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TIMOTHY W. FITZGERALD
SPOKANE COUNTY CLERK

FILED

MAR 19 2024

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SPOKANE COUNTY CLERK

Superior Court of Washington, County of Spokane

In re: relo w/o notice - trial by petition Petitioner: **Sirinya Polarj (Surina)** And Respondent **Aaron Surina**	**No. 17-3-01817-0** **Motion for reconsideration & request to strike hearing of March 12, 2024** (MT)

Introduction

Before the Honorable Court, Aaron Surina, Respondent, humbly requests reconsideration of the Court's ruling concerning the reevaluation of the September 14, 2023, hearing on the relocation of minor children, DMS and AAS, and the consequent request for trial on a modification of child custody. This motion is firmly based on Washington State's statutes on relocation and custody modification and reflects on the facts reviewed by Judge Dixon, underscoring the critical need for a reevaluation to secure the children's welfare and stability.

Background

The Court previously deliberated on urgent matters during the relocation hearing, prompted by the Petitioner's non-compliance with court orders regarding the children's school transport. This hearing was the culmination of relocation proceedings, intending to ensure a stable educational environment for DMS and AAS. Notably, it was during this

period that Counsel Stanley Kempner Jr., despite understanding the full scope of the March 12, 2024, proceedings, exhibited conduct that not only contravened ethical standards but also aimed to misconstrue the legal process concerning the custody modification trial.

Legal Basis for Reconsideration

A. Misinterpretation and Misrepresentation of Previous Hearings and Orders

It has come to light that significant misinterpretation or misrepresentation of facts and prior court orders related to the relocation hearing and the ensuing custody modification request have occurred. Despite prior decisions, Counsel Kempner introduced narratives and orders from hearings he neither attended nor was designated for, leading to the unjust relitigation of previously resolved issues.

B. Statutory Grounds for Modification

Pursuant to RCW 26.09.260 and related statutes, the Court holds the authority to amend a parenting plan or custody order in light of substantial changes in circumstances, always prioritizing the children's best interests. These statutes delineate the legal framework for relocation and modification, unequivocally supporting the Respondent's request for reconsideration and modification.

Statutory Grounds for Modification

Under RCW 26.09.260, the Court is granted the authority to modify a parenting plan or custody order if it finds a substantial change in circumstances and that the modification is in the best interests of the children.

RCW 26.09.500

(3) Any person entitled to residential time or visitation with a child under a court order retains his or her right to move for modification under RCW 26.09.260.

Respondent moved the court for a modification trial and was granted that trial. That was clearly evident. Respondent did not petition the court for a relocation TRIAL, but a relocation hearing was to take place prior to the modification trial. It did indeed take place and counsel Kempner was to note the trial on my behalf which Judge Dixon ordained intelligently after Counsel tried to persuade judge Dixon to see things his way with regards to having a right to said trial.

RCW 26.09.450 *(Even in the same school district where the non moving party can not object, they have a right to a modification. Respondent's rights were denied through the unethical actions of an officer of the court)*

Notice—Relocation within the same school district.

(2) A person who is entitled to residential time or visitation with the child under a court order may not object to the intended relocation of the child within the school district in which the child currently resides the majority of the time, **but he or she retains the right to move for modification under RCW 26.09.260.**

RCW 26.09.460

(5) This section does not deprive a person entitled to residential time or visitation with a child under a court order the opportunity to object to the intended relocation of the child or the proposed revised residential schedule before the relocation occurs.

RCW 26.09.510

(a) The required notice of an intended relocation of the child was not provided in a timely manner and the nonrelocating party was substantially prejudiced;

(b) The relocation of the child has occurred without agreement of the parties, court order, or the notice required by RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, * 26.10.190, and 26.26B.090; or

(c) After examining evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will not approve the intended relocation of the child or **no circumstances exist sufficient to warrant a relocation of the child prior to a final determination at trial.**

Argument

This motion underscores the unethical and potentially sanctionable actions of Counsel Kempner, who, despite decades in law, seemingly neglected the statutory guidelines for custody modification following relocation. This oversight not only disregarded legal precedents but also overlooked the paramount interests of the children involved.

Conclusion and Relief Sought

In light of the misrepresentations and the critical need to align with Washington State law and the children's best interests, the Respondent respectfully urges the Court to:

Reconsider the prior rulings regarding relocation and custody modification.

Expunge any proceedings or orders predicated on factual misrepresentations or misunderstandings of previous court decisions.

Strike the hearing from the record (March 12, 2024)

Amend the custody arrangement to award primary custody to the Respondent, thereby ensuring the children's stability and continuity in their education, social connections, and extracurricular activities.

Endorse the revised parenting plan submitted with this motion.

Uphold the children's placement in the Spokane School District 81, as previously recommended and ordered by the Court.

Impose any further relief deemed just and appropriate under the circumstances.

This motion is submitted with the highest respect for the Court's diligence and understanding, particularly acknowledging the patience shown by the Honorable Judge during our last proceeding on March 12. The Respondent, while expressing frustration at the hijacking of the legal process by local collusion aimed at circumventing statutory mandates, remains committed to rectifying these issues in favor of the children's well-being.

Respectfully submitted,

Aaron Surina

PO BOX 30123

Spokane, WA 99223

707-200-4372

Person making this motion fills out below

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

Signed at (city and state): SPOKANE, WA Date: 3/18/24

AARON SURINA

I agree to accept legal papers for this case at **PO BOX 30123, SPOKANE, WA 99223**

NOTARY BLOCK

Subscribed and sworn to (or affirmed) before me on this 1st day of March, 2024, by Aaron Surina, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Notary Public for the State of Washington

DECLARATION DATE:

FULL NAME: _____

COUNTY OF SPOKANE

My commission expires: _____

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 : 5 pages.**

Signed at : ~~Spokane~~, Washington _____ Date: 3/18/24

Sworn and subscribed attached Document:

Supplemental in Support of MOTION to Recon

4 Pgs

NOTE FOR HEARING. 10S

Date: March 18, 2024

CERTIFICATE OF SERVICE

I hereby certify that on this day, I had a copy of this Motion for Reconsideration served on the opposing party/counsel via personal delivery.