

CN: 201703018170

SN: 491

PC: 16

FILED

JUN 20 2023

Timothy W. Fitzgerald
SPOKANE COUNTY CLERK

Superior Court of Washington, County of Spokane

In re: Surina Dissolution

Petitioner:

Sirinya Polarj

And Respondent:

Aaron Surina

No. 17-3-01817-0

Responsive Dec of Respondent in

Response to petitioners resp to contempt as
well as dec in support of petition to move
(DEC)

**Responsive affidavit of facts in response to
petitioners response and dec in support of intent to
move & supplemental Contempt Hearing**

COMES NOW the father, Aaron Surina , and hereby moves the court for a change of custody of his two sons David and Andrew, ages 6 and 10, from the mother, Sirinya Surina , based on the following facts:

I. BACKGROUND

Aaron Surina and Sirinya Surina were married in November 2011 and have two sons from the marriage, David and Andrew, born in 2012 and 2016. The parties have been living separately since August 14, 2017.

II. CURRENT CUSTODY SITUATION

Under the current parenting plan, the mother has physical custody of the children and the father has visitation rights. However, the father is seeking a change in custody due to the mother's inability to provide a safe and stable environment for the children.

III. UNFIT MOTHER

A. Alcoholism and Neglect

The mother is an alcoholic and has a history of neglecting her children. She works as a bartender and often brings the children to her workplace, where they spend all day and night while she works and becomes intoxicated. The father has repeatedly expressed his concern about the children's safety in this environment, but the mother has refused to make any changes.

The current court order prohibits the mother from becoming intoxicated in the presence of the children or allowing them to be around anyone who is intoxicated. However, she continues to bring them to the bar and expose them to the harmful effects of alcohol. She has also allowed her children to blow into interlock automotive devices so her friends could drive home from her bar after drinking, which is a clear violation of the court's order and likely the law.

B. Failure to Follow Court Orders

The mother has consistently failed to follow court orders, including denying the father the tax form for one of his sons and refusing to allow the children to call or have any contact with him while they are with her. The father has tried to prevent discord and attacks on him and his children but the mother has been defiant and unwilling to cooperate. The father has filed contempt for felony custodial interference, where to his surprise the petitioner nearly went to jail. If the father did not mess up service, she would have walked straight to jail that day without going home. The father filed contempt afterwards but did not motion for an order to go to court on them. Those being filed and dormant prevented a lot of the further conflict we had been seeing and often blamed for. The track record speaks for itself at this point. Years go by, it's hard to hide who and what

C. Willful Neglect

The mother has also willfully neglected the children's education and language development. She has refused to allow the father to tutor their oldest son, who has been falling asleep in school due to spending all day and night at the bar with his mother. Despite the school calling a conference and requesting the father's help, the mother refused to allow him to tutor their son and instead held him at the bar to prevent him from having any "extra" time with his child. This is willful neglect of his son by the mother.

IV. FIT FATHER

In contrast, the father has been a stable and responsible parent, who has always prioritized the welfare of his children. He has moved to Spokane to be closer to his children and has offered to tutor his oldest son when the school called a conference due

to his poor performance. The father has also made a considerable effort to remain involved in his children's lives despite the mother's attempts to prevent any contact between him and his children.

V. CHANGE OF CUSTODY REQUESTED

Given the mother's unfit and neglectful behavior, the father respectfully requests that the court grant a change of custody and award him physical custody of his children. He is willing and able to provide a safe and stable home for the children and ensure that their educational, emotional, and physical needs are met.

VI. REQUEST FOR RELIEF

WHEREFORE, the father requests that the court:

- A. Grant a change of custody and award physical custody of the children to the father;
- B. Furthermore, the mother's neglectful behavior extends beyond her failure to follow court orders and preventing the children from having a relationship with their father. The mother has also put the children's safety at risk by allowing them to blow into interlock automotive devices so her friends could drive home from her bar after drinking. This behavior is not only illegal but also dangerous for the children.

