

January 2, 2005

Chancery Number: 53360

Cheri Smith v Wesley Smith

Re: Plaintiffs 'emergency motion to amend visitation and issue a rule to show cause'

Judge Alston,

I received a motion from Loretta Vardy on New Years Eve, Friday December 31, that she has scheduled to be heard on Monday January 3rd. If the court was closed on Friday then I believe that counts as service on January 3rd for the January 3rd hearing.

The motion was not served one week in advance as required by the rules of the Supreme Court of Virginia and your court has refused to schedule hearings for me 6 days in advance citing that rule. This is not the first time the court has let the opposing counsel ignore the 7 day rule, while holding me to it. Ms Vardy does not cite any emergency in her motion or even any time sensitive need, it would appear to be a gross abuse of discretion and reinforcing the Prince William Circuit Court's reputation of judicial gender bias if you proceed with the hearing on January 3rd.

As a direct result of actions taken by Loretta Vardy and the courts I was forced to move out of state to Michigan and will not be able to attend the hearing. I am requesting that the hearing be continued until a suitable date is scheduled or that the motion not be heard at all since it is a frivolous motion. It appears to be nothing more than yet another attempt by Ms. Vardy to take advantage of me as she did this summer by holding a hearing requesting an unconstitutional ruling while I was out of state with my son during my court ordered vacation with my son.

It should also be noted that this court has previously ruled that it would not hear any more motions for Pendente Lite relief the final hearing and has in fact refused to hear motions I've filed citing that reason. Other than the rule to show cause this motion is requesting changes to the Pendente Lite order and should not be heard until the final hearing. For the court to refuse to hear motions modifying the Pendente Lite order filed by the Defendant and then go ahead and hear motions filed by the Plaintiff would be improper.

It should also be noted that the relief requested by Ms Vardy would be an act of child abuse to award to her. The Plaintiff herself has stated it is hard for Liam to be away from me for long, that he repeatedly requesters to come visit me, and that she hopes he would never have to go thru a separation from me again (see attached messages including "**It was really hard for him while you were gone – I don't want to ever have to see him go through that again.**") It would be an act of emotional child abuse to approve her request to cut off visitation from a father he loves, compounded by the knowledge by the lack of visits from his father being caused by his mother. If the court feels I have done something worthy of punishment it should punish me not Liam. Reducing visitation would certainly punish Liam, as acknowledge previously by Mrs. Smith and would be contrary to the state guidelines and court rulings that frequent contact is in the best interest of the child. If this court is at all interested in "the bests interests of the child" it will rebuke Ms. Vardy and her client for even requesting such a horrible and harmful ruling.

It should also be noted that my moving was caused by actions of the court and the Plaintiff resulting in my being evicted, that I did not know for sure that I would be moving 30 days in advance, that I did notify the Plaintiff of the eviction proceedings, asked her and the court to help me avoid being evicted. After the court ordered me evicted and refused to release escrow funds I did inform Ms. Smith that I was packing to move, she acknowledged that I would be moving out of the area soon, saw evidence of my packing on several days, and even stole several items that I had moved out on my porch as part of my packing (small chest and coffee maker). Mrs. Smith was provided a copy of the paperwork from the Dec 3rd

eviction hearing and Dec 10th escrow hearing. The 10 day period prior to enforcement of the Dec 3rd order was up on Dec 13 so Ms. Smith was not only well aware that I was moving out of the area soon, but could not have reasonably have expected me to still be in my apartment on Dec 25th.

Mrs. Smith did not ask where I was moving so apparently she knew that I would be moving into my mothers house in Michigan. To make sure she was aware of this I sent messages to her via U.S. mail, e-mail, and text messages to her phone. I received no response to any of them until after she was late to pick him up.

While I made a good effort to keep Mrs. Smith informed about my move the same cannot be said of her. In June 2003 Ms Smith in violation of the court order moved without providing 30 days advance notice, and then refused my request to tell me where she had moved with our son, even one month afterwards. She even refused to provide the address under oath in court. I had filed a rule to show cause and the court did not punish or even rebuke her for her withholding her address. Ms Smith claimed it was because she was scared of me, yet when the court forced her attorney to provide it to me, within days Ms. Smith invited me over to her apartment. It would be an act of judicial bias to punish me for technically failing to provide an address 30 days prior when I did not know 30 days prior I would be moving or where, when I had kept Ms Smith informed about the eviction and my packing, when the court has not punished her for willfully withholding an address 30 days prior and even refusing to provide the address about 30 days after the move took place.

Other than the 30 days notification, which was beyond my control, I did comply with the court order requirements for visitation, even Ms Vardy in her motion admits in item 12 that I followed the exchange guidelines of the order. To punish our son or myself when I followed the order would be a gross abuse of judicial power and Ms Vardy should be sanctioned for even asking. The exchange may have been inconvenient for Mrs. Smith but the court has shown no concern over Mrs. Smith moving and making exchanges more inconvenient and expensive for me and should show the same and equal disregard to her inconvenience. Our son had a good time visiting cousins, playing in the snow and sledding and the court should take no actions that stop him from enjoying contact with me or my family just because Mrs. Smith finds it inconvenient.

While I have complied with the exchange portion of the court order the same is not true of Mrs. Smith. She willfully made Liam miss his visitation on December 12, 2003, I filed a rule to show cause and the court refused to punish her for doing so. The court instead just ruled it was a "bad decision" but not willful, although other than gender bias I find it impossible to explain how it is not "willful" to buy plane tickets one month in advance that would have Liam out of state during his scheduled visitation, gender bias seems to be the only explanation.

