

4/23/24 - cc: M. Udoinyang; V. Moreno; M. Noreiga; Maluszewski; RJD.

DOCKET NO. HHD-FA235077340S : SUPERIOR COURT  
MFON UDOINYANG : JUDICIAL DISTRICT  
: OF HARTFORD  
v. : AT HARTFORD  
MIRIAM NOREIGA-MILLS : APRIL 23, 2024

**MEMORANDUM OF DECISION**

This action seeks the dissolution of the parties' marriage. The action was instituted by a complaint filed on or about March 28, 2023. The trial was held on October 18, 2023, January 11, 2024, and March 6, 2024. On October 18, 2023, the parties filed an agreement that addressed all issues except for the visitation/parenting plan and child support. The agreement is approved and made orders of the court. The agreement is hereby incorporated by reference into the judgment. The plaintiff was represented by Vivian Moreno-Zelinka and the defendant was represented by Katarzyna Maluszewski. Each party testified. The plaintiff's therapist testified. The plaintiff and defendant offered several exhibits into evidence.

-I-

**FINDINGS**

"The [fact-finding] function is vested in the trial court with its unique opportunity to view the evidence presented in a totality of the circumstances, i.e., including its observations of the demeanor and conduct of the witnesses and parties . .

*Suzanne Luciano*

HARTFORD J.D.

APR 23 2024

FILED

.” (Internal quotation marks omitted.) *Cavolick v. DeSimone*, 88 Conn. App. 638, 646, 870 A.2d 1147, cert. denied, 274 Conn. 906, 876 A.2d 1198 (2005). “The sifting and weighing of evidence is peculiarly the function of the trier [of fact] . . . The trier is free to accept or reject, in whole or in part, the testimony offered by either party. . . . That determination of credibility is a function of the trial court.” (Citations omitted; internal quotation marks omitted.) *Heritage Square, LLC v. Eoanou*, 61 Conn. App. 329, 333, 764 A.2d 199 (2001). “Credibility must be assessed . . . not by reading the cold printed record, but by observing firsthand the witness' conduct, demeanor and attitude. . . [I]t is the [fact finder] . . . [who has] an opportunity to observe the demeanor of the witnesses and the parties; thus [the fact finder] is best able to judge the credibility of the witnesses and to draw necessary inferences therefrom.” *State v. Lawrence*, 282 Conn. 141, 155, 920 A.2d 236 (2007).

“The authority of the court to render custody, visitation and relocation orders is set forth in Connecticut General Statutes Section 46b-56. In making or modifying any orders with respect to custody or visitation, the court shall . . . be guided by the best interests of the child. . . . The best interests of the child include the child's interests in sustained growth, development, well-being, and continuity and stability of its environment. . . . The trial court is vested with broad discretion in determining what is in the child's best interests.” (Footnote omitted; internal quotation marks omitted.) *Gina M.G. V. William C.*, 77 Conn.App. 582, 587-88, 823 A.2d 1274 (2003).

In reaching its decision, the court has listened to the witnesses and assessed their credibility. It has reviewed the exhibits in evidence and given them the appropriate weight. The court has carefully reviewed the evidence to determine the best interests of the child considering the factors set forth in General Statutes 46b-56 and the relevant caselaw. The court has applied all applicable law and statutory criteria. All financial affidavits are unsealed, and judicial notice is taken of the pleadings in the file. Accordingly, the court makes the following findings of fact by a preponderance of the evidence.

The parties were married on March 31, 2021, in Bristol, Rhode Island. The plaintiff has lived in Connecticut for at least twelve months before filing the instant complaint. The allegations in the complaint are proven and true. The marriage has broken down irretrievably with no prospect for reconciliation. The parties have one child together. The defendant has another child from a previous relationship. The plaintiff is fifty years old. He is Nigerian. He is immune compromised but is in overall good health. He holds a master's degree in linguistics. He has been employed with the West Hartford public school system since August 2023. He is taking courses that are required to advance his career and allow him to teach classes. It is expected that he will be qualified to teach and offered a position for the 2024-2025 academic year. He claims that defendant would not allow him to get a job. He was an Uber driver and worked for Amazon for a period of time prior to his current employment. He earns approximately \$28,000/year. He earns \$1,166.67/bi-weekly. He has a net weekly

income of \$519.33. He will earn more, after successful completion of his courses and once he is licensed and teaching his own class, full time.

