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Travel

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,

Complainant,

v.

WESLEY C. SMITH,

Defendant.

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Chancery No. 53360

MOTION FOR PENDENTE LITE RELIEF

COMES NOW the Defendant, Wesley C. Smith (“the Husband”), pro se, and moves this Court pursuant to Va. Code Ann. § 20-103, for entry of an Order granting him *pendente lite* relief as requested below:

1. The Plaintiff has a history of attributing to the Defendant, thoughts, feelings, and actions that represent her own thoughts, feelings, and actions that she does not wish to take responsibility. This behavior is commonly referred to as projection.

2. The Plaintiff appears to be continuing her pattern of projection in the claims she makes associated with the custody and divorce case she filed against the Defendant.

3. The Plaintiff has made claims of physical abuse in spite of: (1) her history of committing abuse; (2) knowledge that the Defendant has a written apology documenting her “acts of bodily harm”; (3) other written statements indicating her urges to choke the Defendant, throwing things at the Defendant etc; (4) written statements acknowledging the Defendant has responded well when attacked by the Plaintiff. The Defendant considers this an instance of projection in her court documents.

4. The Plaintiff has made verbal accusations and written implications in

Interrogatories that the Defendant has had sexual relations with the babysitter, the Plaintiff's sister, and other women. Her statements/questions are absurd to the point of being harassment not meaningful discovery questions. For example her sister is religious, abnormally uncomfortable with physical contact, married, and lives thousands of miles away.

5. The Defendant has been a faithful husband and the Plaintiff has stated the same in written statements so it is hard for the Defendant to understand these unwarranted attacks on his character especially when the Plaintiff has sunk so low as to attack the reputation of her own sister. Given the Plaintiff's pattern of projection, the Defendant decided review her claims of infidelity in terms of her behavior and was able to obtain information to indicate an adulterous relationship between the Plaintiff and Mr. Igor Bakhir.

6. Both the Plaintiff and Mr. Bakhir have asserted the 5th amendment and refused to answer questions, or turn over discovery request materials relating to their relationship. The Defendant considers this another example of projection by the Plaintiff in court documents. There are many other examples of projection in her court documents.

7. The Defendant is concerned that the Plaintiff has been projecting with other claims she has made rather than simply throwing mud in an attempt to 'win' her case.

8. Over the years the Plaintiff has taken multiple trips without the Defendant and with the Child to visit her family in Utah, Ohio, and Illinois.

9. In 2002, By agreement between the two parties, both recognizing that the Defendant had a personality better suited to staying home and raising a child, the Plaintiff was working to support the family and the Defendant was staying home and was the primary caregiver for their child.

10. In June or July 2002 the Defendant planned to visit his family in Michigan for a

week or two and asked the Plaintiff if she would mind if he took the Child with him and expected that she would not only agree but also be pleased by the suggestion.

11. The Plaintiffs unexpected response was to jump up and down and scream and yell about blackmail and kidnapping. A response that was totally inappropriate given the parties were married, still living together, not in court, and the Defendant was asking for her approval even when he did not need it.

12. The Defendant canceled his trip in June/July rather than argue with or further upset the Plaintiff and decided to go in August without taking their child with him to avoid another fit of uncontrolled rage by the Plaintiff.

13. On or about August 7 2002 the Plaintiff told the Defendant that it was ok if he wanted to take the child to Michigan with him and she encouraged him to do and made the following statements: (1) "I shouldn't have given you a hard time last time" (2) "I'm sorry that I did - I would like to have seen you go and have a good time." (3) "I think he would have had a good time with his cousins..." (4) "I can't blame you for being hesitant, after the grief you went through before. I don't expect I would change my mind, though - the context is a bit different now and I wouldn't worry about it. (Not that I should have before, since you've always taken very good care of him,...)" [see ICQ messages Aug 7 2002].

14. The Defendant declined to take their child to Michigan with him even with the Plaintiff suggesting he should, due to the Plaintiffs history of : (1) changing her mind; (2) not keeping agreements; (3) on occasion giving the appearance of not even recalling that she had made an agreement. The Defendant declined because he was afraid the Plaintiff would change her mind and call the police and report him for kidnapping or something.

15. In September 2002 the Plaintiff expressed in writing that the Defendant was taking

good care of their child, reading to the child, toilet training, sending appropriate items with the child to school etc.

16. On or about September 18 2002, about one month after the Plaintiff stated that she was wrong to refuse to let the Plaintiff take the child to Michigan, the Plaintiff filed for a Preliminary Protective Order and claimed that the Defendant would take the child to Michigan or Mexico.

17. The Plaintiffs claim was completely unfounded. The Defendant has never been to Mexico, has no relatives in Mexico, and does not speak Spanish. This made up claim is not even well thought out. While her 'witnesses' may be fond of Mexico, the Defendant grew up close to Canada, has visited Canada, likes Canada and her claim would have been more credible if she had thought to choose a country her husband likes rather than one her 'witnesses' like.

