Stephen Rudolewicz v.
Lisa Rudolewicz

CUSTODY - MODIFICATION

Father's motion for modification of dissolution decree regarding custody of minor child. Held, granted; custody awarded to father. Facts relevant to the child's welfare were not before the court that made the initial custody award.

COURT: Hartford-New Britain, at New Britain
DATE: August 20, 1986
DOCKET NO.: 410812
JUDGE: Arena

I. Nature of Proceedings

The plaintiff, Stephen Rudolewicz, by motion dated August 8, 1985, has moved to re-open and modify a judgment of dissolution as to custody and child support entered between the parties on September 6, 1983.

II. Facts

The plaintiff, Stephen Rudolewicz, and the defendant, Lisa (Rudolewicz) Quayle, were married on May 19, 1979. There was one child born of the marriage, Nicole Marie Rudolewicz, on March 25, 1980. From the beginning, there were problems in the marriage and the parties separated in July of 1982. An action for dissolution of the marriage was thereafter commenced in August of 1982. During the pendency of the dissolution action, difficulties arose with visitation and custody. On July 5, 1983, the issue of Nicole's custody was referred to the Family Relations Division. In the custody study report dated August 31, 1983, the Family Services Counselor, Donna Grabowski, recommended:

> "[T]hat custody of Nicole remain with the mother and visitation be granted to the father three weekends per month from Friday at 6:30 p.m. to Sunday at 5:00 p.m., and on Wednesday from 6:00 p.m. to 8:00 p.m., non-overnight visitation period. It is also recommended that mother and child receive counseling a minimum of once a week and that this matter be reviewed in three months."

The Family Services Counselor found "serious questions as to the mother's ability to parent." Ms. Grabowski stated that "there is an indication that [the defendant] lacks an awareness of the child's physical and emotional needs and capabilities" and that the defendant has difficulty in understanding that Nicole has needs separate from her own. The recommendation that Nicole remain in her mother's custody was substantially based on the fact that the mother had been her primary caretaker and that the lack of contact between Nicole and her father, during the preceding eight months, would have made it more difficult to separate Nicole and her mother. The Counselor further recommended that the court-ordered visitation should be strictly adhered to since the defendant had denied the plaintiff his court-ordered visitation.

The marriage between the parties was dissolved on September 6, 1983, and the court (Googel, State Trial Referee) ordered, inter alia:

> "By *agreement of the parties*, and the State of Connecticut, the custody of the minor child, Nicole, age three, is committed to the defendant mother subject to the right of the plaintiff father to visit the minor child three weekends per month from Friday 6:30 p.m. to Sunday 5:00 p.m. and on Tuesday from 6:00 p.m. to 8:00 p.m. on the non-overnight visitation period; . . .
>
> The plaintiff shall have the right to visit said child on the alternate holidays of Columbus Day, Thanksgiving, Christmas Eve, Christmas, New Years Day, Easter, Memorial Day, Fourth of July and Labor Day. The parties shall share the child's birthday. . .
>
> The mother and child shall receive counseling, a minimum of once a week, with the Family Relations Division and the

Family Relation Division shall review this matter in three months time from date hereof. (Emphasis supplied.)

In March of 1984, this matter was referred to the Family Relations Division for a visitation study because the plaintiff had again been denied visitation. In a report dated June, 1984, the Family Services Counselor, Donna Grabowski, stated:

"The parental conflicts in this situation are overt and visitation cannot occur without incident. It is felt that the mother's reluctance to allow visitation has at times perverted visitation and upset the child's emotional well being."

In the course of the visitation study, the defendant made it clear to the Family Services Counselor that she felt "relentless hatred" for the plaintiff. The Counselor felt that court intervention did not affect Mrs. Rudolewicz's behavior or attitude toward visitation. The study concluded that since the plaintiff appeared to be able to nurture and meet Nicole's emotional needs, that Nicole would benefit from having a relationship with her father, but that visitation was unlikely to occur without direct court intervention. Accordingly, it was recommended that the transfer for visitation purposes occur at the Family Services offices and that, if this procedure did not facilitate visitation, then a change of custody should be considered.

