

Docket No. DBD-FA-235019374-S
LAMAR COLLINS

V.
ELSIE ROSA

SUPERIOR COURT
OFFICE OF THE CLERK
SUPERIOR COURT GA 3 D. OF DANBURY

2024 MAY 14 P 3: 30 AT DANBURY

JUDICIAL DISTRICT May 14, 2024
DANBURY
STATE OF CONNECTICUT

Present: Honorable Daniel J. Fox, J.

JUDGMENT OF DISSOLUTION

This action by writ and complaint, claiming a Dissolution of Marriage and other relief, as on file, was filed on January 6, 2023. The action was transferred to Danbury Superior Court on March 21, 2023. The court heard evidence on January 17, 2024. The plaintiff and the defendant were self-represented at the trial. Each party provided testimony. The Court made the following findings:

1. The plaintiff, Lamar Collins, and the defendant, Elsie Rosa, were married on June 22, 2021, in Bridgeport, Connecticut.
2. The plaintiff has lived in Connecticut for at least twelve months immediately before the filing of the divorce complaint.
3. There is one minor child, issue of this marriage: Kashus King Collins (birth name). D.O.B. 3/28/2022. Subsequent to the filing of the dissolution action the plaintiff on July 17, 2023, had the minor child's legal name changed to Shamyim Prince Lamar Collins.
4. The plaintiff has one other child who is not issue of this marriage. The defendant has six children although only one is issue of this marriage. Of the defendant's six children, five are under the age of eighteen. The defendant is not currently pregnant.
5. The defendant is employed. The plaintiff was not employed at the time of the trial.
6. This Court reviewed the financial affidavits (Entry #109 and #123 for the plaintiff and #136 for the defendant).
7. The child currently resides with the plaintiff-father.
8. Per order of the Court (Entry #125.01), sole legal and physical custody is with the plaintiff, pendente lite. The defendant is to have visitation of the minor child every Monday, Thursday and Friday from 12:00 p.m. to 4:00 p.m. The defendant is to provide

transportation and a suitable car seat. The exchange of the minor child is to occur at the Bridgeport Police Department with no communication between the parties during the exchange. The parties are to communicate via text message regarding the minor child.

9. The State of Connecticut filed an appearance in the file as the plaintiff and minor child are current recipients of state cash and HUSKY assistance.
10. The marriage is broken irretrievably with no reasonable prospect of reconciliation.

The plaintiff and defendant have an acrimonious and volatile relationship. There was testimony that there is currently a criminal protective order where the defendant is the protected person and the plaintiff is the respondent for actions alleged to have occurred in Bridgeport in October 2023 (BCR-23-0353990). The defendant testified to not having seen her minor child since October 2023. The plaintiff confirmed that the mother's visitation has not occurred since October 2023.

The plaintiff submitted two financial affidavits and the Court questions the veracity of both filings. The first, Entry #109, filed March 18, 2023, shows Social Security income in the amount of \$450 per month. The only entry included on this affidavit is a Telephone/Cell/Internet charge in the amount of \$100. The remainder of the affidavit is left at \$0.00 and the total gross weekly income is listed at \$0.00. The second affidavit, Entry #123, filed June 9, 2023, shows Social Security income in the amount of \$740 per month and the total gross weekly income is listed at \$0.00. The remainder of this affidavit is left at \$0.00.

The plaintiff testified that although not currently employed he hopes to eventually work in the culinary arts. The plaintiff testified to securing a new residence just prior to the trial with a one-year lease. The plaintiff and his son had been living in temporary housing in a shelter in Bridgeport prior to the new housing.

The defendant submitted a financial affidavit, Entry #136, and filed on July 11, 2023. The defendant's affidavit shows pay from employment in the amount of \$840 per week. At the time of trial the defendant was employed as an Uber driver and is also licensed in Connecticut and New York to work in security. The defendant testified at trial to residing with her five-year-old daughter in an apartment in Waterbury, Connecticut. The defendant lists a New York address in her court appearance and testified that at the time of trial this was the address at which she received mail.

The plaintiff seeks sole custody with his residence being the child's primary residence. The plaintiff does not seek a parenting responsibility or visitation plan with the defendant-mother. The plaintiff further testified that he does not have the ability or temperament to interact with the defendant or the ability to encourage and facilitate a relationship between the child and his mother. The Court is significantly concerned by this testimony.

The defendant testified to wanting sole custody with her residence being the child's primary residence. The defendant testified to wanting the plaintiff-father to have a visitation schedule and that she has the ability and temperament to interact with the plaintiff and the ability to encourage and facilitate a relationship between the child and his father.

Both parties have shown an inability to adhere to and follow Court orders. The plaintiff on two occasions knowingly disregarded Court orders (Entry #165 and Entry #170) to not bring the minor child to court proceedings. Further, the plaintiff admits to not complying with court-ordered visitation (Entry #125.01) since October by knowingly not allowing the defendant to see the minor child. The defendant also has a history of violating Court orders (Entry #124).

