

VIRGINIA: IN THE COURT OF APPEALS

WESLEY SMITH,)	
)	
Appellant)	
)	Record No. 0272-05-4
v.)	
)	
CHERI SMITH,)	
)	
Appellee)	

MOTION TO DISMISS APPELLANT'S APPEAL

Ronald Wayne Fahy, Guardian ad Litem for Liam Smith, the child of Wesley and Cheri Smith, moves the Court to dismiss this appeal and states as follows:

1. In this appeal appellant contests an Order entered in the Circuit Court of Prince William County on January 3, 2005.

2. The case in the Circuit Court is one brought by the parties for divorce, custody and equitable distribution of property.

3. The Circuit Court Order of January 3 (Appendix p. 13) temporarily suspended the father's visitation with his son pending another hearing on January 18, 2005.

4. The Order of January 3 was superceded by the Circuit Court Pendente Lite Order of January 18, 2005. (App. p. 29).

5. Accordingly, the Order of January 3 was interlocutory in nature and no longer has any force and effect.

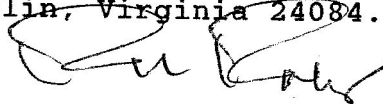
6. The Order of January 3 is not appealable under Va. Code Section 17.1-405.



Ronald Wayne Fahy
Guardian Ad Litem
VSB # 13257
9236 Mosby Street
Manassas, Virginia 20110

CERTIFICATE

I hereby certify that on June 10, 2005, I mailed a true copy of the foregoing Motion to counsel of record and Wesley Smith, 5347 Landrum Road, Apt. 1, Dublin, Virginia 24084.



Ronald Wayne Fahy