After the entry of judgment, the defendant did receive some counseling with Dawn Markowitz, a counselor affiliated with the Pediatric Center in Bristol, Connecticut, but not with the Family Relations Office. Although Counselor Markowitz requested the defendant to remain in counseling, she was hostile and terminated the sessions. The defendant's counselor reported to the Family Services Counselor that the mother was able to meet Nicole's physical needs, but was "limited" in ability to meet Nicole's emotional needs. Although it was the defendant's counselor's opinion that the child was "in tune" with her mother's feelings, the Family Services Counselor felt that Nicole's responses were based on what she thought her mother would approve of.

In a *Memorandum of Decision* dated July 12, 1984, the Court (Samuel S. Googel, State Trial Referee) entered orders specifying the plaintiff's visitation rights which, *inter alia*, required the plaintiff and his father to pick up and deliver Nicole at the home of the defendant.

On August 8, 1985, the plaintiff filed the instant motion to modify custody and child support and a motion for psychological study. Subsequently, on August 26, 1985, the Court (Higgins, J.) referred both of the plaintiff's motions to the Family Services Unit. The defendant refused to cooperate, and, thus, on October 28, 1985, the Court (O'Connor, J.) ordered: (1) the defendant to release her address, her phone number, the name of the child's therapist at Wheeler Clinic, the name of the child's kindergarten teacher and school, (2) the defendant to appear for a custody study interview at specific time and place without her daughter, (3) the defendant to be present with the minor child for a home visit at a specific time and date and make the child available for a home visit at the plaintiff's residence at a time to be determined by the Family Services Unit.

On February 21, 1986, this court, pursuant to the plaintiff's motion for contempt, found the defendant in contempt for repeatedly resisting, denying, refusing and/or subverting the plaintiff's visitation with the minor child. The court denied the plaintiff's motion for immediate temporary custody and granted the plaintiff's motion enjoining the defendant from removing the minor child from the State of Connecticut. The court granted the motion for psychological evaluation. The evaluation was to be performed by Dr. Montgomery Winship, Psychiatrist, with both parties and the minor child participating. On January 21, 1986, this court, *sua sponte*, appointed Attorney Denise McNair as counsel for the minor child.

This court heard extensive testimony over a period of several days on the plaintiff's motion for custody. During the course of the hearing on the instant motions, the parties stipulated that the court could consider events and information arising subsequent to the date of said motion when deciding whether to modify custody. Additionally, the court has received briefs from the attorneys for the plaintiff, defendant and the minor child.

III. Discussion

In an action for dissolution of a marriage, orders regarding custody of a minor child are governed by Conn. Gen. Stat. § 46b-56. Section 46b-56 provides, in pertinent part, that:

"[T]he court may at any time make or modify any proper order regarding . . . custody and visitation if it has jurisdiction. . . according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable."

Conn. Gen. Stat. § 46b-56 (a). "The paramount concern in ordering custody is the best interests of the child." Conn. Gen. Stat. § 46b-56(b); *Hall v. Hall*, 186 Conn. 118, 121 (1982).

"In an action for dissolution of marriage, the custody of a minor child is not finally determined until entry of the decree dissolving the marriage." *Hall v. Hall*, supra, at 119. Before the issuance of the final decree dissolving the marriage, the Connecticut Supreme Court has not limited the discretion statutorily granted the trial court to award and modify custody according to the best interests of the child. *Hall v. Hall*, supra, at 122.

After the final divorce decree, the Connecticut Supreme Court has limited the trial court's discretion to modify custody orders under § 46b-56. The court's discretion is limited:

"[B]y requiring that modification of a custody award be based upon either a material change of circumstances which alters the court's finding of the best interests of the child; *Trunik v. Trunik*, 179 Conn. 287 289-90, 426 A.2d 274 (1979); *Cleveland v. Cleveland*, 165 Conn. 95, 100, 328 A.2d 691 (1973); 148 Conn. 1, 3, 166 A.2d 448 (1960); *Sullivan v. Sullivan*, supra, 239; or a finding that the custody order sought to be modified was not based upon the best interests of the child. *Stewart v. Stewart*, supra, 407; *Simons v. Simons*, 172 Conn. 341, 348, 374 A.2d 1040 (1977)."