The defendant is thirty-eight years old. She is from Trinidad-Tobago. She has a master's degree in engineering. She is in good health. She is employed by Pfizer and earns approximately \$115,000/year, including bonus. She has a net weekly income of \$707.89. She has a hybrid work schedule and can often work from home. Defendant relocated to Massachusetts in March of 2023 with the minor child. This was done without prior discussion or agreement with the plaintiff.

Regarding the breakdown of the marriage, the plaintiff claims that defendant was abusive and controlling of him throughout the marriage. Shortly after defendant relocated from Connecticut with the minor child and did not inform him, he filed this action. Plaintiff is concerned that defendant will take their child to live outside of the United States.

The defendant did not indicate her beliefs regarding the breakdown of the marriage or explain her conduct in moving with the minor child out of state without consulting with plaintiff. The evidence is clear that the plaintiff and defendant do not communicate well and that each takes issue with the other. If this continues, S.U. will find herself in the middle of conflict that her parents created. She is currently non-verbal, and each parent is claiming that the other parent is not caring for her in a

healthy and safe manner. Each denies any claims made by the other. The court finds the defendant more at fault for the breakdown of the marriage.

The plaintiff claims that defendant told him that she could do anything she wanted as she is “the mother”. He claims that she has prohibited him access to their daughter and that she is bringing false and baseless accusations against him in order to punish him and keep him from S.U. He claims that she does not communicate with him about S.U. and does not want him to have a relationship with her. The defendant claims that plaintiff does not communicate with her. She claims that S.U. has returned from visitation with plaintiff with scratches, red eyes, a black eye, bruises, soiled diapers and even dehydrated. Plaintiff denies knowing anything about a black eye. He denies any abuse or neglect of the minor child. The communications in AppClose indicate poor communication skills. The defendant accuses plaintiff of harming the minor child, which plaintiff denies. There are no healthy communications between the parties or attempts at addressing how the injuries/problems could have happened. Defendant consistently complains that plaintiff has not contributed financially in any substantial way to S.U.’s maintenance. She also consistently either makes his visitation time difficult to execute or does not let it happen at all. She is frequently late, cancels or indicates that regardless of court orders, she would not be complying. She complains that the Nigerian food that plaintiff sometimes feeds the minor child is problematic. There are spices and foods that she is unaccustomed to. The same could arguably be said of any food from Trinidad/Tobago that the minor child is fed.

Hopefully, both parents will allow the other to educate and introduce S.U. to her cultural backgrounds. This can only enrich her life. The evidence demonstrates many instances of defendant or the minor child being too sick for plaintiff's visitation and defendant being unwilling to collaborate with plaintiff regarding visitation. At some point, defendant told plaintiff that she needed to have confirmation the night before, if he wanted to exercise his visitation. She also claimed that she did not have money for gas, so she did not take S.U. to Connecticut for visitation. Coincidentally, she was admonishing plaintiff in AppClose around this time, for not contributing financially. Defendant's financial affidavit demonstrates that she does in fact have the financial ability to pay for the gasoline, etc., associated with taking S.U. for visitation with plaintiff. Defendant is reminded that child support obligations and plaintiff's visitation and access rights are separate from each other. To not allow visitation due to her financial claims against plaintiff does a disservice to S.U.

### ORDERS

- A.** The marriage of the parties is dissolved on the ground of irretrievable breakdown. The parties are declared to be single and unmarried.
- B.** The parties shall have joint custody of the minor child; S.U.
- C.** The defendant shall have primary residence of the minor child. Defendant shall not relocate with the minor child without the parties' prior mutual written agreement or order of the court.

- D.** The defendant shall provide plaintiff with all contact information for the child's education/daycare, medical providers, etc., within 30 days of this order.
- Plaintiff has the right and responsibility to keep himself informed of S.U.'s medical and educational, etc.... status.
- E.** The plaintiff shall provide defendant with all his current contact information including home address, telephone number, cell phone number, employment, etc.
- F.** The defendant shall provide plaintiff with all her current contact information including home address, telephone number, cell phone number, employment, etc.
- G.** Plaintiff shall have access/visitation with the minor child every other weekend, Friday at 7:00 p.m. to Sunday at 6:00 p.m. If the Monday following plaintiff's parenting time is a state/federal holiday, he shall keep the minor child in his care until Monday at 6:00 p.m. Defendant shall bring S.U. to the Glastonbury Police Department for drop off and plaintiff shall return the child at the West Roxbury Police Department, 1708 Center Street, Boston, MA. Both parties shall make every effort to be timely and account for traffic, weather, etc.... If a party is going to be late, they shall notify the other as soon as is reasonably possible. If plaintiff's visitation is cancelled due to no fault of his own, plaintiff

shall have additional parenting time the following weekend, should he choose to exercise it.

