

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

CHERI SMITH,)
Plaintiff)
v.) **Chancery No. 53360**
WESLEY C. SMITH,)
Defendant)

#39 – MOTION FOR CPS RECORDS

A pdf copy of this motion is available at: http://www.liamsdad.org/court_case/

COMES NOW the Defendant, Wesley C. Smith, and requests the Court order DEPARTMENT OF FAMILY SERVICES CPS to turn over records related to Liam Smith, including who filed the complaint/report. In support of his MOTION the Defendant states as follows:

1. A complaint of child abuse was filed with CPS in mid 2004 and investigated by Frank McNulty. The complaint against the Defendant was dropped because it occurred during a time that the Defendant did not have access to the child. (so far the only benefit of minimal visitation).
2. Either the Plaintiff or her boyfriend abused the child or the Plaintiff didn't pay attention to the dates when filing a false report.
3. The records are needed in order find out if the complaint was filed maliciously by the Plaintiff or one of her friends, or if the complaint was due to her physical abuse of the child, or her emotional abuse of the child.
4. The Plaintiff and her therapist have both acknowledged her having "uncontrollable rage" and as such this is a higher risk of her abusing our son.
5. The Plaintiff has previously engaged in acts of Domestic Violence and has admitted in "I'm sorry I hit you (and engaged in various other bodily harm) last Sunday. It was inexcusable..."
6. Now that the Defendant is not around for the Plaintiff to physically and verbally abuse it is important to check to see if she is now targeting our son for her abuse.
7. If the Plaintiff did physically abuse our son that might be a motive to having gotten the court to suspend visitation to prevent the Defendant from noticing any signs of abuse like bruises.

8. The Defendant has written and asked CPS to provide the records but CPS had not provided any response and has been told they would not release the name of the person who filed the report without a court order.
9. The court had previously verbally ruled that it would issue such an order but it has not issued a written order.
10. It would be impossible to make an accurate determination of the best needs of the child per § 20-124.3 without first finding out exactly why the complaint was filed and its effect on our son.

WHEREFORE the Defendant asks that the Court issue order compelling DEPARTMENT OF FAMILY SERVICES CPS to provide the Defendant with all records relating to Liam Smith, which were not provided by the Defendant, including the initial complaint, including the name of the person making the complaint, notes of interviews, etc.

**Respectfully Submitted,
Wesley C. Smith**

Wesley C. Smith, Defendant
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no phone

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing motion was served to Loretta Vardy and Ronald Fahy (GAL), and DEPARTMENT OF FAMILY SERVICES via first-class mail, this 6th day of February 2006.

Wesley C. Smith