Hall v. Hall, supra, at 121.

The "material change of circumstances" rule of post-degree custody modification is founded upon the idea that the parties and the minor child all have an interest in the finality of the judgment, which arises upon the entry of a custody order incident to a final dissolution decree. *Hall v. Hall*, supra, at 122. The decision in the *Hall* case appears to be opposite a trend in the law, which is to dispense with the need to show changed circumstances and which judges post-judgment modification applications under a pure "best interests" standard, particularly when the prior order has been based on an agreement between the parties. See *Friederwitzer v. Friederwitzer*, 55 N.Y.2d 89, 447 N.Y.S.2d 893, 432 N.E.2d 756 (1982); Wexler, *Rethinking the Modification of Child Custody Decrees*, 94 Yale L.J. at 759.

In order for this court, to consider whether a modification of custody is in Nicole's best interests at this time, it must find either:

1. That there has been a material change of circumstances subsequent to the date of the entry of the decree of dissolution on September 6, 1983, which alters the court's finding of the best interests of the child; or

2. That the original award of custody of September 6, 1983, was not in the best interests of the minor child. See Conn. Gen. Stat. § 46b-56.

The court in making its determination *may* follow the recommendations of the Family Services Counselor. *Yontef v. Yontef*, 185 Conn. 275 (1981) (emphasis added). The court also may consider whether the minor child was represented during the proceedings; both the negotiations of the stipulation and the dissolution proceedings. See *Guile v. Guile*, 196 Conn. 260, 267 (1985) (a judgment of dissolution which precluded modification of custody and support could be re-opened and corrected by the minor children as they were unrepresented during the pendency of the dissolution proceeding).

At the time of the entry of the judgment dissolving the marriage on September 6, 1983, custody of the minor child, Nicole Rudolewicz, was committed to the defendant mother *by agreement*. As the initial custody award was consensual, the court did not evaluate the facts and make a finding that it was in the best interests of the child for the defendant mother to have custody. Although the Family Services Counselor, Donna Grabowski, recommended that custody remain with the defendant mother in the custody study dated August 31, 1983, her recommendation is, however, inconsistent with her own subordinate findings that there were serious questions as to the mother's ability to parent. It is obvious that Ms. Grabowski placed great weight on the defendant's role as the primary caretaker of a three-year-old girl and the lack of contact between the father and the child during the preceding eight months.

It is the opinion of this court that facts which were relevant to the child's welfare have not been demonstrated to have been before the court which made the initial custody award. See *Simons v. Simons*, supra, at 345-48. In *Simons*, the court stated:

> "It is not uncommon for the parties in a dissolution of marriage to focus their attention primarily on the termination of the marriage relationship. Unfortunately, under this pressure some custody awards may be made which are not in the best interests of the child. This court has always held that the paramount consideration in custody matters is the welfare of the child. . . The fact that factors which affect the welfare of the child have not been previously revealed to the court at the time of the original order should not prevent it from doing its duty by the child when these factors become known to it."

Id., at 347 (citations omitted).

On the basis of all of the foregoing, this court finds that the plaintiff has proved by the preponderance of the evidence that at the time of the entry of the decree of dissolution the court had focused its attention primarily on the termination of the marriage relationship and not on the best interests of the child. Having found that the initial custody award was not based on the best interests of the child, this court must now determine whether the best interests of Nicole require a change in custody.

