

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

LARA BROOK SEEFELDT,)	
)	
Petitioner,)	Cause No. 16-3-06380-6 SEA
)	
vs.)	COA No.
)	
ALBERT WHITNEY COBURN,)	
)	
Respondent.)	

Official record of proceedings
Before the Honorable
Commissioner Pro Tem Michael Louden
On December 23, 2016
In Seattle, Washington

Prepared by: Jane Wilkinson
AAERT Certified Transcriptionist, CET #691
Ballard Transcription
104 South Olympic Avenue, Suite 226
Arlington, WA 98223

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR THE PETITIONER - LARA BROOK SEEFELDT:

Deborah A. Bianco, Attorney at Law

DEBORAH A BIANCO, PS

P.O. Box 6503

Bellevue, WA 98008-0503

Phone: (425)747-4500

FOR THE RESPONDENT - ALBERT WHITNEY COBURN:

Katherine Bruya, Attorney at Law

LAW OFFICE OF KATHY BRUYA

P.O. Box 1346

Auburn, WA 98071-1346

Phone: (253)951-9372

INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Respondent's motion for temporary orders.....4
Argument by Respondent.....5
Argument by Petitioner.....8
Rebuttal.....12
Court's ruling.....13

1 (Audio for December 23, 2016, begins at 9:11.)

2 * * * * *

3 BAILIFF: -- 6380-6 SEA.

4 THE COURT: Good morning. State your names for the
5 record, please.

6 MS. BRUYA: Thank you. My name is Kathy Bruya, and I
7 represent Albert Coburn, who is to my right, who is the
8 respondent and the moving party in this motion.

9 MS. BIANCO: Good morning, Your Honor. Debra Bianco
10 and I represent Laura Seefeldt who is to my left and the
11 responding party in this motion.

12 THE COURT: And this is father's motion for a
13 temporary parenting plan for 4-year-old Evelyn and also his
14 request to move back into the family home following a 9
15 year marriage.

16 For the record, I'm not considering any of the hearsay
17 or the settlement negotiations that were in the pleadings.
18 The father did voluntarily move out of the home and on to a
19 sailboat a few months ago. And we've had some dispute
20 between the parties as to what the best future parenting
21 plan for Evelyn will be while entering a temporary
22 parenting plan today of course.

23 It's the father's motion so I will hear first from Ms.
24 Bruya. This is a busy calendar today so I'm going to limit
25 both of you to 5 minutes.

1 MS. BRUYA: All right, Your Honor, thank you. It
2 sounds like you totally know what's happening so I'll be
3 very brief.

4 We've tried to reach agreements. As you know the
5 mother has decided she's 100 percent in control of the
6 child. I don't know why she believes that. You have a
7 timeline before you that's very descriptive with regard to
8 my client's time with the child. From September to January
9 of 2016 he was unemployed. He was there full-time caring
10 for the child. The mother works nights and weekends with
11 dancing. He often had exclusive care of the child. I
12 think it's very illustrative of the events and the
13 activities and that he was every bit a part of this child's
14 life as the mother was.

15 Now Evelyn, I believe she's 5 now. She has some
16 special issues, but she's got a very manageable calendar.
17 She has special therapy in the morning, then she know goes
18 to a public preschool, a public daycare if necessary.
19 She's not unlike a lot of other 5 year olds.

20 Now, I think, Your Honor, you can kind of see where
21 things started to go sideways is when the mother decided,
22 after my client had relocated temporarily, after he had
23 relocated they used to use that joint calendar. You have
24 an email with regard to that in there. And then the mother
25 decided, after my client was out of the house, "You no

1 longer get to be a part of the joint calendar." This
2 started because he said, "I want to start bringing in my
3 residential calendar time in the calendar." She said, "No
4 way, no can do. You're out of the calendar."

5 Then he sent her a proposed parenting plan. I think
6 it's very illustrative in that proposed parenting plan of
7 his knowledge of Evelyn's issues. And he was trying to
8 craft a parenting plan that was somewhat consistent with
9 what's been going on. Naturally that was rejected.

