best interest of the child, the court may consider, but is not limited to, seventeen factors set forth in § 46b-56 (c).<sup>1</sup> “[I]n matters involving child custody, and, by implication, visitation rights, [although] the rights, wishes and desires of the parents must be considered it is nevertheless the ultimate welfare of the child [that] must control

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<sup>1</sup> General Statutes § 46b-56 (c) provides: “In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so may consider, but shall not be limited to, one or more of the following factors: (1) The physical and emotional safety of the child; (2) the temperament and developmental needs of the child; (3) the capacity and the disposition of the parents to understand and meet the needs of the child; (4) any relevant and material information obtained from the child, including the informed preferences of the child; (5) the wishes of the child’s parents as to custody; (6) the past and current interaction and relationship of the child with each parent, the child’s siblings and any other person who may significantly affect the best interests of the child; (7) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (8) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents’ dispute; (9) the ability of each parent to be actively involved in the life of the child; (10) the child’s adjustment to his or her home, school and community environments; (11) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child’s family home pendente lite in order to alleviate stress in the household; (12) the stability of the child’s existing or proposed residences, or both; (13) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (14) the child’s cultural background; (15) the effect on the child of the actions of an abuser, if any domestic violence has occurred between the parents or between a parent and another individual or the child; (16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (17) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision.”

the decision of the court.” (Internal quotation marks omitted.) *Ridgeway v. Ridgeway*, 180 Conn. 533, 541, 429 A.2d 801 (1980). The court has considered all of the relevant statutory criteria set forth in Connecticut General Statutes § 46b-56 in reaching the decisions herein.

### CONTEMPT

“[A] [civil] judgment of contempt consists of two levels of inquiry. First, [the court] must resolve the threshold question of whether the underlying order constituted a court order that was sufficiently clear and unambiguous so as to support a judgment of contempt. . . . Second, if [the court] conclude[s] that the underlying court order was sufficiently clear and unambiguous, [the court] must then determine whether the . . . violation was willful or excused by a good faith dispute or misunderstanding.” (Internal quotation marks omitted.) *Hall v. Hall*, 182 Conn. App. 736, 746-47, 191 A.3d 182 (2018), *aff’d*, 335 Conn. 377, 238 A.3d 687 (2020). “[F]ailure to comply with an order, alone, will not support a finding of contempt. . . . Rather, to constitute contempt, a party’s conduct must be willful. . . . A good faith dispute or legitimate misunderstanding about the mandates of an order may well preclude a finding of willfulness. . . . Whether a party’s violation was willful depends on the circumstances of the particular case and, ultimately, is a factual question committed to the sound discretion of the trial court. . . . Without a finding of willfulness, a trial court cannot find contempt and, it follows, cannot impose contempt penalties.” (Citations omitted; internal quotation marks omitted.) *O’Brien v. O’Brien*, 326 Conn. 81, 98-99, 161 A.3d 1236 (2017). “[U]nder Connecticut law, such proceedings should be proven by clear and convincing evidence.” *Brody v. Brody*, 315 Conn. 300, 318-19, 105 A.3d 887 (2015). “To constitute contempt, a party’s conduct must

be wilful; noncompliance alone will not support a judgment of contempt. . . . A court may not find a person in contempt without considering the circumstances surrounding the violation to determine whether such violation was willful.” *Hibbard v. Hibbard*, 139 Conn. App. 10, 17, 55 A.3d 301 (2012).

### DISCUSSION

The parties each seek sole legal custody and primary residence of the minor child. Plaintiff testified that she does not want to have any contact with the defendant and that he is the enemy. Indeed, the parties do not have a relationship and are unable to communicate with each other. The parties have utilized plaintiff's father to communicate regarding the child. Defendant has concerns regarding plaintiff's decision making and care of the minor child. The court finds defendant's testimony credible and persuasive. Defendant shared an incident regarding plaintiff and the minor child that occurred in approximately November 2023. The incident began when plaintiff was driving her motor vehicle, and the minor child was a passenger. Plaintiff became upset with the defendant. She pulled her vehicle next to the defendant's vehicle and yelled at him. Thereafter, she threw something at his vehicle. This incident concerns the court. Plaintiff chose to have a confrontation while the minor child was in her care. Moreover, the incident causes concern because of plaintiff's history of anger issues. The court is hopeful that this was an isolated incident as there have not been any further similar incidents. The court is encouraged that plaintiff's weekly visitation with the child has gone well. Moreover, the child is resilient and is doing well in school both academically and socially. The parties must effectively learn to co-parent to ensure the minor child continues to develop in a healthy and appropriate manner.

## CONCLUSION

The court has entered orders that are in the best interest of the minor child in consideration of all of the relevant statutory factors set forth in § 46b-56.

## ORDERS

### **A. Custody and Parental Access**

1. Custody. Defendant-father shall have sole legal custody and primary residence of the minor child.
2. Parental Access. Plaintiff-mother shall have parenting time with the child from Friday after school through Monday morning on the first, second, fourth weekend of every month. The plaintiff shall pick up the minor child from the school bus every Friday after school. She shall have the child for the entire weekend until drop off onto the school bus on Monday morning. On the third weekend of every month, plaintiff shall pick up the minor child from the school bus on Friday after school and return the child to the defendant on Saturday at 5:00 p.m. The parties shall utilize plaintiff's father to exchange the child when there is no school. If the parents are unable to utilize plaintiff's father to facilitate exchanges, the parties shall meet at the Hartford Police Department to exchange the child.
3. AppClose. The parties shall utilize AppClose to communicate as to all matters concerning their respective parenting time, notifications required by these orders, and related issues. Each parent shall notify the other by telephone of any emergency situation involving the minor child, to be



followed, when circumstances reasonably allow, by telephone and additional notification via AppClose.