Conn. Gen. Stat. § 46b-56(b) provides that the court shall give consideration to the wishes of the child if she is of sufficient age and capable of forming an intelligent preference. During the pendency of this motion, the minor child celebrated her sixth birthday on March 25, 1986. The court believes that Nicole, although an alert and intelligent child, is not of sufficient age or capable of forming an intelligent preference. See *Faria v. Faria*, 38 Conn. Sup. 37, 40 (1982) (minor child, age five, not of sufficient age or capable of forming an intelligent preference).

A review of recent Connecticut cases indicates that the court should consider the following factors in determining the "best interests of the child":

1. Parenting skills. *Cappetta v. Cappetta*, 196 Conn. 10, 16-17 (1985).

2. "Each person's relationship with the child;" *Cappetta*, supra, at 17; "emotional ties of each parent with the child;" *Seymour v. Seymour*, 180 Conn. 705, 711 (1980); "the child's primary psychological parent." *Seymour v. Seymour*, supra, at 711-712.

3. Character of parent by reason of wilfull disobedience of court orders. *Hall v. Hall*, supra, at 124; *Stewart v. Stewart*, supra, at 407; *Simons v. Simons*, supra, at 348.

4. Willingness to facilitate visitation by the other parent. *Seymour v. Seymour*, supra, at 713.

5. "[P]ast behavior as it relates to parenting ability . . . . *Seymour v. Seymour*, supra, at 711; *Yontef v. Yontef*, supra, at 283.

6. Family Relations Division Report recommendations. See *Yontef v. Yontef*, supra, at 281.

7. Independent advice of attorney appointed to represent minor children. See *Yontef v. Yontef*, supra, at 281.

8. Credibility. Cf. *Yontef v. Yontef*, supra, at 277.

9. "[M]anipulative and coercive behavior in. . . efforts to involve children in the marital dispute." *Yontef v. Yontef*, supra, at 281.

10. A nparent's behavior and its effect on the child(ren). *Yontef v. Yontef*, supra, at 282.

11. Continuity and stability of environment. *Cappetta v. Cappetta*, supra, at 16.

12. "[T]he flexibility of each parent to best serve the psychological development and growth of the child." *Seymour v. Seymour*, supra, at 711.

13. Which parent is more willing and able to address medical and educational problems of the child and to take appropriate steps to have them treated and corrected. *Faria v. Faria*, supra, at 47-50.

14. "[C]hildren living in a familiar and stable environment with love and attention from their paternal grandparents." *Ridgeway v. Ridgeway*, 180 Conn. 533, 541 (1980).

15. Psychological instability of one parent posing a threat to the hildren's well-being. *Ridgeway v. Ridgeway*, supra, at 541.

16. Recommendation that one party immediately commence in-patient treatment. *Ridgeway v. Ridgeway*, supra, at 541.

17. Visitation having an adverse effect on the child at times. *Ridgeway v. Ridgeway*, supra, at 540.

18. Remarriage. *Trunik v. Trunik*, supra, at 289.

19. Parental sexual activity, *Trunik v. Trunik*, supra, at 288.

20. "[C]onsistency in parenting and life style, insofar as these factors might affect the child's growth, development and well being." *Seymour v. Seymour*, supra, at 711.

21. "[T]he time each parent would be able to devote to the child on a day-to-day basis." *Seymour v. Seymour*, supra, at 711.

22. Untidy condition of home, alcoholism, leaving home unattended, and emotional problems. *Simons v. Simons*, supra at 346.

In the instant case, there is overwhelming credible evidence that the defendant mother has been and is lacking in parenting skills. In her report, Defendant's Exhibit 1, the Family Services Counselor, Donna Grabowski, reported that "[i]t is apparent that the mother needs assistance in her parenting skills. . ." and she had "serious questions as to the mother's ability to parent." Ms. Grabowski further stated "there is an indication that the defendant lacks an awareness of the child's physical and emotional needs and capabilities" and "Mrs. Rudolewicz had difficulty in understanding that Nicole had needs separate from her own." In the visitation study report prepared by Donna Grabowski dated June, 1984, she observed that Nicole's responses were based on what she thought her mother would approve of. The defendant's counselor, Dawn Markowitz, felt that although the mother was able to meet the child's physical needs, she was limited in ability to meet the child's emotional needs. The Family Services Counselor concluded that a change of custody should be considered if visitation by the plaintiff was not facilitated because the counselor felt that Nicole would benefit from having a relationship with her father. In both his testimony and in his report dated May 7, 1986, John Harrison, Family Services Counselor, felt that although the mother had improved her physical care of the child, she had still involved the child in the parental conflict, had the child make age-inappropriate decisions, had an emotionally unhealthy and symbiotic relationship with the child and was not aware of the child's needs as a child. Mr. Harrison testified that he was seriously concerned with the mother's judgment and that her parenting would have a long-term deleterious effect on Nicole.