10 Then the mom decides to file for divorce. She files
11 the proposed parenting plan limiting my client to six hours
12 a week. That's it. She claims there's domestic violence
13 and child abuse. She put some meat on the bones of that
14 claim when she filed her responsive declaration.

15 First of all, she spends 4 pages talking about
16 drinking when she never even brought up drinking before in
17 the proposed parenting plan. But then she talks about two
18 incidences, Your Honor -- and you have them before you, you
19 know what they are -- the couch incident which occurred
20 back in 2014 and the biting incident with Evelyn which was
21 in 2015. The mother's never sought a protection order,
22 never sought a restraining order. Her claims are not true.
23 My client says, "This is exactly what happened, these were
24 accidents, that's all there is to it. There's no basis to
25 limit my time with the child."

1 The mother is all about downplaying my client's role
2 and her belief that for some reason she should be totally
3 in control. We have wanted residential time in the boat,
4 residential time at a friend's house, residential time at
5 the sister's. Asked if my client could take the child to
6 his mother's house. She says, no, that doesn't work
7 because the child lives by the woods. You have an email
8 before you that shows the mother has already allowed my
9 client to take the child to his mother's home.

10 Now, here's the reality. Here's the deal with this
11 situations: Finances. These parties cannot comfortably,
12 or otherwise, afford two households. The issue here with
13 this is the mom has three different places she can go. She
14 can move in with her mom. Both of her parents have
15 additional homes. She could go live at one of those and it
16 wouldn't cost the parties anything else.

17 So my client's original proposal was let me back in
18 the house. He wanted to just stay in the basement, "let me
19 live in the basement. That's a separate entrance." Of
20 course that's not going to work. My client says, "Let me
21 back in the house then you go stay at one of the places
22 where you can do this for free."

23 What we have to remember is the mom is going to have
24 to start working full-time. Right now she's had this
25 benefit of evenings and weekends and whatnot. She's going

1 to have to start working full-time. So what's going to
2 happen is they're both going to be in the same boat. My
3 client can, just as good as the mom, get back in the family
4 home, have his mother help with the residential time just
5 like her mother help with residential time. That's the
6 fist request.

7 Second request is if that's not going to fly with the
8 Court then please give my client some kind of meaningful
9 residential time. There's no basis to limit the time.
10 There's no history of any limitation. She knowingly and
11 willingly left every -- left all the nights and weekends
12 with the child alone, even after making these claims now
13 that there was some problem in 2014-2015.

14 THE COURT: Okay. You have a minute for rebuttal.

15 MS. BRUYA: Thank you.

16 MS. BIANCO: Thank you, Your Honor, and I'll attempt
17 to be brief. I think we've pretty much laid out the facts
18 in our declaration.

19 We have a special needs child here. She's 5 years
20 old. She can't put together a sentence. She doesn't
21 speak. She's not fully potty trained and there have been
22 issues around that. There have been issue with the father
23 losing his temper when the child is defiant, which, given
24 her condition, she is. He isn't a able to care for her on
25 a regular basis. He hasn't cared for her on a regular

1 basis. Much of the time that he has cared for her the
2 child has been asleep. It's been at night when my client
3 has been working.

4 It is noteworthy, I think, that the father makes no
5 denial whatsoever of the allegations regarding his
6 drinking, which my client says very clearly not only were
7 there several really bad incidents but it became a pattern
8 of behavior that continued throughout the marriage and was
9 an activity that happened on weekdays as well as on
10 weekends.

11 Given the concerns we have raised about the father,
12 about his drinking, about his lack of experience with the
13 child -- and I think you see it even in his declaration.
14 He doesn't really talk about performing the daily tasks of
15 parenting. What he talks about is playing with the child.
16 He plays with her. He reads to her. He doesn't talk about
17 actually bathing her, feeding her, getting her through the
18 routine of the day which is no small task given her special
19 needs. She has difficulty with transitions, which is one
20 reason that we are saying that it is not appropriate for
21 the Court to order that the mother and the minor child be
22 relocated from the family home.