**H. Holidays-** Defendant shall have all Mother's Days. Plaintiff shall have all Father's Days from 10:00 a.m. to 7:00 p.m. Defendant shall transport child to plaintiff as described above and plaintiff shall return minor child to defendant as described above. All exchanges for visitation shall be handled in the same manner.

Easter- plaintiff shall have the minor child on odd years, defendant on even years. Times as agreed to by the parties.

4th of July- defendant shall have the minor child on odd years, plaintiff on even years. Times as agreed to by the parties.

Thanksgiving Day- plaintiff shall have the minor child on odd years from 10:00 a.m. to 8:00 p.m., defendant on even years.

Christmas Eve- defendant shall have the minor child on odd years. Plaintiff on even years; from 2:00 p.m. through December 25th at 1:00 p.m.

Christmas Day- plaintiff shall have the minor child on odd years from 2:00 p.m. through 6:00 p.m. December 26th. Defendant on even years.

New Year's Eve- defendant shall have the minor child from 3:00 p.m.

December 31st until 6:00 p.m. on January 1st. Plaintiff shall have even years.



Parent's and child's birthdays- the parties shall cooperate with each other so that the child can spend some reasonable time with each parent on her birthday and time with the parent celebrating their birthday.

Holiday schedule supersedes regular visitation schedule.

- I. Summer vacation- each party shall have two non-consecutive weeks of summer vacation with the minor child. The week commences on Saturday at 10:00 a.m. until the following Saturday at 10:00 a.m. Each party shall provide reasonable advanced notice and provide the other party with an itinerary for vacation travel outside of the State of Connecticut, if more than forty-eight hours. If the parties cannot agree on vacation weeks, the plaintiff shall have first choice of weeks in even years and defendant in odd years.

Agreement by the parties is required in order to apply for a passport for the minor child. Both parties shall be equally responsible for the cost of said passport. Neither party shall travel outside of the country with the minor child without the other parties' written consent.

- J. Both parties shall make every reasonable effort to maintain free access to and foster feelings of love and respect between the child and the other parent. Neither party shall do anything to estrange the child from the other parent, mislead the child as to the continuing role of the parent, injure the child's opinion of the parent or act in any way as to hamper the free and natural

development of the child's love and respect for the other parent. In no circumstances shall the parents involve the child in parenting matters nor involve or share with them personal disputes.

- K. The parties shall continue to communicate regarding the minor child by using AppClose.
- L. Both parties shall have reasonable telephone/facetime access to the minor child when she is not in their care.
- M. Child support- The plaintiff shall pay to defendant child support of \$75/week or \$150/bi-weekly. This shall be executed by way of immediate wage withholding. Pursuant to the Connecticut Child Support Guidelines the court finds the presumptive child support payable to be \$106.68 per week based on the plaintiff's net weekly income of \$519.33 and the defendant's net weekly income of \$707.89. This is a deviation from the Guidelines. The court finds that to apply Guidelines in this matter at this time would be equitable/inappropriate due to the substantial disparity in income of the parties as well as the costs incurred by plaintiff to exercise his parenting time and the best interests of the minor child. The court orders plaintiff to pay \$75./week or \$150./bi-weekly to the defendant.


The court does not award an arrearage of child support.

The plaintiff shall immediately notify defendant of any changes in his employment.

- N. Both parties shall maintain medical insurance for the minor child as available to them at a reasonable rate not to exceed 7.5% of their net income or as is available through the CT HUSKY or the MA Health program or other appropriate governmental program(s).
- O. Unreimbursed medical/dental expenses and previously agreed upon work-related childcare expenses- The plaintiff shall contribute 32% and the defendant shall contribute 67% to these costs. This is in accordance with the Connecticut Child Support Guidelines.
- P. The parties shall successfully complete a parenting class within sixty days of this order. Parties to provide proof of attendance to the court.
- Q. Pursuant to C.G.S Section 46b-56c, the court shall retain jurisdiction of this matter regarding post-majority education of the minor child.
- R. The agreement of the parties dated October 18, 2023, is hereby approved and made an order of the court. It is hereby incorporated by reference into the judgment.

SO ORDERED.

BY THE COURT,

  
CARRASQUILLA, J.