

VIRGINIA:

IN THE CIRCUIT COURT THE COUNTY OF PRINCE WILLIAM

Cheri Smith

Complainant

v.

Wesley Smith

Defendant

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Chancery No. 53360

NOTICE

PLEASE TAKE NOTICE that on Friday, December 17, 2004, at 10:00 A.M. in the above captioned court I will make an appearance and make the following motion:

MOTION

COMES NOW the Complainant, Cheri Smith, who by counsel moves this Court to deny certification of the Defendant's Statement of Facts for the Appeal of the Order to Quash a *Subpoena Duces Tecum* issued by the Defendant upon SAIC which was entered by this Court on September 24, 2004.

In support of this Motion, Complainant states:

1. That the abovementioned Statement of Facts was either filed on or mailed to the Clerk for the Circuit Court for Prince William County on November 19, 2004.
2. That the Defendant failed to comply with the procedural requirements of Rule 5A:8 (c) 1 of the Rules of the Supreme Court of Virginia in that the Defendant failed to file his Statement of Facts within the 55 day time limit and did not include a notice that he would present that the statement would be presented to the trial Judge no earlier than 15 days and no later than 21 days after such filing;
3. That the Defendant failed to provide Counsel for the Complainant with a usable copy of the tape recording of the October 24, 2004, hearing

which accompanied his written statement of fact until after 11 p.m. on November 29, 2004;

4. That the aforesaid copy of the tape recording was necessary to counsel's ability to evaluate the accuracy of the Defendant's Written Statement of Facts.

WHEREFORE, the Complainant respectfully requests that the Defendant's statement of facts be denied certification.

Respectfully submitted,
Cheri Smith
By Counsel

By: Loretta Vardy

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Counsel for Cheri Smith

CERTIFICATE OF SERVICE

This is to certify that on the 10th day of December 2004, a true copy of the foregoing Motion to Deny Certification was hand delivered to Wesley C. Smith, Defendant and Ronald Fahy, Esquire, Guardian *Ad Litem*

Loretta Vardy
Loretta Vardy, Esquire