The child's counselor, Patricia Tulloch, also expressed significant concerns relating to the defendant's parenting skills. In both her testimony and in her report dated March 20, 1986, she indicated that Nicole is a parental child in that she is unnecessarily involved with the mother's problems and has developed the role of a sister rather than a child, which Ms. Tulloch stated could lead to severe emotional problems. Ms. Tulloch did not believe that the defendant is a good role model and is not able to either assess or meet the needs of Nicole.

G.M. Winship, M.D., Psychiatrist who examined the mother, father and minor child, stated in his opinion that the defendant came across clinically, as well as in psychological tests, as a paranoid personality. Dr. Winship defined a paranoid personality as:

> " . . . in practical terms, this means that when [the defendant] is faced with a situation of stress, of loss, of disappointment or confusion, she tends to avoid the emotional impact of the situation and tended to blame someone else, seldom seeing her own responsibility in the issue."

Plaintiff's Exhibit H.

This court has also reviewed the joint report of Walter A. Borden, M.D., and Edene Borden, M.S., which concluded in part: "[w]hile Lisa Quayle, Nicole's mother, does have a complex mental illness, that illness does not substantially interfere in her parenting of Nicole." Inferentially, the court concludes that the defendant's mental illness, whether characterized as that of a paranoid personality by Dr. Winship or as a core depressive condition by Dr. Borden, has in fact interfered in her parenting of Nicole. In addition, Dr. Borden indicated that the defendant's intense fear of losing those close to her appears to be the basis for much of the conflict around visitation. Moreover, Dr. Borden felt that the child's relationship with her father is important and should be protected by a structured visitation arrangement, which should be clearly defined, regular and without discretion being left to either the mother or child.

The evidence clearly indicates there is no question but that the minor child is connected and emotionally attached to her mother. However, there is also evidence that Nicole has emotional ties to her father. The child's therapist, Patricia Tulloch, felt that Nicole's relationship with her father was "relaxed and comfortable," that

she is not tense around him, that she feels safe with him and that she is not afraid of him.

In *Seymour*, the court stated:

> "[P]rofessionals in the field of child development remind us that a child may become deeply attached to a parent who is seriously inadequate, disturbed, or abusive, so that in some cases it is a disadvantage for the child to be in the care of the psychological parent." Leonard & Provence, 'The Development of Parent-Child Relationships and the Psychological Parent;' 53 Conn. B. J. 320, 327 (1979). While psychological parenting is thus one indicator of the best interests of a child, a court has an independent responsibility to assure itself of the suitability of the parent to whom the child is primarily attached. *Cf. In re Juvenile Appeal (Anonymous)*, 177 Conn. 648, 667-668 (1979).

Seymour v. Seymour, supra, at 711-712.

Although the child appears to this court to be primarily attached to the defendant, the record is replete with evidence that the defendant mother is not a suitable parent. The initial custody study investigation found serious questions as to the mother's ability to parent and the defendant's counselor reported that the mother was "limited" in ability to meet the child's emotional needs. Mr. John Harrison, Family Services Counselor, testified that he had serious concerns relative to the mother's judgment and that her parenting will have long-term deleterious effect on Nicole. The child's therapist, Patricia Tulloch, stated that Nicole needed to develop her role as a child rather than as a sister to her mother, that Nicole is concerned that the mother has not made good choices in her personal affairs, that the mother is not a good role model and that Nicole could develop emotional problems. This shows the court that the defendant is allowing Nicole to make decisions which are clearly inappropriate for her age.

