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I N D E X  
5/11/18

<u>COLLOQUY</u>	<u>Page</u>
<u>RE: CASE HISTORY</u> By the Court and Ms. Savoy	3
<u>DECISION</u> By the Court	8

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THE COURT: Good afternoon.  
MS. SAVOY: Good afternoon, Judge.  
THE COURT: This is Docket Number FM-20-1364-18, the matter of Aisha Mullings v. Wesley Mullings.  
May I have the appearance of counsel, please, first.  
MS. SAVOY: Cassandra Savoy on behalf of Aisha Mullings, Judge. And Ms. Mullings is to my right.  
THE COURT: Welcome. I don't -- did she sign in?  
MS. SMITH: I signed --  
THE COURT CLERK: I think it's on here on --  
MS. SMITH: I didn't -- (indiscernible).  
THE COURT: Okay. This is a motion to order a best interest evaluation. Pending the outcome of the best interest evaluation for joint legal custody of the minor child, the one that's specifically involved in this case is Isaiah Mullings, born April 20th, 2004. Plaintiff certifies that she has helped care for Isaiah since the death of his mother in 2013. She adopted him May 28th, 2015. She filed a complaint for divorce March 23rd, 2018.  
There's no opposition to the motion despite service of process I guess. Was he served?

1 MS. SAVOY: Oh absolutely, Judge. He -- he  
2 -- he responded to me. I don't know if he responded to  
3 the Court. I can -- I can provide the Court with what  
4 he gave me.  
5 THE COURT: He didn't -- we didn't get  
6 anything. Does it look like it's supposed to be  
7 opposition?  
8 MS. SAVOY: It was a -- I was prepared to --  
9 he just -- he -- he didn't object -- he didn't deny  
10 anything. He just sort of tried to shade it to be  
11 different.  
12 THE COURT: Well, does he object to temporary  
13 custody?  
14 MS. SAVOY: Judge -- Judge --  
15 THE COURT: I understand --  
16 MS. SAVOY: -- he's currently incarcerated.  
17 THE COURT: Incarcerated.  
18 MS. SAVOY: So -- for the next six months.  
19 So --  
20 THE COURT: Is he incarcerated on a criminal  
21 charge or --  
22 MS. SAVOY: Contempt for non-payment of child  
23 support.  
24 THE COURT: Contempt?  
25 MS. SAVOY: I assume it's contempt. It's not

1 --  
2 THE COURT: Yes. I mean, they can't be --  
3 people cannot be held in anymore for failure to pay  
4 child support.  
5 MS. SAVOY: Judge, this is New York --  
6 THE COURT: Particularly if they're indigent.  
7 MS. SAVOY: This is New York. I don't --  
8 THE COURT: Oh, he's incarcerated in New  
9 York.  
10 MS. SAVOY: Yes, Judge. I'm sorry. I didn't  
11 mention that.  
12 THE COURT: Okay.  
13 MS. SAVOY: I -- I -- I'm -- what I wanted to  
14 say is I don't know -- I don't know what the rules are  
15 there. I know they wouldn't happen -- probably  
16 wouldn't happen here.  
17 THE COURT: No.  
18 MS. SAVOY: But, he -- you know, I -- I tried  
19 to check to make sure, you know, about my facts. As  
20 of, what's today, Friday, as of Wednesday --  
21 THE COURT: Okay. But does he -- is he  
22 opposed to at least temporary --  
23 MS. SMITH: No.  
24 MS. SAVOY: No.  
25 THE COURT: -- physical and legal custody

1 with the plaintiff?

2 MS. SAVOY: No, Judge.

3 THE COURT: How could he? I read her papers.  
4 She appears to be caring for Isaiah; although Isaiah  
5 was adopted, she treats him as her own child. She  
6 provides him with clothing and food. I guess the  
7 child's enrolled in school in Roselle Park where she  
8 resides.

9 MS. SAVOY: Yes.

10 THE COURT: It -- if he's incarcerated in New  
11 York, when was he first incarcerated?

12 MS. SAVOY: I want to say May 5th. Yeah, May  
13 5th. About a week ago, give or take. As soon as I  
14 found out on a Monday, I tried to reach out to your  
15 chambers to make sure that the Court would know that I  
16 doubted he would be here.

17 THE COURT: Well, so he indicated to you that  
18 he doesn't have an objection to temporary legal and  
19 physical custody with the plaintiff?

20 MS. SAVOY: What he -- what he really wants  
21 is, and he says it three times in the papers, is he  
22 wants the marriage to -- to -- to be -- to go on. And,  
23 you know, Judge, in the --

24 THE COURT: Okay. That happens.

25 MS. SAVOY: -- State of New Jersey -- yeah.

1 But in the State of New Jersey, you know, it's a no  
2 fault state. You say you want out and you get out.

3 THE COURT: Right.

4 MS. SAVOY: I mean --

5 THE COURT: But we're not quite there yet.  
6 But pendente lite I think it's appropriate. I want to  
7 be sure that Isaiah's well -- well cared for. I have  
8 her certification. She buys him all of his clothes,  
9 his shoes. She provided him with a key to her home.