18. The idea of running off to another country with the child never occurred to the Defendant, he still loved his wife, was still hoping she would seek treatment for her behavior problems and that they could live the rest of their lives together, nor did he expect a custody battle if they did divorce

19. After the PPO was dismissed the Plaintiff filed for and was awarded temporary custody and when visitation was ordered the Plaintiff was very insistent that the order prevent the Defendant from taking the child out of state. Even when the Judge informed her that shouldn't be necessary, repeated it wasn't necessary, she still insisted, and the Judge complied.

20. In April 2003 the Plaintiff suggested and signed an order to allow the Defendant to take the Child to visit his family in Michigan during spring break. She expressed no concern about his route to his family taking him within sight of the Ambassador bridge to Canada, however upon return to their home she immediately refused to let him take the child to Maryland to visit his

cousins even though the Michigan order had not expired yet.

21. The Plaintiff again requested and received the following travel restrictions from the Judge: (1) not take the child out of Virginia, which meant he could not take him to visit his cousins in Silver Springs MD; (2) provide notice when taking the child on activities longer than four hours; (3) to not take the child more than 75 miles from home; (4) to provide 15 days notice of any plans to take the Child outside of the DC area; (5) provide dates of trips, itinerary, addresses where the Child shall be and telephone numbers where the Child may be reached.

22. The behavior of the Plaintiff with regard to travel limitations did not make any sense to the Defendant until he considered it in terms of projection. In that context it not only makes sense but becomes a concern that needs to be addressed.

23. In his deposition, her paramour, Mr. Bakhir stated he had no friends in the United States, owns no property in the United States, is not a citizen of the United States, does not have a permanent work visa, and would consider moving to Europe to work.

24. The Plaintiff has made previous statements about wanting to live and work in Europe.

25. Given her pattern of projection it is likely that the Plaintiffs fears and claims of the Defendant planning to run off with the Child and not return indicate her own hopes thoughts or actual plans that to take the Child out of the country with Mr. Bakhir without returning.

26. The Plaintiffs pattern of behavioral problems, while not diagnosed, does show several similarities to that of her mother who did on at least one occasion run off with her children without notifying anyone and causing her family a lot of concern until she was located. While not proof that the Plaintiff will do the same, it does add to the Defendants concern that the Plaintiff might at some point run off with the child with no notice.

27. The Plaintiff has shown poor compliance with most court orders to date, including

making statements that indicate she is unable to recognize when the court has imposed restrictions on her. Therefor the Defendant believes that the Plaintiff must be prevented from having any reasonable opportunity of taking the Child out of the country rather than count on compliance.

28. Should the Plaintiff take the Child outside of the United States and not return that would constitute irreparable harm to the Child and the Defendant. The court would have no effective power to either punish her or to return the Child to the Defendant. Thus any corrective action by the court needs to be focused on preventing the Plaintiff from leaving the country with the child.

29. For travel within the continental United States the Defendant would like to take steps to make locating the child easier in the event that it does occur, rather than interfere with the ability of the Plaintiff to travel.

30. The Defendant has given neither the court nor the Plaintiff reason to suspect he will run off with the Child and has made a good faith effort to comply with all court orders and as such does not feel that any travel restrictions should be applied to him. However he will agree to have the same restrictions placed on him if that will facility the court imposing reasonable restrictions on the Plaintiff.

WHEREFORE the Husband requests the following relief *pendente lite*:

1. An order requiring the Plaintiff to not take the Child from the continental United States and that the Plaintiff surrender her passport to the Defendant, and if she has a passport for the Child that it also be surrendered to the Defendant or the court.

2. An order that the Defendant shall have sole physical custody and/or visitation with the child, and the Plaintiff shall have no unsupervised visitation, from the time the Defendant returns her passport to her until the Plaintiff returns the passport to the Defendant.

3. An order that the Plaintiff provide advance notice of any plans to travel outside the continental United Sates, to provide dates of trips, copies of transportation tickets in or out of the

country, addresses where staying and telephone numbers where she may be reached.

4. An order that the Plaintiff shall inform the Defendant in advance of any location where the Child will spend the night other than her own residence, including address and telephone number and dates of stay. If the Child will spend the night outside of Virginia, notice shall be given 15 days in advance or as soon as plans are made.

5. An order that the Defendant be allowed to install a permanent real time tracking GPS on any vehicle the Plaintiff rents, owns or which the Child rides in more than once a month.

6. An order such further relief as the nature of the case or the goals of equity require.

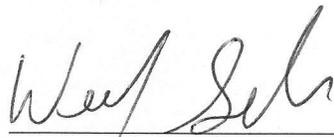
**Respectfully submitted,
WESLEY C. SMITH
Defendant**



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Defendant, pro se

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this pleading was served via first-class mail, this ____ day of _____, 2004, to the Loretta Vardy, Esquire, 12388 Silent Wolf Drive, Manassas, Virginia 20112.



Wesley C. Smith.