The father, on the other hand, has always been a devoted and responsible parent. He has made significant efforts to provide a stable and safe environment for his children, even volunteering to tutor his oldest son to improve his academic performance. The father has always been actively involved in his children's lives, attending their school events and extracurricular activities, and making sure they have everything they need.

Based on these facts, it is in the best interest of the children to grant custody to the father. The mother's behavior has shown a consistent disregard for the safety and well-being of her children, while the father has demonstrated a deep and genuine commitment to their welfare.

In conclusion, the father respectfully requests that the court grant him custody of his 7 and 11-year-old sons. The mother's behavior and disregard for court orders demonstrate her unfitness to continue to retain custody of the children. The father has always put his children's needs first and is the best option for their safety and well-being. The father asks the court to consider the best interests of the children in making its decision and to order that the mother undergo counseling for alcoholism and evaluate her fitness as a parent. The father is eager to provide a loving and stable home for his children and ensure that they receive the care and attention they deserve.

According to Washington state law, the court must consider the best interests of the child when determining custody arrangements (RCW 26.09.002). The court may consider a variety of factors, including the child's relationship with each parent, the child's wishes, and each parent's ability to provide for the child's physical, emotional, and developmental needs.

In cases where there is a dispute over custody, the court may modify the existing custody order if there has been a substantial change in circumstances and a modification would be in the best interests of the child (RCW 26.09.260). The court may also modify a custody order if the custodial parent has engaged in conduct that endangers the child's physical, emotional, or mental health (RCW 26.09.191).

Based on the evidence presented, there has been a substantial change in circumstances, as the mother has consistently failed to follow court orders and has engaged in behavior that endangers the children's safety and well-being. Therefore, a change of custody to the father would be in the best interests of the children.

In addition, as the custodial parent, the mother has a duty to provide for the children's physical and emotional needs and to ensure their safety and well-being. The father has demonstrated that he is more than capable of fulfilling this duty and providing a safe and stable environment for the children.

In conclusion, the father respectfully requests that the court grant him custody of his 7 and 11-year-old sons based on the mother's failure to fulfill her duty as the custodial parent and her conduct that endangers the children's safety and well-being. The father requests that the court modify the existing custody order to reflect this change of custody. The father urges the court to consider the best interests of the children in making its decision and to order the necessary evaluations and counseling to ensure that the children are protected and receive the care and attention they deserve.

See relevant Washington State law, specifically RCW 26 child's best interest guidelines, to further support the father's case for custody.

Best Interests of the Children and RCW 26 Child's Best Interest Guidelines:

In Washington State, the paramount consideration in custody cases is the best interests of the children involved. The RCW 26 child's best interest guidelines provide a framework to evaluate various factors that impact the children's well-being. The evidence presented in this affidavit strongly indicates that granting primary custody to the respondent father aligns with these guidelines and is in the children's best interests. Specifically, the following factors should be considered:

a. Educational Support and Tutoring: The respondent father has consistently prioritized the children's educational needs. Exhibit A, which contains evidence of his attempts to provide tutoring for his oldest son, David, demonstrates his proactive approach in addressing academic challenges. In contrast, the petitioner has shown a complete unwillingness to support David's educational progress by refusing the entire year of tutoring. This clear disparity in parental involvement in the children's education weighs heavily in favor of the respondent father's request for primary custody.

This is not something new, this is an established and impossible obstacle for my children and inhibits their success. See Exhibit E, the petitioner intentionally refusing to give David his laptop when he goes to Dad's so that Dad looks like he doesn't get it done. Dad bought a laptop for David because David was crying worried about their

schemes to try to take my sons from me totally. See Exhibit A which is a true and correct copy of my request in October of 2022 after the school year began and DMS teacher reached out by email and expressed her concerns. I sent this message to the petitioner to step into the gap and fill the void with tutoring. I was not allowed to tutor him once. Even though it was more convenient for the petitioner, she would rather jump through hoops to prevent my children from being able to contact me, talk to me etc. This is high conflict and what forces us into court. Refusing to settle on something that benefits our children. Instead, she is not losing when she denies David tutoring... David is losing. That historical record has repeated itself throughout our journey divorced.