23 Fact of the matter is the father lived on this boat
24 for six years. He can continue to live on the boat during
25 the pendency of this matter until the Court can figure out

1 what's going to happen with the house. It is not fair or
2 appropriate to say that my client needs to go live with her
3 parents. Her parents are not responsible for providing her
4 a place to live. The houses they have are rental houses
5 and they're rented. They're not extra houses that my
6 client can just go live in. And her parents have no
7 obligation to support her.

8 She is working. But it is the respondent who has the
9 obligation, and there's no reason that she and the minor
10 child should be dislocated from the house. They should be
11 permitted to remain in the house. The respondent should
12 stay on the sailboat. We propose that, pending an
13 evaluation that takes into account this child's special
14 needs and the father's history of alcohol consumption, the
15 proposed -- the parenting plan should be what we proposed
16 and the father should have time with the child on Sundays.

17 THE COURT: Are you making any specific proposal for
18 an evaluation?

19 MS. BIANCO: I am, Your Honor. I think an evaluation
20 is needed because of the child's special needs. I think we
21 also have an issue, frankly, the court doesn't have any
22 financial documents before it in terms of what the parties
23 can afford to do.

24 THE COURT: It doesn't sound like parties can afford
25 much in terms of an evaluation.

1 MS. BIANCO: And I think that is accurate. I don't
2 think they can afford very much. Maybe the best they can
3 afford is family court services, which I think is
4 unfortunate because given this child's pretty significant
5 special needs -- I mean if you look at what her history is
6 in terms of -- or her schedule is, she's getting a lot of
7 therapy, which is great, that's a good thing for a child
8 with this condition at this age and it's likely to make a
9 long-term difference, but that also needs to continue and I
10 think that whatever decision is made about a parenting plan
11 needs to take into account information from the
12 pediatrician, the therapist, and others who are neutral and
13 who can speak to the child's best interests.

14 But the reality is that this father hasn't been
15 terribly involved with this child. I'm not saying he's
16 been uninvolved, but my client has clearly been the primary
17 parent and should continue to be. This is not a child that
18 you can just say, "Well, let's try this out. We'll do the
19 schedule for a little while and, if that doesn't work,
20 we'll adjust it." This child is going to have a reaction,
21 a pretty significant reaction to changes in her schedule.

22 They are working hard to maintain the routine. You
23 know, even through the Christmas holidays, her therapy
24 schedule remains the same. And that continuity and
25 consistency is very, very important for her because of her

1 condition.

2 So I am asking the Court, rather than enter the
3 father's proposed parenting plan, to refer this case for
4 evaluation and also to send the father for a substance
5 abuse evaluation so that a parenting plan that is truly in
6 this child's interests can be what comes out.

7 Just one last comment. As I read through this whole
8 thing I kept thinking, you know, the father isn't focused
9 at all on this child's best interests. He's focused on his
10 rights. And while I appreciate that he does have some
11 rights, the Court has to consider the child's best
12 interests and to -- the parents' rights are really
13 subservient to the child's best interests. My client has
14 consistently seen to those.

15 THE COURT: Thank you.

16 Ms. Bruya?

17 MS. BRUYA: Family court services is perfectly
18 acceptable.

19 There's no motion before the Court for a drug and
20 alcohol assessment. All those drinking examples were back
21 before Evelyn were born. And she didn't even bring it up
22 in her parenting plan initially that she filed. Your
23 Honor --

24 MS. BIANCO: That's not true.

25 MS. BRUYA: It's not in there.

1 MS. BIANCO: Yes, it is.

2 MS. BRUYA: Your Honor, you either allow the child to
3 be with somebody or you don't. My client has been allowed
4 to care for this child. When he left she took control.
5 That's the only thing that's changed. The child is not
6 unsafe with my client. You've seen the timeline. He's had
7 multiple activities, multiple events, multiple care. If
8 you are concerned with the child's safety then you ask for
9 supervised visitation. You don't suggest six hours on
10 Sunday.

11 My client has places he can stay. She knows who they
12 are. He's been trusted to take care of the child all this
13 time. He should at least have some meaningful residential
14 time. His original --

15 THE COURT: A restriction on the amount of time is an
16 alternative to supervised time, but I'm -- I think I know
17 what I'm going to do in this case.