Furthermore, in Ms. Tulloch's opinion, the defendant's judgment is so impaired that she will continue to sabotage any visitation between Nicole and her father with no regard for the severe emotional damage which will be done to Nicole if the present level of emotional intensity is continued. Dr. Winship saw examples of inconsistent and irresponsible behavior in his examination of the defendant.

The court must also consider evidence of the character of each parent by reason of willful disobedience of court orders. A mother's willful disobedience of court-ordered visitation for several months has been found to "evidence gross disrespect for the law and raise questions about her character, which are relevant to the welfare of the child." *Hall v. Hall*, supra, at 124.

In *Seymour v. Seymour*, supra, at 713, the Supreme Court approved consideration of one spouse's willingness to facilitate visitation by the other spouse as one factor upon which to base a custody award. Unwillingness to allow visitation by secreting the child from the other party for many months, thereby depriving the father and the child of court-ordered visitation was significant in *Hall* to the resulting change in custody from the mother to the father.

On February 21, 1986, this court found the defendant in contempt for willfully refusing and subverting the plaintiff's visitation. The court believes that the plaintiff has demonstrated a willingness to facilitate visitation with the defendant, whereas the defendant has continuously subverted visitation by the plaintiff.

The court also considers the parents' credibility, efforts to involve children in the marital dispute, behavior and its effect on the child(ren) and a parent's past behavior as it relates to his or her present parenting ability.

> [T]he test is not which parent was the better custodian in the past but which is a better custodian now. . . In the exercise of its awesome responsibility to find the most salutory custodial arrangement for the children of divorce, the court must however take into account of the parents' past behavior, since it must evaluate their present and future parenting ability and the consistency of their parenting for the purpose of determining which parent will better foster the children's growth, development and well-being."

Yontef v. Yontef, supra, at 283 (citations omitted).

The defendant was found by Patricia Tulloch not to be an "accurate reporter" and this court finds her not to be a credible person. Additionally, the defendant mother has created an emotional climate which has forced the child to choose between herself and her ex-husband thereby resulting in the minor child not being able to visit her father without feeling guilty for hurting her mother. Moreover, on numerous occasions, the defendant has demonstrated her total disregard for the authority of the court by consistently maintaining that it is up to Nicole to decide whether visitation is to take place, whether or not the decision is reflective of the current visitation order.

The plaintiff, however, has been cooperative and open with the child's therapist, has followed through on suggestions made regarding the child, has been flexible, has recognized the need for the child to continue in therapy and is willing to participate himself. The father appears to be more stable than his ex-wife, as well as able to exercise better judgment in the child's behalf and is more in control of his impulses than is the mother.

The court also considers important the child's environment, "whether the child will be living in a familiar and, stable environment with love and attention of grandparents." The defendant has moved at least six times in the last four years, whereas since the separation of the parties, the father has continuously resided with his parents in a single-family dwelling at 128 Roosevelt Street, New Britain. The plaintiff's residence was described as clean, neat and comfortably furnished and Nicole has her own bedroom. Additionally, the plaintiff's parents and adult sisters are available to assist him as care-takers of Nicole.

Although the mother has been able to meet the medical and educational needs of the child, there is no evidence that the father will be unable to. Further, this court cannot countenance the unilateral withdrawal by the mother of the child from school during the hearing and the failure to re-enroll her until ordered to do so by this court.

The evidence is clear that the mother has been and is resistant to therapy. This factor is significant in view of the unanimous recommendations for continued therapy regardless of which parent has custody. The child's therapist stated that the defendant's limited intellectual capacity, impulsivity, poor judgment and intense anger lead her to believe that the mother is a danger to the daughter's emotional and, at times, physical well-being. Although the defendant remarried on January 28, 1986, to an individual who appeared to the court to be a responsible, caring individual, the Family Services Counselor testified that any positive effect of the mother's remarriage was overshadowed by the defendant mother's personality and poor judgment.