Mrs. Smith was also not punished by the court for failure to provide school notices to me per the court order, later the court refused to issue another rule when she continued to violate that provision, and she is STILL violating it. It would appear that the court has no interest whatsoever in being fair to continue to enforce that provision of the order against a woman then turn around and punish me for a minor violation which itself was caused by the court and the Plaintiff.

Mrs. Smith also refused to let me have any visitation with my son on Christmas in 2002.

It should also be noted that the court has repeatedly given preference to hearing motions by Ms. Smith over motions filed by me. In fact while the court seems quite willing to let the opposition file motions with only a day or two notice requesting rulings that never ever would be granted by an unbiased court, the court refuses to even hear a motion that I have filed and rescheduled repeatedly requesting the court order Mrs. Smith to stop engaging in

illegal activity that is harmful to our son. The court should stop this biased, unfair behavior and tell Mrs. Smith and Ms Vardy that the court will not hear any more motions until it has heard and ruled on my motion for Mrs. Smith to stop committing adultery, and stop exposing our son to it, and until Mrs. Smith complies with discovery requests.

Ms. Vardy claims I should be punished for acts that in her view show a lack of respect for the court, yet it is Ms Vardy and her client that have failed to show respect for the court by their failure to follow court orders regarding visitation, school notification, 30 day move notification, failure to provide health insurance for several months, wasting marital assets, and while still refusing to provide discovery requests ONE FULL YEAR after the request was made and TWO MONTHS after the court ruled to compel discovery, Mrs. Smith and Ms. Vardy have not provided any additional discovery materials as required by the ruling. They are hiding records and keeping discovery undisclosed, and it is in violation of my rights and malicious prosecution for them to do so. It is Mrs. Smith and Ms Vardy that are not showing any respect for the court and rules of the court, and are counting on gender bias of the court to cover up their attempt to withhold evidence, trying to rush the court to judgment against me before giving him a fair chance to present evidence contradicting their claims.

Judge Alston I am hoping that you will handle this matter in a fair and impartial manner and not join Ms Vardy and Mrs. Smith as a coconspirator in further acts of child abuse against Liam Smith, he has suffered enough at the hands of the Ms Vardy, Mrs. Smith, and the Courts and its time for your Court to start looking out for his interests and not those of a vengeful and unfaithful mother. Please advise Mrs. Vardy to not seek the relief requested or at least require her to schedule it on a different day to be heard AFTER my motion to forbid further acts of adultery, and AFTER she has complied with discovery and when we can hold a hearing on that several motions that need to be heard to move this case to conclusion.

Respectfully,

Wesley Smith
Liam's Dad
Defendant/Victim
<http://www.liamsdad.org>
liamsdad@liamsdad.org
703-220-2637

Date: Fri, 11 Jul 2003 12:29:12 -0400
From: "Smith, Cheri" <CHERI.SMITH@saic.com>
Subject: RE: Amund
To: Wesley Smith <smith_wesley@mac.com>

<Excerpt>

I don't want the kind of relationship we used to have, but we're still partners in raising Liam. And Liam still needs you to be very involved in his life. **It was really hard for him while you were gone – I don't want to ever have to see him go through that again.**

From: cherismith_98@yahoo.com
Subject: Re: Tuesday/Wednesday
Date: December 21, 2004 8:36:12 AM EST
To: smith_wesley@mac.com

<Excerpt>

if you miss visitation tonight, he will be extremely disappointed. Especially right now, where the information about **your imminent departure** has significantly diminished his self-esteem, he needs to know what to expect. He picked out your Christmas present last night, and is looking forward to giving it to you. It took me a while to coax him out of his coat and shoes

last night after we got home, because he "wanted to be ready for my Dad." He will be crushed if you don't come tonight.

From: cherismith_98@yahoo.com
Subject: Visitation
Date: December 16, 2004 5:26:12 PM EST
To: smith_wesley@mac.com

<Excerpt>

Liam has asked to see you this weekend. Since I'm assuming you are moving from the area soon, I'd like to give him as much time with you as possible.

From: cherismith_98@yahoo.com
Subject: Re: Christmas
Date: December 14, 2004 7:16:42 AM EST
To: smith_wesley@mac.com

<excerpt>

Thank you for telling him that you are going. He is upset, but seems to be managing it. I have been reassuring him that you will miss him very much, and that your absence is not because of anything he's done. The more information he has (that he can understand), the better.

- Cheri

From: cherismith_98@yahoo.com
Subject: Re: storage
Date: December 14, 2004 7:01:48 AM EST
To: smith_wesley@mac.com

I wouldn't have room for the ferns, mattresses and the wagon. I can store his bookshelves.

- Cheri

--- Liams Dad <LiamsDad@LiamsDad.org> wrote:

Are you willing to store any of the following: Liam's matteress, bookshelves, wagon....

From: cherismith_98@yahoo.com
Subject: Liam wants to come visit
Date: December 4, 2004 5:53:58 PM EST
To: smith_wesley@mac.com

Liams wants to come spend the night with you. If you let me know before 9 p.m. tonight that you would like him to come, and agree to return him to my apartment tomorrow, 5 December, at 11:00 a.m., I will bring him to you.

- Cheri

From: cherismith_98@yahoo.com
Subject: Liam wants to come visit
Date: December 4, 2004 5:53:58 PM EST
To: smith_wesley@mac.com

Liams wants to come spend the night with you. If you let me know before 9 p.m. tonight that you would like him to come, and agree to return him to my apartment tomorrow, 5 December, at 11:00 a.m., I will bring him to you.

- Cheri

From: cherismith_98@yahoo.com
Subject: Visit with Liam
Date: October 10, 2004 1:02:11 PM EDT
To: smith_wesley@mac.com

<excerpt>

Liam has been asking to see you today.