18 MS. BRUYA: Okay.

19 THE COURT: As the father did voluntarily move out of
20 the home and while in his mind he may have been thinking
21 one thing and in the mother's mind she may have been
22 thinking something else, but the status quo at this point
23 is he has an acceptable place to leave and I'm not going to
24 reorganize the living arrangements of the parties at this
25 time. The mother remains in the community property home.

1 While she may have relatives who she could prevail
2 upon as another place to go, the relatives have no
3 obligation to take her in. And while the current situation
4 is not ideal and may not be permanently sustainable,
5 particularly on the father's side, it will do for now. So
6 mother will have the right to continue residence in the
7 family home.

8 There was a request for joint financial restraints.
9 That much I will enter.

10 The hard question here, of course, is a temporary
11 parenting plan. The father has been involved in this
12 child's life and in her care. He's enrolled in and is
13 taking classes in caring for an autistic child. His
14 declaration indicates some thoughtfulness about his
15 discipline and his parenting.

16 That said, the mother has been the one primarily
17 responsible for Evelyn's care, including her basic daily
18 needs, including arranging appointments and following
19 through with many experts who are working on Evelyn's
20 behalf here. So that's been the history, particularly over
21 the last year.

22 I do not see any basis for a restriction or limitation
23 on the father's residential time based on anything he has
24 done. The minor incidents where he reacted strongly to
25 Evelyn are understandable, particularly given the child

1 Evelyn is, but that doesn't create a concern with the Court
2 about domestic violence. I don't see any pattern of
3 abusive control by the father. Just dealing with the
4 challenge of raising an especially difficult child.

5 I am concerned about the father's history of alcohol
6 abuse and for that reason he shall not be under the
7 influence of any alcohol during his residential time.

8 I'm not going to order a substance abuse evaluation at
9 this time. That request is denied without prejudice. It
10 can be raised again.

11 I'm concerned about the father's behavior, the sort of
12 power play that he engaged in at one of the exchanges, but,
13 with the advice of counsel, I'm confident that that will
14 not happen again.

15 I do have some concern about the father's living
16 situation on the boat in terms of it being an appropriate
17 place for residential time with Evelyn. The mother has
18 raised concerns about whether his mother's home or sister's
19 home are appropriate places for visits, but nothing she has
20 said indicates that the father is not able to make
21 appropriate -- or take appropriate safety precautions. So
22 I'm not going to restrict the father's -- the location of
23 where the father exercises his residential time. I'll
24 leave it to his discretion to make appropriate arrangements
25 to ensure that Evelyn is safe during his time.

1 I do have concerns, in implementing a temporary
2 parenting plan, about Evelyn's special needs and the -- and
3 the effect of any change to her schedule. Which is not to
4 say that there's a problem with the father but that
5 dramatic changes to her schedule are going to be a
6 particular challenge to her. At the same time, she
7 deserves to have a relationship with her father. She will
8 have -- it's in her best interests to have a continued
9 strong relationship with her father. And the challenge is
10 how to create and maintain a schedule which works for --
11 for her and gives the father a good deal of residential
12 time.

13 So what I'm going to do is say the first and third
14 weekends of the month the father will have visits from
15 Saturday morning to Sunday evening. So I would ask the
16 attorneys, see if you can find a good time. In my mind I'm
17 thinking something like 9:00 a.m. Saturday morning to 6:00
18 p.m. Sunday evening, but, if that's right in the middle of
19 something else that's going on in Evelyn's life or one of
20 the parties' lives, then adjust those times.

21 Every fourth weekend I'd like him to have from Friday
22 evening to Sunday evening, and every Wednesday evening for
23 up to four hours with a return no later than 8:00 p.m. So
24 if he can start his Wednesday time at 4:00 p.m. then he can
25 do that, but the return shouldn't be later than 8:00

1 assuming that that gives her enough time to do a bedtime
2 routine -- oh, 7:30. Okay, we'll return at 7:00. Up to
3 four hours but return at 7:00.