The record of the defendant mother's past behavior together with all of the other evidence causes this court to conclude that her inability to assess the needs of and to meet the emotional needs of Nicole raises significant doubts as to her ability to adequately parent the child.

IV. Conclusion

It is the conclusion of this court that it is in the best interests of the minor child, Nicole Rudolewicz, that the plaintiff father have custody. Accordingly, the plaintiff's motion for modification of judgment dated August 8, 1985, is hereby granted and the judgment of dissolution entered on September 6, 1985, is hereby re-opened and modified as follows:

1. Sole custody of Nicole Rudolewicz is awarded to the father, Stephen Rudolewicz.

2. Lisa Rudolewicz Quayle is to have reasonable visitation as follows:

a. Alternate weekends from Friday at 6:00 p.m. to Sunday at 8:00 p.m.

b. Two uninterrupted weeks during the child's summer vacation from Friday at 6:00 p.m. to the third following Sunday at 8:00 p.m., upon the giving of thirty days' notice.

c. The holidays of Easter Sunday, Thanksgiving Day, Christmas Eve, and Christmas Day shall be alternated between the parties commencing with the father, having the child on Thanksgiving Day in 1986. Visitation on the holidays shall be between the hours of 9:00 a.m. and 7:00 p.m. and on Christmas Eve shall be between the hours of 5:00 p.m. and 9:00 p.m.

d. The parties shall alternate the child's birthday with the mother having the child on March 25, 1987. If the child's birthday falls on a Saturday, Sunday or a legal holiday designated by the State of Connecticut, then visitation shall be between the hours of 9:00 a.m. and 7:00 p.m. However, if it falls on a weekday, then visitation shall be between the hours of 5:00 p.m. and 8:00 p.m.

e. The mother shall have the child on Mother's Day and the father shall have the child on Father's Day between the hours of

9:00 a.m. and 7:00 p.m., notwithstanding whether it is a regular visitation week or not.

f. Should the mother refuse to return the child after any visitation, then subsequent visitation is ordered held in abeyance and the matter returned to court.

3. It is further ordered that the minor child continue in therapy with Ms. Patricia D. Tulloch until such time as it is determined by either the Family Services Office or the attorney for the minor child that therapy is no longer needed. The cost of said therapy not reimbursed by insurance is to be equally shared by the mother and the father.

4. The plaintiff father shall obtain and maintain medical and hospital insurance for the benefit of the minor child and any unreimbursed medical and hospital expenses shall be equally shared by the mother and the father.

5. The order of child support to be paid by the plaintiff father is terminated and this court makes no further award of child support at this time.

6. It is recommended that the plaintiff enroll in the next available workshop series for divorced fathers at the Wheeler Clinic.

7. It is further recommended that the defendant mother obtain and continue with such psychotherapy as recommended by Dr. Walter Borden.

8. In order to reduce the stress to all parties incidental to the change in custody, it is further ordered that the transfer of custody take place on the first Tuesday following the date of this decision at 6:00 p.m. The defendant, is ordered to deliver the minor child to the attorney for the minor child at the defendant's residence, together with the child's clothing, toys and possessions. The attorney for the minor child will then take the minor child to her therapy session at the Wheeler Clinic and the plaintiff father will take the minor child home with him following the conclusion of the therapy session.

9. This court is mindful of the automatic stay of its decision for a period of 20 days pursuant to Conn. Practice Bk. § 365 and the further stay in the event of an appeal. Accordingly, in order to ensure an orderly transition that protects the primary interests of the minor child in continuous stable custodial placement; *Yontef v. Yontef*, supra, at 275; this court, *sua sponte*, terminates the automatic stay of its decision believing it to be in Nicole's best interests to change custody immediately. It is so ordered. ■

Edward Fernandez v. LANDLORD AND TENANT - REPAIRS - LIMITATIONS