4. Both parents shall be involved in their child's upbringing and are entitled to all information and records concerning their child's education and health. Defendant shall provide plaintiff access to the minor child's academic, medical, hospital and health records. Defendant shall notify the plaintiff of pending events concerning the minor child's medical conditions, education, extracurricular activities, religious and social life.
5. Physical discipline. Neither party shall physically discipline the minor child in any manner.
6. Consumption of Alcohol or Marijuana. The plaintiff shall not consume alcohol or use marijuana within 12 hours of her parenting time with the minor child.
7. Holidays.
  - a. Each year, the minor child shall be with Mother on Mother's Day, and with Father on Father's Day, from 9 a.m. until 7 p.m.
  - b. The plaintiff shall have the minor child on Thanksgiving from Thursday at 10 a.m. until Friday at 10 a.m. in even numbered years. The defendant shall have the minor child on Thanksgiving from Thursday at 10 a.m. until Friday at 10 a.m. in odd numbered years.
  - c. The plaintiff shall have the minor child on Christmas Eve from 2:00 p.m. to Christmas day at 12:00 p.m. on even numbered years. The

defendant shall have the minor child on Christmas Eve from 2:00 p.m. to Christmas day at 12:00 p.m. on odd numbered years.

d. The plaintiff shall have the minor child on Easter from 10 a.m. until 6 p.m. on odd numbered years. The defendant shall have the minor child on Easter from 10 a.m. until 6 p.m. on even numbered years.

8. Summer Vacation. Each parent may elect up to two (2) weeks of summer vacation. Such weeks may be taken consecutively. Each parent must give thirty (30) days' notice, in writing, of their intent to vacation. In the event of a scheduling conflict, plaintiff's first choice will prevail in odd-numbered years and defendant's first choice will prevail in even numbered years.
9. Each parent shall keep the other reasonably informed as to the whereabouts of the child. In the event of an out-of-state trip, the parent who is traveling with the child or arranging the travel shall provide the other parent, at least 30 days prior to departure, with a written itinerary including, as applicable, dates of travel, destinations, telephone numbers, addresses, flight information, lodging accommodations and other pertinent information. The other parent shall not use such information in a manner which unreasonably interferes with the traveling parent's or child's privacy or enjoyment of the trip.
10. Affections. Each parent shall use all reasonable efforts to maintain and promote free and unhampered contact, including telephone or Facetime contact, between the minor child and the other parent. Neither parent shall make any derogatory comments about the other to or within the hearing of the minor child. Neither parent shall say or do anything intended or likely to have

the effect of estranging the minor child from the other parent, injuring the opinion of the minor child toward the other parent, or impairing the natural development of the minor child's love and respect for the other parent.

11. Relocation. Neither parent shall relocate with the child outside the State of Connecticut without prior order of the court permitting such relocation. If either parent plans to move from the town in which he or she is then residing to another town within the State of Connecticut, such parent shall provide the other with at least thirty (30) days written notice of the change of address.

**B. Child Support**

1. Weekly Child Support Payments. Based on the Child Support Guidelines, the court finds the presumptive child support amount payable by plaintiff to defendant is \$95 per week and \$74 per week payable by the defendant to the plaintiff. (Doc. #130.00). However, the court finds under all of the facts and circumstances of the case that the application of the child support guidelines would be inappropriate or inequitable based upon the deviation criteria of a shared parenting plan. Accordingly, neither party shall pay child support.
2. Medical Insurance. The child's health insurance is currently provided through the State of Connecticut Husky program. Both parties shall provide medical and dental insurance for the benefit of the child if it is available to them at a reasonable cost which is defined as no more than 7.5% of their income. The provisions of General Statutes § 46b-84 (e) are incorporated by reference.

3. Unreimbursed Expenses. The parents shall share the cost of any unreimbursed medical, dental, and work-related childcare expenses in accordance with the child support guidelines worksheet as follows: plaintiff (43%) and defendant (57%).
4. Taxes. The parents shall alternate claiming the child as a dependent for all tax purposes, with plaintiff claiming the child in odd years and defendant claiming the child in even years. On or before February 1 of each year, the parent not claiming the child in any given year shall sign and provide to the other parent any declaration required by the IRS, to implement the terms of this order.

**C. Dissemination**

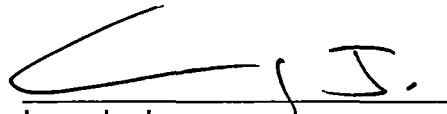
Neither party shall allow any of their minor children to review or receive a copy of this decision.

- D. Plaintiff's Motion for Contempt (Doc. #134) is denied. The Court cannot find by clear and convincing evidence that defendant willfully violated a clear and unambiguous court order in consideration of the circumstances.
- E. Defendant's Motion for Contempt (Doc. #132) is denied. The Court cannot find by clear and convincing evidence that plaintiff willfully violated a clear and unambiguous court order in consideration of the circumstances.
- F. The parties shall complete the parenting education program within 30 days of the date of this judgment.

Unless otherwise specifically set forth herein, these orders are effective immediately.

SO ORDERED.

BY THE COURT,



A handwritten signature in black ink, appearing to read "J. Larock", is written over a horizontal line. The signature is stylized with a large, sweeping initial letter.

Larock, J.