4 And I will refer the case to family court services for
5 evaluation. The good news is that that will be thousands
6 of dollars cheaper than a private evaluator. The bad news
7 is you have to wait a long time for them to actually get
8 started, but it's within your budget and gets something at
9 least on the books in terms of an actual referral. You can
10 note that that's without prejudice if either party wants to
11 seek appointment of a private evaluator and can show the
12 financing to make that happen.

13 MS. BIANCO: Your Honor --

14 THE COURT: Any questions?

15 MS. BRUYA: Yes.

16 THE COURT: Wait, wait. I have one other thing I
17 wanted to say. It seems to me that the mother has been
18 managing the health care decisions for Evelyn. I'm not
19 specifically saying it's sole decision-making. She will
20 have the right to continue managing those decisions. The
21 father has the right to object by bringing a motion in
22 court. So if there's something that's beyond the pale then
23 he can challenge it, but I want to maintain the existing
24 pattern of therapies as much as possible.

25 Yes, Ms. Bianco?

1 MS. BIANCO: I just wanted to be sure, Your Honor.
2 What I understand you saying is he has the first and third
3 weekends from Saturday morning to Sunday evening.

4 THE COURT: Yes.

5 MS. BIANCO: And the fourth weekend from Friday to
6 Sunday so he gets three weekends out of four every month.

7 THE COURT: Correct.

8 MS. BIANCO: And every Wednesday?

9 THE COURT: Yes, every Wednesday for up to --

10 MS. BIANCO: -- up to four hours.

11 THE COURT: Correct.

12 MS. BIANCO: Are you making any orders about holidays?

13 THE COURT: No. If you want to include a period of
14 vacation time -- I'd rather avoid vacations I guess.
15 And -- let's see -- I'm going to have to do this a lot
16 today -- Christmas is Sunday so I want -- if you can agree
17 on a 4-hour visit either on Sunday or Monday, figure out if
18 he will have either Sunday or Monday and the first weekend
19 will not be starting tomorrow but starting a week from now.

20 MS. BRUYA: And, Your Honor, for the Friday to Sunday,
21 what time? After work Friday?

22 THE COURT: Yes, after work Friday, 5:00, 6:00 p.m.,
23 something like that.

24 MS. BIANCO: So the first weekend is the weekend of
25 New Year's.

1 THE COURT: Yes.

2 MS. BIANCO: And actually that is the fifth weekend of
3 the month.

4 THE COURT: Okay. So we're going -- so the first
5 weekend is going to be the following week. So we're going
6 to wait two weeks to start the weekends. Between now and
7 then he'll get time on Monday, Wednesday, Wednesday and
8 in -- I'll call it a New Year's Day visit. New Year's Eve
9 or New Year's Day he should have an additional four hours
10 then.

11 MS. BIANCO: So four hours on Sunday or Monday and
12 four hours on Christmas Eve?

13 THE COURT: Yes. And four hours on Wednesday and four
14 hours on another Wednesday and then we're into the
15 weekends.

16 MS. BIANCO: I'm sorry, four hours on New Year's Eve?

17 THE COURT: I think Ms. Bruya has it.

18 MS. BRUYA: I got it.

19 THE COURT: Okay.

20 MS. BRUYA: And then we'll start at January 7th starts
21 weekends.

22 THE COURT: Right, yes.

23 MS. BRUYA: Okay.

24 THE COURT: Thank you.

25 MS. BRUYA: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. BIANCA: Thank you.

* * * * *

(Audio for December 23, 2016, ends at 9:35.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A F F I D A V I T

STATE OF WASHINGTON)
COUNTY OF SNOHOMISH)

I, the undersigned AAERT Certified Transcriptionist do hereby certify under penalty of perjury:

That the annexed and foregoing audio- or video-recording was taken stenographically before me and reduced to typewriting under my direction;

I further certify that I am not a relative or employee or attorney or counsel of any of the parties to said action, or a relative or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

I further certify that the recording as transcribed, is a full, true and correct transcript of the audio, (*to the degree audible*);

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June 2022.



JANE WILKINSON
AAERT Certified Transcriptionist
in and for the State of Washington,
residing at Arlington, Washington.