The plaintiff testified to the minor child being updated as to shots and vaccinations and under the care of Dr. Francois Hayato Coutua, a pediatrician in Bridgeport, Connecticut. The plaintiff further testified to planning for the child to begin a daycare/school program within two weeks of the trial date in which the child would be in daycare/school from 8:00 a.m. to 5:00 p.m. each day during the week. The plaintiff provided no specific information as to the daycare/school.

If both parties agree to it, joint custody is presumed to be in the best interests of the child. General Statutes § 46b-56a (b).

The court may grant joint legal custody only if the parties agree to it or if one party has sought it. *Emerick v. Emerick*, 5 Conn. App. 649, 657 (1985), appeal dismissed, 200 Conn. 804 (1986); but see *Coleman v. Bembridge*, 207 Conn. App. 28, 44 (2021) (holding that this restriction does not apply to an award of joint physical custody). If one party seeks an order of joint custody, the court may order both parties to submit to conciliation to come to an agreement regarding joint custody. General Statutes § 46b-56a (c).

Joint custody only works if both parties are "united in its purpose," so a court may not award it when neither party has sought it or had an opportunity to respond to the prospect. *Id.*, 658.

Tabackman v. Tabackman, 25 Conn. App. 366 (1991) (court cannot order joint custody if neither party requests it). An order designating one party as ultimate decision-maker as to the child if the parties are unable to agree is not inconsistent with joint legal custody. Desai v. Desai, 119 Conn. App. 224, 230 (2010).

The "best interest of the child" standard is the ultimate basis of a court's custody decision. Perez v. Perez, 212 Conn. 63 (1989). Even if the parties have agreed to a custody and visitation arrangement, the court must still make an assessment that it would be in the best interest of the child. Stahl v. Bayliss, 98 Conn. App. 63, 69, cert. denied, 280 Conn. 945 (2006).

In determining the best interests of the minor child the Court considered the following statutory criteria: the physical and emotional safety of the child; the temperament and developmental needs of the child; the capacity and the disposition of the parents to understand and meet the needs of the child; the wishes of the child's parents as to custody; 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; and 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.

"Visitation rights are not wholly unrelated to the welfare of the children of divorced parents. Minor children are entitled to the love and companionship of both parents. For the good of the child, unless a parent is completely unfit, a decree should allow a parent deprived of custody to visit or communicate with the children under such restrictions as the circumstances warrant." Raymond v. Raymond, 165 Conn. 735, 741 (1974).

The Court was primarily concerned by the plaintiff-father's admitted unwillingness to allow the defendant-mother any opportunity to have a role in her son's life. The plaintiff submitted a proposed parenting plan, Entry #130, which includes absolutely no role or visitation for the defendant-mother in their minor child's life. The plaintiff-father admitted to violating Court-ordered visitation since October and not allowing visitation and has shown little regard for Court orders. The Court is concerned that regardless of what a Court order may dictate, based upon his past actions and stated intentions, the plaintiff-father will not adhere to a Court order awarding any visitation to the defendant-mother.

The defendant-mother is not exempt from blame for the animosity that exists between the parties; however, she has acknowledged an important role that the plaintiff-father can play in their son's life and a willingness to allow him this opportunity. The defendant submitted a proposed parenting plan, Entry # 137, that provides some structure for the plaintiff-father to have a role in his son's life and acknowledges the need for a child to have both parents in their life.

Upon careful consideration of the evidence presented and the pertinent statutory law, in particular General Statutes §§ 46b-40, 46b-82, 46b-84 and 46b-56(c), and the relevant case law, and having observed the demeanor and assessed the credibility of the witnesses at trial, the court finds and orders as follows. All court findings are made by the preponderance of the evidence standard unless specifically stated otherwise.

The main source of evidence at trial was the testimony of the parties, making their credibility especially critical. "The fact finding 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 [the appellate courts]." *Lupien v. Lupien*, 192 Conn. 443, 445, 472 A.2d 18 (1984).

The Court enters the following orders:

DISSOLUTION

1. The marriage of the parties is dissolved and they are each declared to be single and unmarried.
2. Each party shall retain sole ownership of all tangible belongings now in his or her own name and possession.
3. There are no joint assets or debts to be divided.
4. There is no alimony awarded to either party.

CUSTODY/VISITATION

1. Sole legal and physical custody shall be granted to the defendant-mother.
2. The child shall primarily reside with the defendant-mother.
3. The plaintiff-father shall have visitation as follows:
 - a. The plaintiff-father shall have visitation with the child Tuesdays and Thursdays from 3:00 p.m. until 7:00 p.m. Visitation shall begin on Tuesday, May 21, 2024.