b. Stable and Nurturing Environment:

It is essential to provide the children with a stable and nurturing environment that promotes their emotional and psychological well-being. The petitioner's continuous practice of bringing the children to a bar, as documented in Exhibit B (Letter from OurFamilyWizard), raises serious concerns about their exposure to inappropriate conversations and potentially harmful influences. The petitioner's persistent disregard for the children's well-being, despite being pleaded with to cease this behavior, demonstrates a lack of judgment and a failure to prioritize their best interests. See Exhibits A, B1, B2 and E for a historical track record of ignoring my pleas to allow them to go somewhere besides the bar and stop keeping them at the bar until midnight.



Financial Support and Refusal to Provide for the Children:

A crucial aspect of parenting is the ability and willingness to provide for the children's financial needs. The respondent father has consistently fulfilled his financial obligations, having paid over \$156,000 in child support since 2017. On the contrary, the petitioner has shown a troubling pattern of refusing to meet her financial responsibilities toward the children. This refusal to provide for their health insurance, despite having the financial means to do so, highlights a disregard for their well-being and raises doubts about her suitability as the primary custodial parent.

Commitment to Co-Parenting and Cooperation:

The respondent father is resolute in his commitment to co-parenting and fostering a cooperative relationship with the petitioner. This commitment is crucial for the children's emotional stability and overall well-being. It is imperative to note that the petitioner's history of disregarding court orders and failing to comply with legal obligations indicates a lack of cooperation and a high-conflict approach, as evidenced by the filed contempts for felony custodial interference that have not been addressed. The respondent father, on the other hand, has consistently respected court orders and has taken the necessary steps to resolve conflicts through the appropriate legal channels, highlighting his willingness to work within the framework of the court system.

In conclusion, it is abundantly clear that the respondent father's request for primary custody aligns with the best interests of the children, as outlined in the RCW 26 child's

best interest guidelines. The evidence presented in this responsive affidavit exposes the petitioner's continued history of decision-making that prioritizes personal interests over the children's welfare. The respondent father's unwavering commitment to providing stability, emotional support, proper supervision, education, and healthcare for the children establishes him as the more suitable custodial parent. N

We respectfully request that this responsive affidavit be taken into consideration and that the court grants primary custody to the respondent father, ensuring the children's well-being and their optimal growth and development.

Exhibit A: Respondent's plea to allow him to tutor his son after school while mom is working at the bar (the petitioner refused to allow any tutoring all year).

Exhibit B: Respondent being harassed with petitioner's attempts of custodial interference as well as Respondent asking her to provide a reasonable schedule instead of keeping his sons at the bar until she closes everynight.

Exhibit C: Respondent obtained health insurance for his two sons because Petitioner has refused to do it even though she has 10,000 dollars in the child support account. She also refuses to obtain daycare but not because she has no means to get it. She can afford daycare or proper supervision while she's working. She can use Dad. She can pay. She can get health insurance. The respondent has paid and there is 10,000 dollars in the child support account.

EXHIBIT D: Text message
of my payment on time and
a balance of nearly 10,000
dollars in child support money.

Exhibit F: My first notice - email
to teacher ~~at~~ from Petitioner avoiding
David's support system.

(Number any pages you attach to this Declaration. Page limits may apply.)

I declare under penalty of perjury under the laws of the state of Washington that the facts I have
provided on this form (and any attachments) are true. ☐ I have attached (number): ___ pages.