10 Is he staying with your client now?

11 MS. SAVOY: Yes, Judge. As soon as she -- as  
12 soon as he was arrested, she went to pick him up. He  
13 was arrested in New York, and the son called her and  
14 she dashed, you know, right over to pick him up because  
15 he can't stay by himself.

16 THE COURT: How is he doing?

17 MS. SAVOY: He's okay. Judge --

18 THE COURT: Is there a DCP&P investigation  
19 going on?

20 MS. SAVOY: My current understanding is that  
21 they were at her house --

22 Last night?

23 MS. SMITH: Uh-huh.

24 MS. SAVOY: Last night. I don't know what, I  
25 mean, I don't quite know what they're investigating

1 exactly because they didn't tell us.

2 THE COURT: Well, I guess there's no order  
3 for custody, so they don't know who the custodial  
4 parent is or whether they need to file an FN case for  
5 custody.

6 Listen, I read all the papers. I am  
7 satisfied that temporary legal and physical custody is  
8 appropriate in this case. Obviously it's always  
9 subject to modification based on a substantial change  
10 of circumstances. If he's incarcerated for a while,  
11 Isaiah is her adopted son. You attached the judgment  
12 of adoption. He was adopted almost exactly three years  
13 ago in -- in Essex County. So I have that. Judge  
14 Bernstein signed the order.

15 I -- I think there's -- there's not even any  
16 question Defendant was served. He didn't send any  
17 opposition papers to the Court. He may have sent to  
18 you, but we didn't receive anything. So I think the  
19 best interest of the child call for an order for  
20 custody.

21 Now whether or not I need to do a best  
22 interest evaluation, not at this point.

23 MS. SAVOY: Well, Judge, when I --

24 THE COURT: If he's incarcerated.

25 MS. SAVOY: -- when I -- when I did the

1 papers, obviously, Judge, I didn't know this was going  
2 to come up. So I --

3 THE COURT: Yes. I mean, why should anyone  
4 incur the expense of a best interest evaluation.

5 MS. SAVOY: No. Judge, the situation has  
6 definitely changed.

7 THE COURT: Well, I mean, I have your  
8 client's certification. It appears that she takes care  
9 of him. She provides him with all his clothing, with  
10 all his food. He goes to school in Roselle Park where  
11 she lives. I guess she certifies she has, what, a two-  
12 bedroom suite there in --

13 MS. SAVOY: She has -- he has a -- he has a  
14 full bedroom.

15 THE COURT: He has his own bedroom.

16 MS. SAVOY: Uh-huh.

17 THE COURT: Right?

18 MS. SAVOY: Uh-huh.

19 THE COURT: So --

20 MS. SMITH: Yes.

21 THE COURT: -- I mean we don't have very many  
22 clear-cut cases in this Court, but I -- I don't think  
23 there's much of a question.

24 You know, I'm not going to send them to  
25 mediation because he's incarcerated. I'm not going to

1 order a DCP&P evaluation because that may have been  
2 commenced already. I'm going to order that she be  
3 designated as the parent of -- the legal custodial  
4 parent and parent of primary residence, subject to  
5 modification based on a change of circumstances.

6 Obviously when he's released from  
7 incarceration he has a right to parenting time with his  
8 child, and I don't know whether then a best interest  
9 evaluation might be appropriate.

10 I'm told that he filed an application for a  
11 fee waiver with his answer. So once that's granted,  
12 he'll probably file an answer to the complaint for  
13 divorce and then the Court will schedule a case  
14 management conference on this case.

15 So if you wait a moment, you should leave  
16 here with the court order in your hands, and I would  
17 ask, Counsel, that you serve a copy on him wherever  
18 he's incarcerated within seven days.

19 MS. SAVOY: I have that information, Judge.  
20 I expected that.

21 THE COURT: Thank you. Good to see you  
22 today.

23 MS. SAVOY: Thank you, Judge. I appreciate  
24 it.

25 THE COURT: Anything else?

1 MS. SAVOY: No, Judge. I'm done.

2 THE COURT: Okay. Just wait a moment and you  
3 can leave here with the court order in your hands.

4 MS. SAVOY: Okay. We'll just wait in the  
5 hall, Judge.

6 THE COURT: Yes, or you can wait in the  
7 courtroom.

8 MS. SAVOY: Okay.

9 THE COURT: Okay? Good luck to you.

10 MS. SMITH: Thank you.

11 (Proceedings concluded)  
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## CERTIFICATION

I, Kelly Ford, the assigned transcriber, do hereby certify that the foregoing transcript of proceedings in the Union County Superior Court, Chancery Division, digitally recorded on May 11, 2018, Index No. 2:03 to 2:11, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate compressed transcript of the proceedings as recorded.



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NAME AD/T #561  
METRO TRANSCRIPTS, L.L.C.

Date: 5/26/21