- b. The plaintiff-father shall also have visitation every other weekend beginning on Fridays, from 5:00 p.m. until Sundays at 5:00 p.m. Weekend visitation shall begin on Friday, May 24, 2024.
 - c. The defendant-mother shall be responsible for transportation of the minor child on all visitations. The defendant-mother shall have a suitable car seat. The exchange of the minor child shall occur inside the Bridgeport Police Department. No communication between the parties during the exchange.
4. The mother's address shall be used for school registration purposes.
5. The parties shall confer with each other regarding the health, education, welfare, and religious upbringing of the minor child. Neither party shall make unilateral decisions regarding said topics without prior consultation with the other parent. Major decisions regarding the child's health, growth, and development, course of study, extent of travel away from home, choice of school, choice of camp, non-emergency medical treatment, lessons, psychotherapy or like treatment, part or full-time employment, purchase or operation of a motor vehicle, participation in hazardous sports or activities, religious upbringing, and significant changes in social environment shall be considered and discussed, by both parties.
6. Each parent shall have responsibility for the child during his or her parenting time. When the child is scheduled to be with the mother, she is the on-duty parent and when the child is scheduled to be with the father, he is the on-duty parent. The on-duty parent shall make decisions about the day-to-day care and control of the child. Such day-to-day decisions shall include but not be limited to: the child's social schedule, the child's diet, and disciplining the child. This on-duty decision making is not to be confused with legal custody decision making concerning the health, education, welfare, and religious upbringing of the child.
7. Absent an emergency, if a parent learns of any illness or accident affecting the child's health, that parent shall promptly notify the other. The defendant shall provide the plaintiff with updates following any visits to a pediatrician, physician, dentist, consultant, or specialist attending to the child. If either parent brings the minor child for treatment at an Emergency Department, Emergency Room, Hospital, Urgent Care Center or similar facility without the knowledge and consent of the other parent, the treating parent shall be

solely responsible for all out of pocket and/or unreimbursed medical bills associated with the visit.

8. The defendant shall inform the plaintiff of the name and location of any school and/or daycare program attended by the minor child.

HOLIDAY/VACATION SCHEDULE

1. The Court has intentionally assigned no specific visitation for holidays or special occasions. The parties shall adhere strictly to the visitation dates and times unless they have a prior written agreement to deviate from the schedule.
2. Summer Schedule:
 - a. During the summer months if the minor child is not in school, the parents will continue to follow the parenting schedule as outlined above.

COMMUNICATION:

1. The parties shall use e-mail and text messaging as a primary means of communication between each other, except in the case of an emergency. Each parent shall respond to an e-mail, text message, or a phone message from the other parent within 24 hours of receipt of same.
2. The defendant shall communicate by email at least once per week to the plaintiff a paragraph about the interests, activities, school performance, health and general well-being of the minor child.
3. Neither party shall comment about the other party on the internet, social media, messaging sites or apps.

MISCELLANEOUS

1. Each parent shall be responsible for transporting the child to and from his scheduled extracurricular, athletic, social and camp activities during his/her parenting time in an appropriate motor vehicle equipped with any required car/booster seat(s).
2. Neither parent shall schedule social activities for the child during the other parent's parenting time without the other parent's permission. If one parent receives notice that a social activity is scheduled during the other parent's parenting time, then the parent receiving the notice or invitation shall immediately notify the other parent allowing each

parent to make the decision regarding the social activity during his or her parenting time with the child.

3. The parenting plan shall allow for the child's attendance at special family functions such as birthdays, graduations, weddings, and funerals. Each parent shall give the other as much advance notice as reasonably possible as to the date, time and nature of all special events. The parents will work together and utilize their best efforts to coordinate attendance at special family functions. In the event they are unable to reach an agreement regarding the special family function(s) the regular parenting plan shall be maintained.
4. Each parent shall keep the other informed if either has knowledge of any illness or accident or other circumstances seriously affecting the health or welfare of the child, the father or mother, as the case may be, and will promptly notify the other parent.
5. Each parent shall refrain from doing anything to estrange the child from the other parent. Neither parent will disparage the other to the child, or in manner in which the child would readily ascertain disparaging comments or information. Neither parent shall act in such a way as to hamper the free and natural development of love and respect between the parent and the child. Additionally, each parent shall utilize his or her best efforts not to allow third parties to disparage the other parent in the presence of the child.
6. Neither party shall post or publicize, or cause posts or publications, depicting the other party's likeness, the minor child's likeness or documents, narratives, descriptions or other information concerning these divorce proceedings on the internet and/or any social media outlet. To the extent that either party has posted or publicized, or caused posts or publications, depicting the other party's likeness, the minor child's likeness or documents, narratives, descriptions, or other information concerning these divorce proceedings prior to the date of judgment, those posts and/or publications shall be immediately deleted from the internet and/or social media outlets.
7. The parents shall be allowed to attend the child's school, religious and sports functions and activities, regardless of which parent has parenting time at the time of the function or activity. Both parties shall make the minor child's school, religious and sports functions and activities, a priority during his/her parenting time. If either party becomes aware of a one-time event or weekend performance, he/she shall notify the other of said commitment as soon as practicable. For ongoing activities, such as commitment to a sports team or other

activity, the party enrolling the child in same shall provide the other parent with a schedule of games/practices/performances and the contact information for the coach/director upon enrollment. If the child is provided with guest tickets for any game/performance/function (such as a graduation), the guest tickets shall be split equally between the parents.