Signed at (city and state):

Date: 6/20/23

Sign here

Print name

Warning! Documents filed with the court are available for anyone to see unless they are sealed. Financial, medical, and confidential reports, as described in General Rule 22, must be sealed so they can only be seen by the court, the other party, and the lawyers in your case. Seal those documents by filing them separately, using a Sealed cover sheet (form FL All Family 011, 012, or 013). You may ask for an order to seal other documents

Message Report



Generated: 06/20/2023 at 04:31 AM by Aaron Surina

Number of messages: 1

Timezone: America/Los_Angeles

Parents: Aaron Surina, Sirinya Surina

Child(ren): Andrew Surina, David Surina

Third Party: KARI CARSON, KARMEN CARSON, CHRISTINE SURINA

OurFamilyWizard
701 N Washington Ave Suite 700
Minneapolis, MN 55401
ourfamilywizard.com
info@ourfamilywizard.com

Message 1 of 1

Sent: 10/17/2022 at 01:59 PM
From: Aaron Surina
To: Sirinya Surina (First Viewed: 10/17/2022 at 02:02 PM)
Subject: David's school situation

Sirinya,

I'd like to help David with his school work after school while you are working at the restaurant at least a few days a week.

His teacher has emailed you and I regarding the situation with David being very behind on learning although he has been trying very hard. I only have one school day and that's not enough for him to get to middle school as his current schooling is not working for him and hadn't been for years now.

I'm happy to pick him up and tutor him to get him caught up and make sure he doesn't get held back from the lack of availability due to your working schedule which is where we can work together.

You'd have to pick him up from my house after work.

Nothing else would change but I think it will help him and I don't mind it since I am off work after he gets out of school.

Let me know what you think about this, what days are good days and what time you get off work to pick up.

They are very tired and I don't think they're going home and getting ready for bed at normal time due to being attached to the schedule for you to operate the restaurant and bar everyday.

This is probably the most important thing to help David with his school work and he has a chance still to make it to middle school but it will quickly pass by if we don't work together.

Let me know what you want to do

Hope you're doing well and staying healthy

Aaron

EXHIBIT (A)

Message Report



Generated: 06/20/2023 at 04:50 AM by Aaron Surina

Number of messages: 1

Timezone: America/Los_Angeles

Parents: Aaron Surina, Sirinya Surina

Child(ren): Andrew Surina, David Surina

Third Party: KARI CARSON, KARMEN CARSON, CHRISTINE SURINA

OurFamilyWizard
701 N Washington Ave Suite 700
Minneapolis, MN 55401
ourfamilywizard.com
info@ourfamilywizard.com

Message 1 of 1

Sent: 04/10/2022 at 06:03 PM
From: Aaron Surina
To: Sirinya Surina (*First Viewed: 04/10/2022 at 06:03 PM*)
Andrew Surina (*First Viewed: Never*)
David Surina (*First Viewed: Never*)
Subject: Re: Pick up

I had the boys for spring break, to come across state lines and demand the kids when you went on and on about how you had the boys because it was your weekend last weekend when you were not even going to have any plans just to keep me from being able to leave for the trip Friday night, it cost me a days rentals which is 826 dollars and the hotel reservation for us was 179... That cost me a thousand dollars for my kids to be withheld intentionally to prevent me from being able to have my court ordered time for spring break.

How are you going to have this weekend too? You never have two weekends in a row.....unless you have a holiday and get it like this.

Anyway you can call me if you want. Im not sure what you're doing. Obviously not your weekend according to the residential schedule which in 16 minutes is what we snap back to wherever it is when a holiday ends. If it was your weekend, yes. You'd be right.

Hope this helps. Are you serious or just wanted to make it appear like you're confused?

Tell you what,. Why don't you just let me know what time and days you can get off work for time with the kids and I will let you have those times.

That would be the best way to go forward quite honestly

I don't want you taking the kids to the bar anymore. It's not ok.

Let me know if you have any questions, again please respect my court ordered time as I have always been respectful of yours.

