

VIRGINIA:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

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

#51 – MOTION FOR MENTAL HEALTH EVALUATION OF PLAINTIFF

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

COMES NOW the Defendant, Wesley C. Smith, and moves this Court pursuant to Va. Code Ann. §20-103, and requests that the Plaintiff be ordered to submit to a mental health evaluation, and comply with all treatment recommendations appurtenant thereto. In support of his MOTION the Defendant states as follows:

1. The mental health of the Plaintiff is a significant factor in this case as it is both related to the claims the Plaintiff has made against the Defendant as grounds for divorce as well as relating to fitness of the Plaintiff to have custody and to care of our son.

2. The Plaintiff has had a long history of mental health problems and that include:

A. Rage – The Plaintiff and her therapists both described it as “uncontrollable rage”. The

Plaintiff even admits it doesn’t take much to set her off. See:

<http://www.liamsdad.org/badmother/mentalhealth/audio/uncontrollableRage.mp3>

<http://www.liamsdad.org/badmother/mentalhealth/audio/rageOutOfControl.mp3>

<http://www.liamsdad.org/badmother/mentalhealth/audio/notMuchToSetOff.mp3>

B. Anxiety – This was significant enough that she sought treatment for it about 1995/1996 and took Xanax - psychotropic drugs.

C. Depression – This was significant enough that she sought treatment for it and took both

Paxil and Effexor - psychotropic drugs. See prescriptions:

<http://www.liamsdad.org/badmother/mentalhealth/images/prescriptions1.jpg>

<http://www.liamsdad.org/badmother/mentalhealth/images/prescriptions2.jpg>

D. Domestic Violence – The Plaintiff has a history of Domestic Violence including at least one episode of actual physical violence to the Defendant for which the Plaintiff admitted

responsibility and having a problem. See Exhibit #1

- E. Death Threats – The Plaintiff has threatened to kill herself and our son.
- F. Adultery – yes, this is on the official list of symptoms for several disorders.
- G. Alternating Low and High Self Esteem
- H. Erratic & Irrational behavior
- I. Eyeballs going back & forth – no clue what it means but it occurred with her outbursts of rage.

3. The Plaintiff's condition may severely impact the emotional, mental and physical safety of our son. Certainly leaving our son in the sole custody of a parent who suffers from uncontrollable rage that is triggered by small things without even knowing the cause or extent of her condition is ill advised.

4. The Plaintiff not only has exhibited symptoms of mental illness herself but also has a family history of mental illness, including immediate and extended relatives. Certainly the fact that a family member has a mental health problem does not mean the Plaintiff does, however some conditions are genetically related so it does mean the Plaintiff has a higher risk of mental illness.

5. The Plaintiff's mother has exhibited symptoms of mental illness, which although different from the Plaintiff's symptoms, may be the result of the same condition. The Plaintiff's mother's claimed to have Multiple Chemical Sensitivity Syndrome, but her symptoms included imagining allergies for her children, to the point of not allowing two of them to eat anything but hamburger and potatoes to the point of malnutrition, removing all clothing & furniture from the house and having the children sleep on the floor, removing the children from school and church, claiming her husband was poisoning her, etc.

6. The Plaintiff herself has not only stated that her mother has a mental health problem but had encouraged her father to seek custody as a means of protecting her siblings from her mother's condition. When that approach failed she even looked into the state taking action to remove the children from her mother's care.

7. At this point no complete, and proper, examination of the Plaintiff has been done to determine her emotional and psychiatric condition and the extent it affects her ability to be a proper parent to our son.

The Plaintiff will disagree with this and point to a report by Thomas Hudson, who was not qualified to perform such an evaluation and whose report is nothing more than a regurgitation of statements the Plaintiff made containing such items as claiming religion is an important value to the Plaintiff, when in reality the Plaintiff is a confirmed atheist and has admitted to such in court. The many similar glaring errors in the report are likely the reason the Plaintiff has never submitted the report to the court. The Plaintiff will also point to a report by Toby Behrmann, however while possibly qualified Mr. Behrmann stated that he would only perform a “custody evaluation” and would not diagnose potential mental illnesses in the Plaintiff, and in fact his testing methodology was insufficient to diagnose or exclude Bipolar or BPD. Mr. Behrmann's report also does not address several of the confirmed symptoms of the Plaintiff such as her uncontrollable rage, contained factually incorrect statements and is largely based on unscientific ink blot tests, thus being useless as either a mental health evaluation of the Plaintiff or a custody evaluation.

8. The Defendant while not qualified to diagnose the Plaintiff any more than a parent is qualified to diagnose the flu, chicken pox or other condition before deciding their child is ill and needs a doctor, after much reading and research does think that Bipolar and/or Borderline Personality disorder are possible conditions the Plaintiff may have and as such any examination should specifically address those conditions as possible explanations for her symptoms.