8. The parties acknowledge they will both occasionally purchase clothing for the child. The parties will allow clothing items such as coats, hats, gloves, shoes, uniforms, and the like to transfer between their respective homes and neither parent will send the child to the other parent without said items in an effort to make the other purchase duplicate items.
9. The defendant shall provide copies of the minor child's report cards/progress reports to the plaintiff.
10. Each party shall be responsible to help the minor child with their homework and be sure that all assignments are completed for the next school day, during his or her parenting time. Should either party become aware of any special projects that are due or tests that need to be prepared for, he or she shall notify the other party.
11. Commencing April 15, 2025, and continuing each year thereafter, the parties shall provide to the other party end of the year pay stubs, W-2's, 1099's, Schedule K, Schedule D, and any other proof of income no later than April 15th of each year, for as long as there remains a child support obligation.

CHILD SUPPORT

1. The State of Connecticut filed proposed orders (Entry # 162) that include Child Support Guidelines based upon the financial affidavits (Entry # 109 and Entry #136) filed by the parties. The presumptive amount of child support based upon the parties' actual income as listed in their financial affidavits as reflected in the Child Support Guideline Worksheet ("Guidelines"), Entry # 162.00, as submitted would have the defendant paying the plaintiff child support in the amount of \$111.00 per week if the minor child resided primarily with the plaintiff-father. The court finds this amount to be inequitable and inappropriate and orders a deviation based upon the primary custody of the minor child with the defendant, needs of parent's other dependents, and the best interests of the child. For these reasons the Court shall find it in the best interest of the minor child to deviate from the Guidelines and order the defendant to pay no child support (\$0.00) to the plaintiff.

2. Concerning childcare contributions for the minor child, the Guidelines (Entry # 162.00) call for the plaintiff to be responsible for 25% and the defendant to be responsible for 75%. The Court deems this to be in the best interests of the minor child. The parties shall exchange receipts on a monthly basis; reimbursement shall be made within seven days of receipt.
3. If collection of the child support order is required in the future, it shall be undertaken by the Connecticut Bureau of Child Support Enforcement. The plaintiff shall apply to the Department of Social Services to set up the account for enforcement of child support payments.

MEDICAL INSURANCE AND EXPENSES

1. The plaintiff and defendant shall provide medical and dental insurance for the minor child, if such benefit is carried by such parent or available to such parent, at a reasonable cost not to exceed 5% of the parent's weekly net income. If health insurance is not available through either parents employment, the parents are to cooperate to apply for health insurance through Husky or a similar state plan.
2. Concerning any unreimbursed and/or out of pocket medical expenses for the minor child, the Guidelines (Entry # 162.00) call for the plaintiff to be responsible for 25% and the defendant to be responsible for 75%. The Court deems this to be in the best interests of the minor child. Except in the case of an emergency, the parties shall consult with and give their approval prior to incurring any extraordinary expenses, which approval shall not be unreasonably withheld as to the necessity of the expenditure. Extraordinary expenses shall be defined to mean all those expenses for illness, accident or occasion, the treatment of which shall exceed five hundred (\$500.00) dollars.

EDUCATIONAL SUPPORT

The Court was not asked to retain jurisdiction under § 46b-56c for post-secondary education expenses of the minor child.

PERSONAL PROPERTY

1. The defendant shall be entitled to claim the minor child as a tax exemption/credit.

DEBTS AND LIABILITIES

1. Each party shall be responsible for bills and debts now in his or her own name.

2. Neither party shall undertake any action that will affect the credit of the other party. Specifically, neither party is to use the credit name, social security number, or address of the other party in order to secure credit.

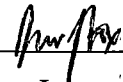
PARENTING EDUCATION CLASS

The plaintiff and defendant shall each enroll in the parenting education class within 60 days and shall submit to the court within 120 days a certificate of completion.

FINANCIAL AFFIDAVITS

Financial affidavits shall be unsealed.


BY THE COURT



Fox, J. 6/14/24

Decision entered in accordance with the foregoing on May 14, 2024. Parties and Reporter of judicial decisions notified on May 14, 2024.

Kim Small, Assistant Clerk


5/14/2024