EXHIBIT B1

Message Report



Generated: 06/20/2023 at 04:36 AM by Aaron Surina

Number of messages: 1

Timezone: America/Los_Angeles

Parents: Aaron Surina, Sirinya Surina

Child(ren): Andrew Surina, David Surina

Third Party: KARI CARSON, KARMEN CARSON, CHRISTINE SURINA

OurFamilyWizard
701 N Washington Ave Suite 700
Minneapolis, MN 55401
ourfamilywizard.com
info@ourfamilywizard.com

Message 1 of 1

Sent: 05/05/2023 at 03:29 PM
From: Aaron Surina
To: Sirinya Surina (*First Viewed: 05/30/2023 at 07:37 PM*)
Subject: Kids / Intoxicated people

Hey I just wanted to remind you that I have been here all year as I discussed with you about tutoring David after school and the offer was declined. Also, I discussed with you about the kids and exposing them to intoxicated people who have no business being a role model to our children.

I moved closer to help with the kids, with school and my hope is that you'd be happy to prevent them from being in the environment where they have alcoholics (people who hang out at bars) as role models.

I'd like to prevent the situation where our children have daily interactions with drunk or intoxicated people. That is no place for my kids to be everyday. It's not something you have responded to, but I think it's time to talk about it. David asked if he could come over and get lessons for riding wheelies, on his bicycle. He desperately needs exercise after his being stuck at your work from the end of school everyday until you close.

That sucks for the boys and you know it does. Who has time to spend? I'm not sure what the answer is but this situation is not working for me or them.

Let's talk about it and see if we can do the right thing for them during your working hours and during mine too.

We can do it but we have a little bit of stuff to get agreement on.

Please respond and let me know what a good time to discuss this would be.

I'm reasonable but I'm also serious about it.

EXHIBIT B/2

Message Report



Generated: 06/20/2023 at 04:31 AM by Aaron Surina

Number of messages: 1

Timezone: America/Los_Angeles

Parents: Aaron Surina, Sirinya Surina

Child(ren): Andrew Surina, David Surina

Third Party: KARI CARSON, KARMEN CARSON, CHRISTINE SURINA

OurFamilyWizard
701 N Washington Ave Suite 700
Minneapolis, MN 55401
ourfamilywizard.com
info@ourfamilywizard.com

Message 1 of 1

Sent: 10/17/2022 at 09:34 PM
From: Sirinya Surina
To: Aaron Surina (First Viewed: 10/18/2022 at 09:17 AM)
Subject: Re: David's school situation

I am very proud of how hard David tries, he does home work everyday that I have them, yes he is behind and have been working diligently with him and his teacher to get him on track for middle school. When it is your time you need to do homework with them too and it does not matter if it is weekend they still need to do the homework.

On 10/17/2022 at 01:59 PM, Aaron Surina wrote:

To: Sirinya Surina (First Viewed: 10/17/2022 at 02:02 PM)
Subject: David's school situation

Sirinya,

I'd like to help David with his school work after school while you are working at the restaurant at least a few days a week.

His teacher has emailed you and I regarding the situation with David being very behind on learning although he has been trying very hard. I only have one school day and that's not enough for him to get to middle school as his current schooling is not working for him and hadn't been for years now.

I'm happy to pick him up and tutor him to get him caught up and make sure he doesn't get held back from the lack of availability due to your working schedule which is where we can work together.

You'd have to pick him up from my house after work.

Nothing else would change but I think it will help him and I don't mind it since I am off work after he gets out of school.

Let me know what you think about this, what days are good days and what time you get off work to pick up.

They are very tired and I don't think they're going home and getting ready for bed at normal time due to being attached to the schedule for you to operate the restaurant and bar everyday.

This is probably the most important thing to help David with his school work and he has a chance still to make it to middle school but it will quickly pass by if we don't work together.

Let me know what you want to do

Hope you're doing well and staying healthy

EXHIBIT B3

Aaron

On 01/31/2021 at 07:44 PM, Sirinya Surina wrote:

To: Aaron Surina (*First Viewed: 02/01/2021 at 09:04 AM*)

Subject: Please remember to bring David's Back Pack & Gym shoes

When you drop the boys off tomorrow morning