

No.07CI501556

JEFFERSON CIRCUIT COURT
FAMILY DIVISION SEVEN (7)

STACY RICE

PETITIONER

vs.

ORDER

SEAN RICE

RESPONDENT

This matter came before the Court on March 11, 2010 for a hearing on Respondent's motion to set a parenting schedule and for an order prohibiting contact between the minor child and Petitioner's fiancé. Petitioner was present, representing herself. Respondent was present, represented by Mr. Segeleon. Having reviewed the testimony presented, the arguments, and the evidence, the Court finds as follows:

Petitioner and Respondent were divorced on March 10, 2008. The parties have one minor child in common, B.R., age 15. Per the parties' Property Settlement Agreement, which was incorporated into the parties' decree, Petitioner has sole custody. Respondent is entitled to visitation at reasonable times and places, as agreed to by the parties. No specific visitation schedule is set out.

There is currently a Domestic Violence Order against Respondent. The Order was entered on July 1, 2009 and is effective through June 30, 2010. Per the terms of the DVO, Respondent is to stay 1,000 feet away from Petitioner at all times. The Order specifically states the DVO does not prevent Respondent from having visitation with their minor child. On November 25, 2009, Respondent

was found in contempt of the DVO for coming within 1,000 feet of Petitioner while at the minor child's cross country meet. Respondent was given the opportunity to purge himself of contempt by complying with the DVO.

The relationship between Respondent and the minor child broke down in the summer of 2009, around the time the DVO was issued. Prior to that, Respondent and B.R. saw each other on a daily basis. Respondent last saw B.R. on November 19, 2009, when Respondent attended the child's cross country meet. B.R. testified she does not wish to see Respondent at this time, but did not list any specific recent incidents to support this desire. B.R. did testify that she was embarrassed by Respondent's behavior. Respondent has been less aggressive in seeking visitation with B.R. as a result of the DVO against him.

Respondent seeks an Order to prevent contact between the minor child and Tim Boston, Petitioner's fiancé. Petitioner and Mr. Boston have been dating for ten months. Mr. Boston is currently on probation for felony theft, for which he was convicted on February 5, 2010 and sentenced to five years probation. Mr. Boston's criminal record dates back to 1986 and includes convictions for theft and fraud. Mr. Boston informed Petitioner of his criminal cases approximately two months into their relationship. Mr. Boston is unemployed as the result of an on the job injury in October 2008. Mr. Boston is on pain medication as a result of the injury. Mr. Boston does not live with Petitioner and B.R. but is active in her life and has been left alone with the child.

Respondent's motion for a parenting schedule is GRANTED. KRS 403.320(1) states, in relevant part:

A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health.

None of the evidence presented at the hearing supports an assertion that B.R.'s physical, mental, moral, or emotional health would be seriously endangered by spending time with Respondent. In fact, Respondent and B.R. saw each other almost daily until the point Respondent and Petitioner began having significant problems. The statements made by B.R. regarding Respondent all seemed to relate to circumstances well before the current breakdown in their relationship.

Clearly the amount of time that has passed since Respondent's last parenting time with B.R. as well as B.R.'s stated desire to not see Respondent at this time are of concern to the Court. Both factors could present difficulties in the relationship between B.R. and Respondent. Based on the current friction, the Court will institute a graduated visitation schedule. For the next three months, Respondent and B.R. shall have parenting time one night per week, from after school to 8:00 pm. Respondent and B.R. shall attempt to pick a day that works best for their schedules. If they are unable to do so, the day shall be Wednesday.

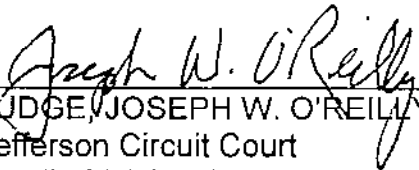
After three months, Respondent shall have visitation every other weekend, from Friday after school to Monday return to school. Respondent shall also continue to have visitation every Wednesday from after school to 8:00 pm.

Petitioner shall contact counsel for Respondent and they shall attempt to agree on a third party through which the parties can exchange the child at times

when the exchange is not made at school. If Petitioner and counsel for Respondent are unable to reach an agreement on a third party, counsel for Respondent shall contact the Court and the Court will issue an Order for Supervised Access and the exchanges will be at the Home of the Innocents. If this occurs, the parties shall divide the cost equally.

Respondent's motion to limit contact between the minor child and Tim Boston is GRANTED, in part. While the Court does not believe that a no-contact Order is necessary at this time, the Court does have some concerns about the issues Respondent raised regarding Mr. Boston. Therefore, the minor child shall not be left alone with Mr. Boston at any time. All contact between Mr. Boston and B.R. shall be supervised sight and sound by a third party.

This is a final and appealable order, with no just cause for delay in its entry or execution.



JUDGE JOSEPH W. O'REILLY
Jefferson Circuit Court
Family Division Seven (7)

3-24-10

Date

cc: Stacy Rice
1800 Penile Road
Louisville, KY 40272

Jason Segeleon
Counsel for Respondent
125 S. Seventh Street
Louisville, KY 40202