9. The Defendant recognizes the right of his son to have a relationship with both his parents and would rather focus any mental health evaluation on finding a way to support his relationship with both parents rather than use the results to exclude the Plaintiff from his life, as such the evaluation would be more useful if performed by a professional with experience in helping people cope with disorders rather than one who makes a living testifying in court helping one parent or the other destroy a relationship with a child.

10. The Father cannot adequately prepare for trial in this matter without an assessment both in countering the Plaintiff's claims of abuse by his encouraging her to seek treatment, as well as making recommendations as to custody/visitation.

11. Virginia Code §20-124.3 (2) requires the court to consider the mental condition of the Plaintiff in determining custody and until examination is ordered and completed, the court is without both the information needed to make an informed ruling or the legal authority to make a ruling.

WHEREFORE the Defendant requests the following:

1. Order the Plaintiff to submit to and cooperate with a complete and complete mental health examination, including providing the needed background on her family history of mental health problems.
2. That the evaluator will be asked to specifically evaluate and report on the possibility that the Plaintiff may suffer from Bipolar Disorder and/or Borderline Personality Disorder and any other condition that explains the observed symptoms.
3. The evaluator will be asked for recommendations any steps the Plaintiff should be taking to minimize the impact of her condition on our son and that the Plaintiff must follow the recommendations.
4. That the evaluator will be asked to comment on the possibility that any condition found may have a genetic component and the possibility that our son will suffer from a similar condition.
5. Order that costs for the evaluation including any necessary travel or other expenses to be paid for with funds from the escrow account.
6. Order that the evaluation be done by a M.D. who is specializes in diagnosing Bipolar and/or BPD and who DOES NOT frequently testify or write reports for custody cases.
7. Such further relief as the nature of the case or the goals of equity require.

**Respectfully Submitted,
Wesley C. Smith**

Wesley C. Smith, Defendant
5347 Landrum Rd APT 1
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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) via e-mail and/or fax and/or website, this 13th day of February 2006.

Wesley C. Smith

From: <cheri_smith@take3.com>
Date: Fri Feb 4, 2000 3:34:18 PM US/Eastern
To: "Wes Smith" <smith-wesley@dol.gov>
Subject: Apology

I got a somewhat clearer idea from Brittany this morning about what you need to hear from me. So before I address the issues in your letter, I would like to say that **I'm sorry I hit you (and engaged in various other bodily harm) last Sunday. It was inexcusable** and I am embarrassed and sorry that it happened.

No, I have not stuck with my plan to talk to Brittany regularly. To try to help with this, I have written on the calendar to call Brittany on Wednesday mornings.

No, I have not managed to consistently not follow you when you're upset, although I do feel I've made some progress. I've made up some more signs that say "Don't Follow!" to put up around the house.

No, I have never tried defining a way of getting to the heart of a disagreement. I don't really feel like I'm ready for that, at least not yet. I'm more concentrating right now on just avoiding the huge flare-ups and taking the time to cool down before any discussion takes place.

Yes, I have tried telling you directly when things bother me sometimes, sometimes I don't. Once in a while the direct method has worked out, often it doesn't. Not sure what to do here.

Yes and No - I have tried writing down things that bother me, but have never brought them up again.

I'm not all that happy about the resolution, either. I think at this point I would like to concentrate on trying to do the first two. **Losing control seems to be especially damaging to our relationship**, and so concentrating on getting rid of that seems like the most important thing right now.

I think we can both agree that I'm sensitive to criticism. We seem to be quite a ways apart on how we view your level of sensitivity.

Yes, I have considered that it will be difficult make and keep friends on such a tight schedule. On the other hand, I seem to remember that we acknowledged at some point that I should get some personal free time also, and that's where I'd try to squeeze it in.

I'm glad that you're willing to still try.

> I had been hopping for more acknowledgement of how extreme your behavior has been and also acknowledgement that
> it is a behavior problem that you have that is not caused by me (triggered yes, caused no). I feel a good first step in
> addressing the problem is for you to admit you have a problem.

I do have a problem. There are actually several different aspects to it that you bring up in your letter. There's the question of what specifically triggers the reaction, there's the question of **why I indulge my anger in that particular way**. I do have hang-ups. Some of the ones you mention in your letter I agree with, some I believe you're only partly right.

The whole money thing is very loaded. I did make a lot of mistakes with the money, and you had every right to take it over. But there is a lot more to it than that. I talked some of it over with Brittany this morning, so I don't think it's necessary for us to try to wade through all of it. However, I'm curious how specifically you think I messed up? I'm thinking along the lines of bouncing checks and making payments late, but I get the feeling that your condemnation is wider ranging than that?

Yes, **I thought you did handle it quite well after I hit you. I was thankful for that**. I'm sorry I didn't apologize to you better after that.

I hope this helps you feel better -

Cheri

EXHIBIT #1